PASTORAL QUESTIONS

IV

Questions Concerning the Minister of Penance and His Duties

Proposed for the benefit of the clergy

by Fr. Benedict H. Merkelbach, O.P.

Second edition, enlarged and corrected

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which he proposed for the utility of the clergy

by

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To the Benevolent Reader

In pastoral ministry it is of very great importance that the confessor know well the nature of his power, the mode by which it is obtained and lost, the limits by which it is constrained, its right use, and the various duties, as also its infamous abuses. Of all these things we here set beneath, as clearly as we can and synthetically, an exposition at once speculative and practical, drawn from the better authors and recalled to theological principles. Therefore let these principles and rules be as the foundation of those things which we have written more practically concerning the various categories of penitents.

Wherefore, excellent confrere, deign to receive both little works with equal kindness.

In this second edition, however, enlarged a little and corrected, we have preferred to add those things which regard the very form of absolution, because precisely in the pronouncing of this sentence the formal use itself of the confessor's power consists. Thus the exposition of doctrine concerning the minister of Penance will be more complete.

The Author.

Concerning the Minister of Penance

St. Thomas, Supplement, q. 17, and q. 19, a. 2 and 3.

I. The power of remitting sins belongs not to all the faithful, but to certain ministers, namely the Apostles and their successors, that is, only to bishops and priests. - Thus the most ancient and uninterrupted Tradition declares, and the Council of Trent, sess. 14, c. 16. Whence the Code of Law, can. 871: "The minister of this sacrament is only a priest." Therefore for the valid exercise of his office the power of order is required; and, as the same Council of Trent teaches, c. 7, besides this, by divine law the power of jurisdiction is required, because a judicial sentence cannot be borne except upon subjects. Hence the Code, can. 872: "Besides the power of order, for the valid absolution of sins there is required in the minister the power of jurisdiction, whether ordinary or delegated, over the penitent."

Saint Thomas explains this more scientifically, q. 8, a. 4:

"The other sacraments do not consist in this, that one approaching the sacrament acts in some way, but only that he receives, as is clear in Baptism and the like... But in Penance the act of the one approaching the sacrament is of the substance of the sacrament, because contrition, confession, and satisfaction are parts of Penance, which are acts of the penitent; but our acts, since they have their principle in us, cannot be dispensed to us by others except through command. Whence it is necessary that he who is constituted dispenser of this sacrament be such that he can command something to be done. But command does not belong to someone over another except to him who has jurisdiction over him. And therefore it is of necessity for this sacrament, not only that the minister have order, as in the other sacraments, but also that he have jurisdiction."

II. In the minister the power of order and of jurisdiction differ. - For the power of order is an efficient power, of sanctifying or making sacred things, in the case at hand, an instrumental power of conferring grace; the power of jurisdiction is a moral power, of ruling subjects in things looking to the supernatural end, or in order to holiness and eternal life.

Jurisdiction is one thing of the forum of the Church or external forum, when it directly and primarily regards the public governance and utility of the Church; another thing of the forum of God or internal forum, when it directly and primarily regards the private utility of each of the faithful. The former is an ecclesiastical and social power which is granted by the Pontiff from his own authority, and therefore is derived from him as from the principal cause and is exercised by his authority; the latter is a power not ecclesiastical but divine, which is granted by the proper authority of God (who alone is able directly to touch conscience and the bond of sin), yet through the Pontiff as minister and instrument of the divinity, and therefore is exercised not by the Church's own authority, but by the authority of God Himself. This latter, says Billot,[1] is first of loosing rather than binding; but the former is first of binding rather than loosing.

[1] *De Ecclesia,* thesis XXI.

Therefore in a confessor the power of order and the power of jurisdiction differ in several ways:

1. In conferral: The former is conferred by consecration, namely sacred ordination, and inheres indelibly in the subject; the latter is conferred by an external act of mission to subjects from a superior,[2] which act can be revoked, diminished or increased, suspended and limited, e.g., as regards men, if it is restricted to certain men or kinds of men; as regards place, e.g., within the limits of one diocese or parish; as regards time, so that after a fixed time has elapsed it expires, e.g., after three years; as regards causes or sins, if the superior reserves to himself absolution from certain graver sins (Council of Trent, sess. 14, can. 11). Hence priests are equal in the power of order, not in the power of jurisdiction.

[2] Cf. II-II, q. 39, a. 1.

2. In essence: The power of order gives the proximate aptitude and disposition for this, that one receive jurisdiction over subjects for absolving from sins; it is a deputation to exercising sacramental judgment, but indeterminately over subjects, if he has any: "whose" (that is, whose subjects), says Christ, "you shall remit, they are remitted to them." The power of jurisdiction is the faculty of exercising the sanctifying power of order over certain determinate persons as subjects legitimately designated. The former, namely, gives capacity; the latter is the faculty of exercising that capacity.

3. In effect: From the power of jurisdiction the judgment is valid; from the power of order it is efficacious.

Hence the power of jurisdiction can be defined: A power conferred by an external act of a superior, by which a priest can exercise jurisdiction toward subjects in the internal and penitential forum, or a legitimate deputation for exercising the office of absolving from sins in a judicial manner determinate penitents as subjects.[3]

[3] Or with Billuart: A power by which a priest as judge bears sentence upon another as upon a subject in the forum of conscience. Or with Chretien: A supernatural judicial power, conferred by an act of legitimate authority, by force of which a priest remits the sins of subjects in the sacrament of Penance. Thus in the little work *De Poenitentia Quaedam Quaestiones*, which deserves to be inspected for our whole matter.

III. The power of the confessor pertains to the power of the keys. - A key is an instrument for opening the kingdom of heaven, which is closed by sin as to the guilt of fault and as to the guilt of punishment; or, an eminent sacred power by which the obstacle of sin is removed. For although Christ by divine authority and by the merit of His Passion opened heaven, as far as lies in itself, universally, nevertheless it pertains to His ministers to open it, through the sacraments, as regards this or that man, for whom it remains closed on account of original or actual sin: namely Christ, as principal agent, is said to have the key of excellence; priests, as instrumental agents, the key of ministry.[4]

[4] Thus St. Thomas, q. 19, a. 2; and q. 17, a. 1. Hence "the act of the priest is not immediately over the kingdom, but over the sacraments by which man arrives at the kingdom," q. 17, a. 2, ad 5.

Hence the exercise of the power includes a twofold act or a twofold judgment: 1) the judgment of discretion concerning the dispositions or fitness of this or that recipient, by which it is discerned whether he is worthy or not; 2) the judgment itself either of absolution and remission, or of

retention, by which we open or close, receive the worthy or exclude the unworthy from the kingdom. And therefore two keys are distinguished: a) the key of knowledge, or the authority of exercising an act of knowledge by which it is discerned and shown to whom it must be opened; b) the key of power, or the very authority of loosing and binding, by which heaven is opened or closed. This is not as if there were two powers according to essence, but two from comparison to acts, one of which presupposes the other.[5]

[5] St. Thomas, q. 17, a. 3.

Indeed, says St. Thomas, that power of the keys is really the same as the character or instrumental spiritual power of order, so that through essence the power over the real Body of Christ and over the Mystical Body of Christ is the same, or the power by which a priest can confect the Eucharist and the power by which he can loose and bind, if jurisdiction is present (q. 17, a. 2, ad 1); but they differ in reason according as they are compared to diverse effects: the character by consecration to God, the power of the keys to subjects. Whence the keys are given with order in some consecration, but the execution of the key needs due matter concerning which it is exercised, namely subjects, and therefore the act of the keys is had through jurisdiction; and thus before jurisdiction a minister has the keys, but does not have the act of the keys[6] (ad 2).

[6] From which it is clear, even according to St. Thomas, whatever some have thought, that the power of jurisdiction is distinguished from order and is not given with it. It is established from the words to 1: "the power ... by which he can loose and bind, if jurisdiction is present"; and from the response to 2: "the key is given with order but the execution of the key needs due matter, which is the people subject through jurisdiction; and therefore before he has jurisdiction, he has the keys, but does not have the act of the keys."

Hence the power of jurisdiction (even in the external forum), by which someone is subjected to (or excluded from) the communion of the Church, through which one goes to heaven, is also sometimes called a key, but improperly, because it is not immediately the key of the kingdom of heaven, removing sin, but a certain remote disposition to it or to grace (q. 19, a. 3), and a condition for exercising the key (q. 17, a. 2, ad 1 and 2). According to this key Christ gave Peter singularly the power of binding and loosing or of forgiving sins (Mt. XVI, 19), so that it may be understood that he before the others has the power of jurisdiction. "And therefore the Lord says indeterminately: Whose sins you shall remit, yet understanding that the use of that power ought to be, presupposing the power conferred on Peter, according to his ordering" (q. 20, a. 1, ad 1).

The key of jurisdiction can belong not only to priests but also to others, who can excommunicate (q. 19, a. 3; q. 22, a. 2); the key of order belongs only to priests (q. 20, a. 1, ad 1).

IV. Concerning the power of the confessor, questions must be solved under five chapters:

1. concerning the power itself of the confessor;

2. concerning the concession and limitation of the power;

3. concerning the use of the confessor's power;

4. concerning the duties of the confessor's power;

5. concerning the abuse of the confessor's power.

Chapter I: Concerning the Power Itself of the Confessor

Question I: Concerning the Power of Order

St. Thomas, Supplement, q. 8, a. 1-3; q. 19, a. 3 and 4.

I. State of the question. - Concerning the power of order many have not thought rightly:

A. In this matter the following erred: 1) the Montanists, who held that only the *pneumatici* or spiritual men, that is, those who had received the Holy Spirit, could pardon sins, because Christ said: Receive the Holy Spirit; - 2) Abelard, thinking that the power had been conceded to the Apostles alone, not to successors, who was condemned in the Council of Sens, in the year 1140 (prop. 12); - 3) the Fraticelli, Waldensians, Wycliffites, and Hussites, who granted the power of absolving sins to good laymen, but denied it to wicked priests (cf. Council of Constance, aa. 20 and 22); - 4) Lutherans, who commonly hold that the power of remitting sins is reduced to the ministry of preaching and exhortation for exciting faith in the remission of sins, and that of itself, in a case of necessity, it belongs to all the faithful, even women (provided they believe themselves absolved); nevertheless, to avoid confusion, that it is not to be exercised except by those who have been deputed for this by the community. Other Protestants, except Episcopalians and Ritualists, deny every power of the keys; - 5) many liberal Protestants hold that in the first ages of the Church the power of the keys was exercised only by charismatic persons, that is, by those faithful who rejoiced in a special gift or charism: for the hierarchy was not instituted by Christ, but various charisms were distributed among the faithful by the Holy Spirit.

B. Certain Catholics in the Middle Ages held that deacons or lower clerics were extraordinary ministers who, when priests were lacking, heard confessions and could contribute something toward absolution; - or even that in ancient times deacons were held as extraordinary ministers absolving: thus, for example, Morinus. Indeed a few said that, when priests and clerics were lacking, confession had to be made to laymen.

II. Thesis. Only priests, by divine law, that is, bishops and presbyters, are ministers of sacramental confession, who can validly absolve; whence in them the power of order is required.

This is of faith from the Council of Trent, sess. 14, c. 1 and 6, and can. 10, of which canon the first part is directed against Wycliffe, the other against Luther.

The thesis is proved: 1) From the documents of revelation, by which it is established a) that the words of Christ: Whose sins you shall remit... were directed to the Apostles alone; besides, b) that the power was conceded as something to be exercised by way of judgment; but for there to be a judge there must be superior and inferiors; therefore this power was not conceded to all, namely to inferiors. But who in fact are the successors of the Apostles in this power, whether bishops alone, or also priests or others, must be determined from Tradition and from the use of the Church; by these it is established that from the first times generally that office was committed not only to bishops but also to presbyters, not however to others.

This is already intimated from the first times: Ignatius, while constantly commending and commanding obedience to be shown to the bishop, and in particular not promising remission of sins to sinners unless they return to the assembled Church and to the consent of the bishop (ep. ad Philad., n. 3); Clement of Rome, while commanding the Corinthians not to remove those who have been constituted bishops (that is, presbyters) and have performed their office excellently; and that they themselves be subject to the presbyters, that they may receive correction unto penance, lest they be excluded from the flock of Christ (ep. ad Cor., c. 44 and 57). Moreover, from the third century this is expressly affirmed by: Callistus, claiming this power for himself; Tertullian, *De Poenitentia*, c. 9, and *De Pudic.*, c. 18, n. 17 and 18; Cyprian, *De Lapsis*, c. 29, and ep. 17; Origen, *in Levit.*, hom. 2, n. 4; *in Num.*, hom. 10, c. 1; *in Ps.* XXXVII, hom. 1; Athanasius, *in Fragm. ex l. c. Nov.*; Ephrem, *or. de sacerd.*; *Didascalia*, c. 7; Basil, *reg. brev.*, n. 228; Chrysostom, *de Sacerd.*, l. 3, c. 5; *Const. Apost.*, II, 16; Ambrose, *de Poen.*, l. I, c. 2; Jerome, *in Matth.* XVI, 19; Augustine, serm. 351; *Enchir.*, c. 65; Leo the Great, ep. 108, and ep. ad Theod.; Council of Carthage III, can. 32, etc. At the beginning, indeed, the power was reserved to the bishop, but presbyters sometimes exercised it from the commission of the bishop, as is clear from Cyprian, ep. 18; from *Const. Ap.* VIII, 47, 52; from the Councils of Hippo, Elvira, and Carthage III, and from the institution of the penitentiary presbyter. From the sixth century the use of approaching priests is general.

Moreover it belonged to them to the exclusion of deacons, which is established both from the fact of silence concerning these and from the express testimony of Ambrose, *de Poen.*, l. I, c. 2; Jerome, *in Ier.* XIII, 12; *in Matt.* XVI, 19; Augustine, *de Civ. Dei*, l. 20, c. 10; ep. 228 ad Hon., n. 8; serm. 82, n. 6 and 11; Innocent I, ep. 25 ad Dec., n. 3, and others.

2. Also by reason from St. Thomas, q. 19, a. 4: No one can remit sin and confer grace except in the name of Christ as His instrument. But no one is an instrument unless he is chosen as minister. Therefore only ministers can remit sins.[1] But not bishops alone were to be chosen, but also priests, on account of the great necessity of this sacrament.

[1] From this principle St. Thomas concludes 1) that not saints, but priests, and 2) not only holy priests, but also evil priests are ministers of the sacrament. The first thus: "From this something is constituted a principal agent, that it has some form which it can pour into another; but from this it is not constituted an instrumental agent, but from this, that it is applied by the principal agent to inducing some effect... But man... cannot either give to another grace, by which sins are remitted, nor sufficiently merit it... And on account of this, however much someone may have of grace, he cannot attain to the effect of the keys, unless he is applied to this as minister by the receiving of order" (q. 19, a. 4). The second thus: "Just as participation in the form which is to be induced in the effect does not make the instrument, so neither does the removal of such a form take away the use of the instrument. And therefore since man acts only instrumentally in the use of the keys, however much he is deprived through sin of grace, by which grace remission of sins is made, nevertheless he is in no way deprived of the use of the keys." For "the gift of the Holy Spirit is required for the use of the keys, not as something without which it cannot be done (or for validity), but because without it it is done incongruously on the part of the one using them (or for liceity), although one subjecting himself to the keys obtains the effect of the keys" (a. 5, and ad 1). And therefore even in heretics, schismatics, and excommunicates there remains the power of the keys as to essence (power of order); but the use is impeded (for the most part) from defect of matter (power of jurisdiction). For since the use of the keys in the one using them requires prelation (or jurisdiction) with respect to him upon whom he uses them..., the proper matter upon which the use of the keys is exercised is a subject man. And because by the ordination of the Church one is subject to another, therefore also through prelates of the Church there can be withdrawn from someone he who was subject to him. Whence, since the Church deprives heretics, schismatics, and others of this kind by withdrawing subjects either simply, or as to something, as regards that of which they have been deprived, they cannot have the use of the keys" (a. 6).

That priests, not deacons and lower ministers, should be chosen is most fitting, as the same St. Thomas shows, q. 8, a. 1:

"The grace which is given in the sacrament descends from Christ the Head into the members. And therefore only he is minister of the sacraments in which grace is given who has ministry over the true Body of Christ, which belongs to the priest alone, who can consecrate the Eucharist. And therefore since in the sacrament of Penance grace is conferred, only a priest is minister of this sacrament; and therefore sacramental confession is to be made to him alone, which is customarily made to a minister of the Church."

III. Observation. - In the thesis we said that only priests are ministers of sacramental confession. For confession before laymen, when a priest is lacking,

1. was in use for greater shame and confusion,[2] as St. Thomas also reports, q. 8, a. 2, but it was not sacramental, as is established from the response to 1 and 3 and from article 3;

[2] Cf. concerning this Teetaert, *La confession aux laiques dans l'Eglise latine depuis le VIIIe jusqu'au XIVe siecle*.

2. is satisfactory, if perfect contrition is present;

3. is a sacramental by which attrition is excited unto the remission of venial sins, like striking the breast (cf. a. 3).

IV. They object: From the history of the Church it is established that the power of hearing confessions or even of remitting sins, in the course of time, was acknowledged to have belonged to *pneumatici*, to certain confessors and martyrs, to deacons, indeed even to laymen.

Resp.: 1) In the beginning of the Church the *pneumatici* were endowed with special charisms (I Cor. XII, 3-11; XIV, 2-40; Eph. IV, 11), but it is not read that to them was conceded the power of remitting sins. Tertullian alone asserts this, after having become a Montanist; but the assertion was universally rejected, even by his disciple St. Cyprian.

2. Confessors and martyrs were endowed with the privilege of granting a letter of peace to delinquents in order to the remission of sins. But they did not hear confession nor absolve; they rejoiced only in the privilege of intercession, by which, in view of their confession, bishops admitted certain sinners to reconciliation. This is established from the letters of St. Cyprian, whose doctrine was approved not only by the African bishops, but also, when the see was vacant, by the Roman presbyters and deacons.

3. Deacons, when a bishop and priest were lacking, admitted dying sinners to full reconciliation and peace with the Church, and to reception of Viaticum, whether they had already been absolved before, or had not yet been absolved; in which last case they surely supposed perfect contrition in them.

But certain deacons exceeded the limits of their power; particular Councils prohibited this, as is established, for example, from the statutes of Odo, bishop of Paris (a. 1197), and from the Synod of Poitiers (a. 1280).

4. Finally, laymen, in danger of death, when a priest was lacking, during the Middle Ages heard the confession of the dying, but did not absolve. Moreover the practice was held useful for greater humility and contrition and greater desire of confession; indeed even by great theologians it was said to be necessary, namely for proving the sincerity of contrition, insofar as a man at least ought to furnish what is on his part and do what is in him, by confessing as much as he can and by beginning due satisfaction through the shame of confession, so that thus he might become worthy of pardon from the desire of a priest and be disposed to perfect contrition. And then the highest priest, Christ, supplies the defect of a priest and grants remission.

Nevertheless that confession was not held as truly sacramental, since they rather often say that it is to be repeated, for example St. Thomas, Supplement, q. 8, a. 2, ad 3; and nevertheless, because it was an imitation of sacramental confession and as it were a step toward it, it could even be called sacramental in a certain manner. "When necessity is imminent," says St. Thomas, ad 1, "the penitent ought to do what is on his part, namely, be contrite and confess to whom he can; and although this person cannot perfect the sacrament, so as to do what is on the part of the priest, namely absolution, nevertheless the highest priest supplies the defect of a priest. Nevertheless confession made to a layman because of the lack of a priest is sacramental in a certain manner, although it is not a perfect sacrament, because there is lacking to it what is on the part of the priest."

V. Corollaries. - From the foregoing it follows:

1. For an invalidly ordained priest the Church cannot supply the defect.

2. A deacon cannot be deputed to absolve from sins in the sacrament of Penance.

3. There is no obligation of confessing sins to others than to a priest.

Question II: Concerning the Power of Jurisdiction

St. Thomas, q. 8, a. 4; q. 19, a. 5-6; q. 20.

I. Opinions to be avoided. - Some older theologians, such as Durandus, held that jurisdiction is given by ordination itself, although they acknowledged that its use is bound by the prohibition of the Church: this opinion is commonly rejected. - Certain Jansenists, in the Synod of Pistoia, going further, asserted that it is fitting, but not necessary for the validity of absolution, that the confessor possess jurisdiction. This was condemned by Pius VI in the bull *Auctorem fidei*, n. 37, as false, rash, pernicious, erroneous.

II. Thesis. For valid absolution, besides the power of order, by divine law, there is required the power of jurisdiction, which is not received by force of ordination alone, but by concession of ecclesiastical superiors.

This is certain from the Council of Trent explicitly declaring it, sess. 14, c. 7; which manifestly teaches three things: a) that a priest (who has the power of order) can lack jurisdiction over some faithful; b) that in such a case absolution imparted to the same is invalid; c) that jurisdiction over penitents is twofold: ordinary and subdelegated, by which it is confirmed that it is diverse from the power of order, which is the same in all, conferred through the sacrament of order.

The thesis is proved: 1) From the very nature of the sacrament of Penance, which was instituted to be exercised by way of judgment. For judgment cannot be validly exercised except upon a subject, who has been subjected to the authority or jurisdiction of the judge by a legitimate superior; otherwise the judge could not oblige nor urge the execution of judgment. But a priest does not have subjects except through jurisdiction legitimately conferred. Therefore from the very nature of the sacrament, and therefore by divine law, the power of jurisdiction is required for validity itself.

Thus juridical knowledge and aptitude for judging do not suffice in a human judge, but for use jurisdiction is required, or deputation to determinate matter, determinate subjects, determinate persons; indeed not every judge can know every cause, but each one knows those causes which explicitly or implicitly are assigned to him by a legitimate superior, and only for determinate subjects.

2. From the practice of the Church, by which the power of the keys is exercised in a judicial mode, and from the beginning bishops absolved their own subjects; later, however, when the number of penitents was increasing, priests also did so, but designated by the bishop. This is confirmed from the Fourth Lateran Council; Florence, decree for the Armenians; Trent, sess. 14, c. 3 and 7; and from the bull *Auct. Fidei*, n. 37.

3. By reason, from St. Thomas, q. 8, a. 4: The minister of Penance imposes conditions for obtaining remission; whence he ought to impose on the penitent something to be done, and he does not absolve except by binding the penitent to doing something. But command does not belong to someone over another unless he have power over him, namely authority and jurisdiction. Therefore a priest cannot absolve unless he has jurisdiction over the penitent.

III. They object that a complete power of absolving, and therefore jurisdiction, was conferred by Christ upon the Apostles in these words: Receive the Holy Spirit; whose sins you shall remit, etc.; but the same words are repeated to newly ordained priests; therefore they also receive the same power of absolving by force of ordination. - Resp.: The Apostles did not receive jurisdiction through the aforesaid words, but by force of the intention of Christ, which is manifested through the words: As the Father has sent Me, so I send you. Whence, although the words: Receive... are said to newly ordained priests, they do not thereby receive the power of jurisdiction, which, moreover, the Church does not intend to concede by these words.

IV. Corollaries. - 1) Jurisdiction, while in the other sacraments it is required only for licit administration, is required for valid absolution: for the other sacraments are not conferred by way of judgment, nor are they a judicial act upon subjects, whence of themselves they do not demand jurisdiction (St. Thomas, q. 8, a. 4).

2. Jurisdiction, since it is conferred with the mission of a superior, can be limited in various ways as regards time, place, persons, or causes, as is established from the whole history and practice of the Church, and as the Council of Trent sanctioned, sess. 14, can. 11. From this comes the use of reserving sins.

3. Jurisdiction is also required for absolving from venial sins, whatever some once said. This is now altogether certain from can. 872 together with can. 874.

4. A superior, e.g., the Roman Pontiff, can be absolved, because as a sinner he is inferior before God; whence although someone cannot have jurisdiction over him as superior, nevertheless he can have it over him as a private person, by the authority of God, in whose name judgment and absolution are given, and who alone is the principal cause of remission.

And nevertheless the Pontiff cannot absolve himself, because for judgment two distinct persons are required: a subject guilty party, and a judge; but someone cannot be subject to himself. But the Pontiff can designate someone in the name of God to be superior and judge over himself as a private person sinning. This indeed is impossible in the external forum, because there all things are done in the name of the superior who is the principal judge and legislator, and therefore a superior cannot designate someone to act in his own name and authority against himself, just as he cannot excommunicate or judge himself (q. 20, a. 3).

It can also be added that absolution is principally from the power of order and only consequently regards jurisdiction; moreover, as regards the power of order, all priests are equal, not as regards jurisdiction.

Chapter II: Concerning the Concession and Limitation of the Confessor's Power

Question I: Concerning the Jurisdiction of the Confessor in General, Ordinary or Delegated

St. Thomas, q. 8, a. 4 and 5; q. 20, a. 1.

I. All jurisdiction is either ordinary or delegated: "Ordinary jurisdiction is that which by the law itself is attached to an office (accepted in the strict sense from can. 145); delegated jurisdiction is that which is (legitimately) committed to a person" (can. 197).

These, in order to confession, differ in a threefold way:

1. Ordinary jurisdiction is given by a superior from mission to some pastoral office by which someone becomes as it were the proper priest of subjects; delegated jurisdiction is given from a special personal concession.

2. Ordinary jurisdiction is exercised validly over subjects everywhere on earth (can. 881); delegated jurisdiction cannot be exercised outside the territory for which it was conceded (unless jurisdiction has been obtained there from the Ordinary of the place).

3. Ordinary jurisdiction, according to can. 199, of itself can be delegated to others wholly or in part, unless something else is expressly provided by law; delegated jurisdiction of itself cannot be subdelegated unless a special concession of the delegating person accedes.

II. Concerning ordinary jurisdiction for confessions, canon 873 is valid:

"1. Ordinary jurisdiction for hearing confessions is enjoyed:

a) for the universal Church, besides the Roman Pontiff, by Cardinals of the Holy Roman Church (without restriction, as to all persons and cases, except however censures most specially reserved to the Holy See, and those which are annexed to the revelation of a secret of the Holy Office, according to can. 239, § 1: thus, for example, reserved are those which are brought against those who cast away the consecrated species, lay violent hands on the Roman Pontiff, absolve an accomplice from a base sin);

b) for his own territory, each Ordinary of the place (also the vicar general or capitular, vicar or prefect or apostolic administrator), and the pastor and others who are in the place of the pastor (rector of a quasi-parish; parochial vicar, that is, rector of a parish which by full right is united to a moral person; administrator of a parish or vicar economus, vicar substituted for a pastor long absent with the consent of the bishop, assistant vicar if he supplies in all things for a pastor unequal to the task: thus according to can. 471-475; likewise sometimes a chaplain of soldiers; not however of itself an assistant vicar, nor cooperating vicars).

A pastor, besides subjects, cannot hear and absolve penitents outside his own territory; nevertheless by particular law he generally obtains delegated jurisdiction for the whole diocese.

Among those who are in the place of a pastor, some add the rector of a diocesan seminary as regards his own subjects, on account of can. 1368; but this does not seem so, because the Church is not judged to concede jurisdiction when she prohibits its being exercised habitually over subjects, as can. 890 does.

"2. This same jurisdiction is enjoyed also:

a) by the penitentiary canon[1] even of a collegiate church (a fortiori of a cathedral), according to the norm of can. 401, § 1 (that is, with power of absolving even from sins and censures reserved to the Bishop - whether by law or personally by that bishop - in the diocese, strangers, and diocesan persons even outside the territory of the diocese);

[1] Nevertheless for this reason he does not have power of absolving religious women, as is established from can. 876, § 1.

b) and by exempt religious Superiors for their own subjects, according to the norm of the constitutions.

A religious Superior can also be of an exempt lay religion, provided the superior himself is a priest.

"3. This (ordinary) jurisdiction ceases by loss of office, according to the norm of can. 183, and after a condemnatory or declaratory sentence, by excommunication, suspension from office, or interdict."

Therefore before sentence, an excommunicated person absolves validly, even licitly if he is tolerated and requested by a member of the faithful (can. 2261).

III. Concerning delegated jurisdiction for confessions, canons 874 and 875 are valid.

Canon 874: "1. Delegated jurisdiction for receiving the confessions of any persons whatever, whether seculars or religious, is conferred on priests, both secular and religious, even exempt, by the Ordinary of the place in which confessions are heard; but religious priests are not to use it without at least the presumed license of their Superior,[2] the prescription of can. 519 however remaining firm (that is, in the case in which a religious penitent approaches for the quiet of his conscience[3]).

[2] Otherwise they can sin, yet they validly absolve.

[3] Cf. below, pp. 31 and 33.

"2. Ordinaries of places are not to concede jurisdiction for hearing confessions habitually to religious who are not presented by their proper Superior; but to those who are presented by their proper Superior, they are not to deny it without grave cause, the prescription of can. 877 remaining firm (concerning the examination of fitness)."

Canon 875: "1. In an exempt clerical religion, for receiving confessions (even outside the house) of professed members, novices, and others concerning whom in can. 514, § 1 (namely, those who dwell day and night in a religious house for the sake of service, education, hospitality, or infirm health, as long as they dwell habitually), delegated jurisdiction is also conferred (independently of the approval of the Ordinary) by their proper Superior, according to the norm of the constitutions; and it is permitted to him to concede it even to priests from the secular clergy or from another religion" (even those whom the proper Ordinary has not approved).

"2. In an exempt lay religion, the Superior proposes the confessor, who nevertheless must obtain jurisdiction from the Ordinary of the place in which the religious house is located."

Hence a) the bishop concedes jurisdiction for absolving religious even exempt, or pilgrims who confess in his diocese, and therefore the jurisdiction of the confessor is affected by diocesan reservations, as is confirmed by the response of the Commission of Interpretation, 24 Nov. 1920; - unless, however, he has also obtained regular jurisdiction from the exempt superior for his own subjects;

b) the same priest approved in one diocese cannot validly absolve in another, unless he receives jurisdiction from the bishop of this diocese;[4]

[4] Thus, from the decree of the Provincial Council of Malines of the year 1920, under n. 203, "to priests approved by their Ordinary for hearing confessions, who dwell in a somewhat stable way, that is at least for a week, even only during vacation time, in parishes of districts or deaneries contiguous to a foreign diocese, it is conceded that in deaneries of the foreign diocese bordering their own deanery, within the limits of the province of Malines, they may validly and licitly hear sacramental confessions. Yet foreign priests are not to use this faculty unless they are legitimately called by those whom it concerns."

c) the bishop can concede jurisdiction not only to his own subjects, but also to strange priests for hearing confessions not in their diocese but in his own.

IV. Observations. - 1. Canon 877: "1. Both Ordinaries of places, as regards jurisdiction (even ordinary jurisdiction from can. 149), and religious superiors, as regards jurisdiction or license for hearing confessions, are not to concede it except to those who have been found fit by examination, unless it concerns a priest whose theological doctrine they have ascertained from elsewhere.

"2. If after conceded jurisdiction or license they prudently doubt whether a priest previously approved by them still remains fit, let them subject him to a new trial of doctrine, even if it concerns a pastor or penitentiary canon."

2. Canon 878: "1. Delegated jurisdiction or license for hearing confessions can be conceded circumscribed by certain fixed limits" (namely, as regards time, place, persons: for the whole matter depends on the will of the one delegating).

"2. Nevertheless Ordinaries of places and religious superiors are to beware lest they overly restrict jurisdiction or license without reasonable cause."

Hence a) if a bishop concedes jurisdiction for a determinate category of penitents, it would be invalidly extended to others, even if the limitation appeared altogether irrational;

nevertheless b) if the request and concession are general, the jurisdiction obtained is not limited to the work which was the occasion of the concession: thus jurisdiction conceded on the occasion of spiritual exercises to be given in a convent or pious society permits hearing confessions of other faithful: whatever is not excepted is contained in the concession, whether by express restriction, or by the law itself, as happens for reserved cases.

3. Canon 879: "1. For validly hearing confessions, there is need of jurisdiction conceded expressly in writing or by words. (Whence the Code does not seem to exclude the use of the telegraph or telephone, but excludes tacit or merely presumed concession of jurisdiction, which is given without an intentional sign by a nod alone or would only be given if it were asked; and a fortiori it excludes jurisdiction requested and unjustly denied.[56] But, jurisdiction having been given, presumed license is not excluded, from can. 874, § 1).

[5] Fr. Vermeersch, *Th. M.*, III, n. 453, notes: "Nevertheless intimation is not required. Wherefore in an urgent case, jurisdiction could be presumed, as they say, for the present, that is, one who is morally certain concerning the libellus by which he petitions jurisdiction received by the bishop, and concerning the affirmative response given, whether to a procurator or by letter, could, when matters are urgent, already before the letters have been received or before the return of the mandatary, hear confessions." Thus, provided that the moral certainty is founded on an already posited sufficiently certain sign, and not on mere presumption. A certain sign can be a message through a witness or by telegraph. Namely, can. 38 can be applied concerning rescripts by which a grace is conceded without an executor interposed, because jurisdiction is customarily conceded in this way. It must be said otherwise if an office is committed to be executed, e.g., of dispensing in marriage, or of absolving someone from a determinate reserved case (Holy Office, Nov. 1892): then before the authentic letters have been received or notice has been transmitted by the authority of the one conceding, one cannot validly use the rescript, as can. 53 has it.

[6] This is established from proposition 13 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."

"2. Nothing can be exacted for the concession of jurisdiction."

4. Canon 880: "1. The local Ordinary or religious superior is not to revoke or suspend jurisdiction or license for hearing confessions except for a grave cause.

"2. But for grave causes the Ordinary can also forbid the office to a pastor or penitentiary canon, with recourse in devolutive effect to the Apostolic See remaining safe.

"3. Nevertheless it is not licit (although it is valid) for a Bishop, without consulting the Apostolic See, if it concerns a formed house (that is, one which consists of six religious who are not novices, of whom four are priests), to take away jurisdiction from all confessors of some religious house at one and the same time" (that is, collectively).

5. Canon 881: "1. All priests of either clergy approved for hearing confessions in some place, whether furnished with ordinary or delegated jurisdiction, can validly and licitly absolve also vagi and pilgrims from another diocese or parish approaching them, and likewise Catholics of whatever Oriental rite.

"2. Those who have ordinary power of absolving can absolve subjects everywhere on earth."

6. Canon 883: "1. All priests undertaking a sea journey, provided they have duly received the faculty of hearing confessions either from their proper Ordinary (of place), or from the Ordinary of the port in which they board the ship, or even from the Ordinary of any intervening port through which they pass on the journey, can during the whole journey (namely, their journey, and consequently not in the port where they board nor in the port where their journey has its end) hear in the ship the confessions of any faithful whatever sailing with them, although the ship in the journey passes through or even sometimes stops in places subject to the jurisdiction of diverse Ordinaries.

"2. But as often as the ship stops in the journey, they can hear the confessions both of the faithful who for any cause come to the ship, and of those who ask to confess to them when they themselves have come ashore incidentally, and they can validly and licitly absolve them even from cases reserved to the Ordinary of the place."

The concession regards:

1. priests, not, as it seems, the Ordinaries themselves;

2. those undertaking a journey, and not a mere walk or excursion on the sea, by which for the sake of recreation or fishing someone leaves the port for a few hours;

3. one truly maritime, and not on a lake, or only on a river, although it can begin there;

4. during the whole journey, namely, their own, so that the journey has already begun and has not yet ended, and consequently not in the port where they board nor in the port where their journey has its end;

5. they can hear confessions in the ship of any faithful whatever sailing with them in the same ship or in ships of the same class;

6. provided they have duly received the faculty of hearing confessions either from their proper Ordinary, or from the Ordinary of the port in which they board the ship, or even from the Ordinary of any intervening port through which they pass on the journey; but it does not suffice to receive it from the Ordinary of the port in which the journey is ended. The proper Ordinary, as we have noted, is understood as the Ordinary of the place to which someone belongs, not however the Ordinary of religious, whatever some may have thought, both because in the whole context, indeed in the whole chapter, Ordinary is said of the Ordinary of the place, while the Ordinary of religious never there comes under this name, but is constantly called Superior; and because in the new law nothing was changed in this matter in the concession from the decree of the Holy Office, 23 Aug. 1905, whence the rule of interpretation of can. 6, 2, 3, and 4 comes to be applied. And this is now altogether beyond doubt from the authentic response of the Commission of Interpretation, 30 July 1934;

7. besides, where the ship stops, they can hear the confessions of those who for any cause come to the ship and of those who, while they themselves come ashore incidentally, ask to confess. The word "incidentally," from the declaration of the Commission of Interpretation, 20 May 1923, is to be understood as for three full days; not beyond, if the Ordinary can easily be approached. This is also valid if they must leave one ship there and wait for and board another to continue the journey;

8. and they can validly and licitly absolve them even from cases reserved to the Ordinary of the place, even if another approved priest is present.

V. Corollaries. - A. In three ways penitents can be made subjects of those who have ordinary jurisdiction:

1. by reason of domicile or quasi-domicile they are subjects of the bishop or pastor in whose diocese or parish they have domicile or quasi-domicile, according to can. 92;

2. by privilege of state or enrollment in a religious family: thus those who are of the family of Cardinals are reputed their subjects, so that Cardinals can choose for themselves and their family any priest whatever in confession (can. 239); likewise novices, servants, etc., in an

exempt clerical religion are subjects of Superiors (can. 875 and 514); likewise those who are subject to a personal pastor, such as sometimes is a chaplain of soldiers;

3. by interpretation of law or custom, now inserted in the new Law; thus vagi and pilgrims become subjects of the bishop or pastor of the place through which they make a journey.

B. Delegated jurisdiction can be conceded by man, that is, by a superior delegating who has the same power; or by law, e.g., for those undertaking a maritime journey (can. 883).

C. It ceases according to can. 207:

a) on the part of the power: 1) when the mandate has been fulfilled, if it was conceded for a determinate case;

2. when the number of cases has been exhausted or the time for which it was conceded has elapsed, provided nevertheless that confession has not been begun, in which case it would endure until the penitent was absolved; - nevertheless, from power conceded for the internal forum, an act posited through inadvertence, after the time has elapsed or the number of cases has been exhausted, is valid;

3. when the final cause of the delegation ceases, e.g., a special faculty conceded for the time of war;

b) on the part of the one delegating: 4) by revocation of the one delegating (or of the successor) directly intimated to the delegated person;

5. when the right of the one delegating is dissolved, namely by his death or cessation from office, when the delegation was given, not until revocation, but at beneplacitum or arbitrium,[7] or "during my office," "as long as I shall live," or was made for a particular case and confession has not yet been begun;

[7] Some note that delegation is not extinguished if it is given under the clause: "at the beneplacitum of the dignity," because a dignity does not die. But such a formula seems to us ambiguous, because the abstract noun dignity can be used to designate the person of the superior in the concrete, just as majesty is put for the king and holiness for the Pontiff. Whence in the case attention would have to be paid to the style and mind of the curia.

c) on the part of the delegated person: 6) by renunciation of the delegated person directly intimated to the one delegating and accepted by him;

7. by excommunication of the delegated person or his suspension from office or jurisdiction, but after a condemnatory or declaratory sentence (can. 2264 and 2284).

D. Formerly, from the prescription of the Council of Trent, sess. 23, c. 15, for validly hearing confessions of seculars, even of priests, besides jurisdiction, there was required, even for exempt religious, the special approval of the Ordinary, namely, his authentic judgment concerning fitness for hearing confessions. Whence they were accustomed to say that exempt confessors had approval from the bishop, but received jurisdiction from the Roman Pontiff. - The new Law, however, now nowhere acknowledges approval as distinct from concession of jurisdiction, but establishes that even exempt regulars receive their jurisdiction from the Ordinary of the place (can. 874).

E. Although those who have ordinary jurisdiction can of themselves delegate it to others or extend delegated jurisdiction, nevertheless this is not to be extended to Cardinals, the penitentiary canon, and pastors, because this is provided by law, as is established for the Penitentiary from can. 401; for pastors and those who are in their place, from the authentic interpretation of the pontifical commission, 16 Oct. 1919; for Cardinals it is drawn from can. 239, § 2, when to them is conceded the privilege of choosing a priest as confessor, who then, if he lacks jurisdiction, obtains it by the law itself. All others being excluded, namely the concession of delegated jurisdiction is by express law reserved to the Ordinary of the place, as can. 874 says, who in order to confessions alone has power to delegate; - unless for confessions of those who pertain to an exempt clerical religion, for whom superiors besides can give delegated jurisdiction (can. 875).

Question II: Concerning the Jurisdiction Which the Church Supplies

St. Thomas, q. 8, a. 6.

I. What supplied jurisdiction is. - When jurisdiction is lacking, whether ordinary or delegated, the Church can supply it, that is, confer it extraordinarily when it was not regularly conferred. Nevertheless she does not do this except for a grave cause, on account of the common good of souls.

This jurisdiction, which the Church supplies, differs from ordinary or delegated jurisdiction in this, that it is conferred only in the very act of confession, and afterward is extinguished, while the other is given before confession and remains after absolution. Moreover there are three cases in which the Church supplies: 1) in danger of death, 2) in the case of common error, 3) in the case of doubtful jurisdiction.

II. Concerning jurisdiction in danger of death, canon 882 is valid:

"In danger of death all priests, although not approved for confession, validly and licitly absolve penitents from any sins whatever, with the prescription of can. 884 and 2252 remaining safe."

It is said: 1) in danger, namely grave or proximate danger, and not only in the article of death, when death already so threatens that it will follow with moral certainty, but also when it is in some way imminent, so that because of circumstances it can occur shortly, as easily and rather often happens. Concerning this one must judge from indications and conjectures, so that it can prudently be feared that death may follow shortly; whence a merely subjective persuasion of the priest or family does not suffice. Nevertheless if someone through error has judged that danger is present, but prudently on account of a grave reason, the absolution will be valid as given in a positive and probable doubt, as will be said in the following number;

2. of death from whatever cause it may come, whether from within, as from a dangerous illness, difficult childbirth, an inflicted wound, extreme old age, or from without, as from a judicial sentence, a difficult surgical incision, an imminent battle, a long and dangerous navigation, etc.; not however, as someone has said, from air travel in ordinary circumstances, because it does not bring proximate danger; but if otherwise, it would not even be licit to establish it;

3. all priests, even irregular, suspended, excommunicated, schismatic, heretical, apostate, provided they have been validly ordained;

4. they validly and licitly absolve from all sins and censures in the internal forum, namely, so that it obtains no effect in the external forum, as the Commission of Interpretation declared, 28 Dec. 1927;

5. with the prescription of can. 884 and 2252 remaining safe; where a twofold restriction is placed: a) according to can. 884, absolution of an accomplice, outside the case of necessity, remains illicit on the part of the confessor; b) according to can. 2252: "Those who, constituted in danger of death, have received absolution from some censure *ab homine* or from a censure reserved to the Apostolic See in a most special manner, from a priest lacking special faculty, are held, after they have recovered, by the obligation of recurring, under penalty of falling again, to him who brought the censure, if it concerns a censure *ab homine*; to... someone furnished with faculty (of absolving),... if it concerns a censure by law; and of obeying their commands."

III. Concerning the case of common error and doubtful jurisdiction, can. 209 says:

"In common error or in positive and probable doubt whether of law or of fact, the Church supplies jurisdiction for both the internal and the external forum."

A. The Church supplies in common error: 1) If in a place or community morally all, or absolutely or relatively many, think that someone has jurisdiction, e.g., that he is pastor or approved for confessions; she does not supply if one or another erroneously thinks this, or a private group or an altogether small religious community. Namely the utility of a few is not a sufficient reason for departing from the general rule; moreover, he who has been deceived can be instructed by another and thus correct the defect admitted.

2. Whether, however, the Church supplies if the error is not yet common, but only the foundation of error is known to several, and especially if only a fact has been publicly posited which of itself is apt to induce many into error if they knew it, as many now affirm, calling it virtual error: this can be doubted, both because the cause of error is not yet error, and because the canon wished to settle controversies previously existing, but could not have regard to new questions not yet arisen; for how can the legislator be supposed to have intended what until now had been proposed by no one and what he himself could not even suspect?

3. Nevertheless it is generally asserted, and is valid even in particular error, what we read in can. 207, § 2: "A power having been conceded for the internal forum, an act posited through inadvertence, after the time has elapsed or the number of cases has been exhausted, is valid."

4. Since a priest who, certainly knowing in a case of common error that he lacks jurisdiction antecedently to the supplying of the Church, as it were compels her unwillingly to supply, and thus gravely disturbs order, he absolves illicitly unless there is present necessity, and indeed grave necessity, of the penitent. A fortiori he would sin gravely who voluntarily provoked either common error or a grave cause of using it.

B. The Church also supplies in positive and probable doubt, that is, in a serious doubt solidly founded on grave reasons which, when subjected to examination, are neither destroyed nor convince; not however in a light or tenuous doubt: for if no solid reason is present, the doubt is negative, not

probable, and the Church does not supply. Moreover the doubt must be objective concerning jurisdiction itself, not subjective concerning the doctrine or knowledge of the confessor about it, as if he himself positively doubts because he did not inquire sufficiently or because he does not well remember what is the norm clearly stated in law, e.g., whether he read in books or heard from a professor that in such a case there is present power of absolving: then namely jurisdiction is not doubtful, but the knowledge of the confessor concerning it is doubtful, nor in the case does the Church supply. But for using jurisdiction, namely in a positive and probable doubt whether of law or of fact, a special reason of necessity is not required. A case can be: doubt whether a superior can delegate, e.g., a bishop for a pontifical case, whether the power of hearing confessions has expired, whether a sin is reserved, whether danger of death is present.

Thus a confessor doubting whether in can. 873 and 514, § 1 those dwelling day and night in a religious house can be understood as those who remain there only one day and night, or whether on the contrary more time is required so that they can be said to be dwelling, will be able to follow the milder probable opinion.

Question III: Concerning the Limitation of Jurisdiction as to Persons

St. Thomas, q. 20, a. 1.

I. Jurisdiction can be limited to some persons, so that certain persons are excluded from the power and are not licitly, or even not validly, absolved. Thus, for example, in certain regions not all confessors, but only some, are customarily approved for the confession of women. In the new law certain prescriptions are established both for the confessions of religious and their novices and pupils, and especially for the confessions of religious women.

II. Concerning the confession of religious men. - To absolve them validly no special jurisdiction is now required, but that which is conceded by the Ordinary of the place or by their superior suffices; as to liceity, certain prescriptions are placed in the law.

A. Concerning religious themselves, canons 518 and 519 are valid.

Canon 518: "1. In individual houses of a clerical religion (whether exempt or non-exempt) let several confessors, legitimately approved, be deputed according to the number of members, with power, if it concerns an exempt religion, of absolving also from cases (that is, sins and censures) reserved in the religion.

"2. Religious Superiors having the power of hearing confessions can, with those things which are to be observed by law (divine or ecclesiastical) being observed, hear the confessions of subjects who of their own accord and by their own motion ask this from them, but they are not to do this habitually without grave cause.

"3. Let superiors beware lest either they themselves directly or through another, by force, fear, importunate persuasions, or any other reason, induce any subject to confess sins before themselves."

Therefore: 1) In order that a superior licitly hear confession, provided it is not done habitually, a simple petition suffices.

2. A grave cause, besides spontaneous petition, is required for a superior to hear someone habitually, such as difficulty of confessing before other religious or of going out to find a confessor; nevertheless a grave cause is with difficulty present if the community is large and there are several confessors.

3. A simple petition of the subject is not a sufficient reason for hearing him habitually.

The prohibition regards superiors, not subjects; superiors are to be understood in the proper sense, but not the head of a filial house, minister, prefect of spirit, or bursar.

Canon 519: "The constitutions remaining firm which prescribe or advise that confession be made at stated times before determinate confessors (of which, therefore, the force or obligation remains), if a religious, even exempt, for the quiet of his conscience approaches a confessor (whether within or outside the house) approved by the Ordinary of the place, even if not counted among those designated, the confession, any contrary privilege revoked, is valid and licit; and the confessor can absolve the religious (in the internal forum) even from sins and censures reserved in the religion"; not however from censures *ab homine* reserved according to can. 2245 and 2247.

The reason for making confession for the quiet of conscience is not only grave sin committed, but also doubt because of temptation, or a non-ordinary light fault, anxiety which is not easily opened to one's own confessor, difficulty of approaching the ordinary confessor, etc. In these cases they can approach any confessor whatever, but only in a licit manner, that is, according to the rules, e.g., when an occasion is offered within or outside the convent; but for this reason they cannot go out of the convent without license nor demand from the superior that he call such a confessor.

B. Concerning novices, canon 566 is valid: "In religions of men, with the prescription of can. 519 remaining safe:

"1. According to the number of novices, let there be one or several ordinary confessors, with the prescription of can. 891 remaining safe;

"2. Ordinary confessors, if it concerns a clerical religion, are to dwell in the house itself of the novitiate; if a lay religion, they are at least to come frequently to the house of the novitiate, to hear the confession of the novices;

"3. Besides ordinary confessors, let some confessors be designated whom the novices can freely approach in particular cases, nor let the Master show that he bears this with difficulty;

"4. At least four times in the year let an extraordinary confessor be given to the novices, to whom all are to approach at least to receive a blessing."

C. Concerning novices and pupils, can. 891 is valid: "The Master of novices (who are to be understood strictly, namely, those who have not yet emitted profession) and his associate, the Superior of a Seminary or college, are not to hear the sacramental confessions of their pupils dwelling with them in the same house (not externs), unless the pupils of their own accord ask this from a grave and urgent cause in particular cases."

Hence 1) those who are enumerated in can. 891 are not deprived of jurisdiction; whence confession made before them would not be invalid, but it is prohibited and is illicit. - 2) Superiors and pupils must remain in the same house of the convent, seminary, or college, that is, of the boarding

establishment where they are formed for theology, philosophy, or the humanities. - 3) Three conditions are simultaneously required for confessions to be licitly heard: spontaneous petition of the pupil - grave and urgent cause - particular case. Therefore they cannot, even for a grave cause, habitually and ordinarily hear the confessions of certain pupils. And therefore in this matter their liberty is more restricted than that of a superior as to the confession of religious.

III. Concerning the confession of religious women, canon 876 is valid:

"1. Any particular law or privilege being revoked, priests, both secular and religious, of whatever grade or office, for receiving validly and licitly the confessions of any religious women whatever (whether nuns, or other religious women approved by the Holy See, or even diocesan religious women, indeed women living in common without vows according to can. 675) and of novices (not however postulants), need peculiar jurisdiction, with the prescription of can. 239, § 1, n. 1 (concerning the privileges of Cardinals), 522 and 523 remaining safe.

"2. The local Ordinary, where the house of the religious women is situated, confers this jurisdiction, according to the norm of can. 525."

Moreover, that this principle may be opportunely applied to practice, further prescriptions come to be noted:

A. Canon 520: "1. To individual houses of religious women (at least formed houses) let only one ordinary confessor be given, who is to receive the sacramental confessions of the whole community, unless because of their great number or another just cause there is need of another or several."

In such a case it is expedient to divide the sisters into several categories according to order of profession, office, or language, so that for individual categories there may be one ordinary confessor.

"2. If some religious woman, for the quiet of her soul and for greater progress in the way of God, asks for some special confessor or spiritual moderator, let the Ordinary easily concede him; nevertheless let him watch lest abuses creep in from this concession; but if they have crept in, let him eliminate them cautiously and prudently, with liberty of conscience remaining safe."

An abuse, for example, surely would be if nearly all the religious women had a special confessor, because this would be to twist and frustrate the law.

B. Canon 521: "1. To each community of religious women let there be given an extraordinary confessor who at least four times in the year comes to the religious house and to whom all religious women must present themselves at least to receive a blessing.

"2. Ordinaries of places in which communities of religious women exist are to designate some priests (at least two, not indeterminately) for individual houses, to whom for the sacrament of Penance in particular cases they can easily recur, without its being necessary to approach the Ordinary himself as often as needed.

"3. If some religious woman asks for one of these confessors (extraordinary or supplementary), it is permitted to no Superior, either by herself or through others, neither directly nor indirectly, to inquire into the reason for the petition, to resist the petition by words or deeds, or in any way to show that she bears this with difficulty."

Therefore she cannot inquire directly by herself, e.g., by asking the reason from the religious woman herself, nor through others, e.g., through the mistress of novices or through other sisters, nor indirectly by asking others where she was or what things she said.

C. Canon 522: "If, notwithstanding the prescription of can. 520, 521, some religious woman, for the tranquility of her conscience, approaches a confessor approved by the Ordinary of the place for women, the confession made in any church or oratory, even semi-public, is valid and licit, any contrary privilege revoked; nor can the Superior prohibit this or inquire concerning this matter, not even indirectly; and religious women are held to report nothing to the Superior."

Canon 523: "All religious women, when they are gravely sick, although danger of death is absent, can call any priest approved for receiving the confessions of women, even if not destined for religious women, and confess to him, as often as they wish, while the grave infirmity endures; nor can the Superior prohibit them either directly or indirectly."

Therefore some religious woman, not the community, for the quiet of her conscience, can approach any confessor approved by the Ordinary of the place for women anywhere, even if the confessor comes occasionally or when called to the religious house itself (Commission of Interpretation, 28 Dec. 1927) - without, however, any right of requesting him or demanding him belonging to the religious woman - and confess before him in any church or oratory, even semi-public; therefore also in the church of her own convent, or in an oratory legitimately erected for the convenience of the community or group of the faithful coming together there, not however in an oratory of only some family or merely private. Besides, a religious woman in grave illness, which namely greatly afflicts or easily becomes dangerous, can ask for any confessor similarly approved for women as often as she wishes, and consequently even several times in a week.

IV. Corollaries. - From the foregoing we conclude with Fr. Vermeersch, *Summa Novi Iuris*, nn. 188-189: "All religious women, whether novices or professed, at home or outside, make confession validly:

1. before the ordinary confessor of the community;

2. before a special confessor or moderator whom, when she asks for him for the quiet of her soul and for greater progress in the way of God, the Ordinary will easily concede;

3. if they are gravely sick, although danger of death is absent, before any priest approved for women, while the grave infirmity endures;

4. before the extraordinary confessor of the community (to whom at least four times in the year they must present themselves) or before a supplementary confessor from those whom the Ordinary has designated for that end, called by the Superior;

5. finally before an occasional confessor approved by the Ordinary of the place for women, provided confession is made in a church or oratory, even semi-public," or, as has recently been conceded, in a place legitimately designated for hearing the confessions of women;[1] which is not to be understood only of a place habitually designated, but also of a place designated by way of an act, or chosen according to the norm of can. 910, § 1,[2] namely, because of infirmity

or another true necessity and with the cautions which the Ordinary of the place shall have judged opportune having been employed.

[1] Namely, this was extended to every place destined for confessions, for on 24 Nov. 1920, to the question whether confession made outside a church or oratory is only illicit, or invalid, the response was authentically given thus: "canon 522 is to be understood thus, that confessions... are licit and valid, provided they are made in a church, or oratory and semi-public, or in a place legitimately designated for hearing the confessions of women." The place is required for validity, as is established from the text itself, and recently was authentically declared, 28 Dec. 1927.

[2] Thus Commission of Interpretation, 12 Feb. 1935.

In order that they may licitly use the faculty indicated under nn. 4 and 5, "in particular cases, a reasonable motive is required and suffices; and without the consent of the Ordinary, they could not constitute one of these adventitious confessors as a stable confessor for themselves. Nevertheless we do not deny that a particular case can recur rather frequently for a person of anxious conscience. A reasonable cause for all will be, for example, confession impeded on the accustomed day, greater devotion on the vigil of a feast, a fault even light but more deliberately admitted, doubt because of an importunate temptation, anxiety which one does not gladly open to the ordinary confessor, etc.

"Nevertheless by canon 522... the faculty... of confessing before any confessor approved for women... is expressed more cautiously by the added words: for the tranquility of her conscience," and indeed, we add, in the obvious sense, for validity (can. 39). Therefore natural preference alone, or a light reason, does not suffice, nor only the natural consolation of speaking with such a confessor, or a mere impulse of a changeable soul (*un caprice*), but a serious reason; for otherwise the restriction would be placed uselessly in the canon: for the tranquility of conscience.

It should be noted besides that the aforesaid faculty has been given to some religious woman in particular (if some religious woman, says the canon), and consequently jurisdiction is not conceded except for a particular case. Therefore a superior could not ask any confessor whatever to supply for her community for an absent or impeded ordinary or extraordinary confessor; nor could an occasional confessor hear the whole community. For the confessions would be invalid because of defect of special jurisdiction which is altogether demanded by can. 876; but if it were otherwise, the prescription of this canon would be undone. Therefore in the case either the extraordinary confessor, or one of the supplementary confessors, would have to be called.

V. Observations. - 1. If confessors specially called or occasionally sought should find that no reasonable cause of necessity or special utility legitimates the fact that religious women approach them and not the ordinary confessor, let them prudently dismiss them.

2. Concerning the qualities of a confessor of religious women, ordinary or extraordinary, canon 524 speaks.

3. Concerning their approval and removal, see can. 525-527.

Question IV: Concerning the Restriction of Jurisdiction as to Reserved Sins

St. Thomas, q. 20, a. 2.

I. Reservation of cases is the calling of a case to the judgment of an ordinary superior, by which at the same time the power of inferiors is limited (can. 893), or the revocation of a case to the proper tribunal of the one reserving, so that no one can impart absolution except the one reserving, his successor or superior in office, or his delegate. From this it follows that not every limitation of power in a confessor is a reservation, nor is every sin whose absolution is taken away from a confessor reserved; but for this it is required that it be called to the judgment of a superior, and therefore that the power of absolving it be generally restricted among inferior confessors. Hence those who by ordinary law can concede jurisdiction for hearing confessions, or bring censures, can also reserve cases, unless otherwise established in law; e.g., the Supreme Pontiff for the whole Church, bishops for their dioceses, the superior general of an exempt religion or the abbot of a monastery *sui iuris* with respect to their own subjects (Council of Trent, sess. 14, c. 7 and can. 11).

Thus can. 893 establishes: "§ 1. Those who by ordinary law can concede the power of hearing confessions or bring censures, can also, excepting the capitular vicar, and the vicar general without a special mandate, call some cases to their own judgment, limiting the power of inferiors to absolve.

"§ 2. This calling is called reservation of cases.

"§ 3. As regards the reservation of censures, let the prescription of can. 2246 and 2247 be observed."

II. Reservation is twofold: one of sins, another of censures. - Reservation is customarily made in two ways: one is made by reason of a censure, insofar as "the reservation of a censure impeding reception of the sacraments imports the reservation of the sin to which the censure is annexed" (can. 2246, § 3), and then if the censure is not incurred or is not reserved or is removed, neither is the sin reserved: this is the reservation of censures; - the other is made by reason of itself or of the sin: this is reservation of cases or sins properly so called.

Moreover the end of reservation is twofold: one primary, disciplinary, namely the public good, for the good discipline of the Church demands that graver sins be reserved to those who, by doctrine, prudence, and experience, can judge better by what reason the evil is to be met; the other secondary, medicinal, namely the private good of the faithful, that thus they may be deterred more from those sins and amended more securely. Therefore the end of reservation is in no way penal; while on the contrary the end of the censure itself is essentially penal. Hence:

a) Reservation of sins, which according to its essence is the calling of a sin to the judgment of a superior so that it may be subjected to him, consequently imports a twofold effect: first, immediately and directly, it affects the confessor whose power as to this sin is limited so that he does not absolve from it validly; secondly, mediately and indirectly, it reaches the penitent, who must approach the tribunal of the superior in order to obtain absolution. - On the contrary, a censure immediately affects the penitent, and, if it is reserved, consequently the confessor, who, while the reservation stands, is deprived of the power of absolving from it.

b) Ignorance of reservation does not excuse from it,[1] which is now altogether certain in the new law, because reservation primarily is not a penalty of the delinquent, but a calling to the judgment of a superior and a restriction of jurisdiction in the confessor; but the ignorance of the delinquent does not give the confessor power which he does not have, nor does it impede the primary end of reservation. - On the contrary, ignorance of the censure excuses from it, and consequently also from

the annexed reservation; nevertheless never affected ignorance, nor even gross ignorance if the delict does not require full knowledge or presumption (can. 2229).

[1] Unless accidentally, when a sin is reserved under the condition: if the reservation is known; and thus the one reserving excepts those who are ignorant.

In the present matter we speak only of the reservation of sins; concerning the reservation of censures, it is spoken of in Canon Law.[2]

[2] Concerning the manner in which the confessor must conduct himself in practice with the excommunicated, cf. our little work: *De variis poenitentium categoriis*, p. 177 and following.

III. "One sin reserved by reason of itself to the Holy See is false denunciation (by oneself or through another), by which an innocent priest is accused of the crime of solicitation before ecclesiastical judges." Thus from the new law, can. 894.

Besides, according to can. 2363, a specially reserved censure is incurred if the denunciation is made before any superiors whatsoever (concerning which see below, c. V, q. 2, n. VII). Whence simple denunciation made before a superior is specially reserved to the Holy See by reason of censure; if besides the denunciation is made judicially, namely formally before the bishop as judge, then by reason of itself the sin itself is reserved.

IV. Concerning the exercise of the power of Ordinaries of reserving sins, canons 895 and 896 are valid.

Canon 895: "Ordinaries of places are not to reserve sins unless, the matter having been discussed in diocesan Synod, or outside Synod the cathedral Chapter and some of the more prudent and approved curators of souls of their diocese having been heard, the true necessity or utility of the reservation has been proved."

Canon 896: "Among Superiors of an exempt clerical religion, only the Superior general, and in monasteries *sui iuris* the Abbot, with the proper Council of each (that is, this council having been heard), can reserve sins of subjects, as above, with the prescription of can. 518, par. 1 and 519 remaining firm."[3]

[3] By special disposition of the Supreme Pontiff, by decree of the Sacred Penitentiary, absolution of those pertinaciously adhering to the action, as it is called, francaise (16 Nov. 1928) and of those reading the newspaper of this name (2 March 1929) is also reserved.

Here only the hearing of the Synod, Chapter, or also, as it seems, Council, is prescribed. Whence if, notwithstanding the vote of the group heard, the reservation is nevertheless brought, it still seems valid.

V. The qualities of sins to be reserved are indicated by can. 897 and 898.

Canon 897: "Cases to be reserved are to be altogether few, namely three, or at most four, from the graver and more atrocious external crimes, specifically determined; moreover the reservation itself is not to remain in force longer than is necessary for extirpating some public unusual vice or for restoring Christian discipline which perhaps has collapsed."

Canon 898: "Let all altogether abstain from reserving to themselves those sins which already are reserved to the Apostolic See, even by reason of censure, and regularly also those to which a censure, although reserved to no one, has been imposed by law."

Therefore a sin reserved by a bishop must be:

1. grave or mortal, both by reason of the object and by reason of the subject, that is, committed with perfect deliberation and full consent; for venial sins would be reserved in vain, since there is no obligation of confessing them, - and external, even if occult; not that internal sins cannot be reserved, but that the Church is not accustomed to act thus (lest she subject penitents to continual anxieties), so that the external act itself must be grave of itself, nor does it suffice that an action light in itself was a grave sin because of the internal intention, as, for example, a light striking of a cleric from the intention of striking gravely. Whence the sin must be mortal both internally and externally;

2. specifically determined, and not only generically: thus, for example, the whole genus of lust or any concubinage whatever cannot be reserved (since it contains several species), but the case must be circumscribed by those notes or circumstances which are the cause of reservation, e.g., sodomy, adulterous concubinage, if because of that circumstance it is to be reserved, - indeed complete in its species, or consummated in act, so that the words of the reservation are verified in the stricter sense; e.g., if incest or sodomy is reserved, there must be present perfect carnal intercourse (with emission of seed within the vessel) knowingly admitted with a consanguineous or affinal woman, or with a male; if homicide is reserved, death must have followed;

3. certain, by certainty excluding doubt of law and of fact, that is, certainly reserved, certainly committed, and certainly mortal. Hence if it is seriously doubted whether the reserving law extends itself to this case, or whether the sin was truly committed, or whether it is grave subjectively or objectively, the reservation is not incurred: for odious things are to be restricted, whence reservation always receives strict interpretation, and in doubt whether of law or of fact it does not urge (can. 19; 2246, § 2 and 2245, § 4).

Besides, that reservation be made conformably to the wishes of the Law, it is desired that the sin be:

a) not reserved to the Roman Pontiff, indeed also, at least regularly, with no censure affixed;

b) to be struck by reservation for extirpating a public vice or restoring Christian discipline: however, since, says Fr. Vermeersch, *Summa Novi Iuris*, n. 361, it cannot be hoped in every region that a vice can altogether be extirpated by reservation, if it impedes the propagation of the vice, we judge that this is already sufficient for the reservation to have the utility which is postulated by the wishes of the Holy See.

VI. Cessation of reservation. - Every reservation ceases in danger of death (can. 882); besides, according to can. 900, "Any reservation lacks force:[4]

[4] Nevertheless by special disposition, priests who have absolved adherents of the "action francaise" and have been absolved when the reservation ceased, within a month from the day of obtained absolution or recovery must recur to the Sacred Penitentiary under penalty of excommunication specially reserved to the Supreme Pontiff.

"1) When confession is made either by sick persons who cannot leave home (which also profits sick religious or others who are in a house where confessors dwell, but not those who cannot go out yet

are not truly sick, such as the incarcerated or women in childbirth), or by betrothed persons for the sake of entering marriage;

"2) As often as either the legitimate Superior has denied the faculty of absolving requested for some determinate case, or, in the prudent judgment of the confessor, the faculty of absolving cannot be requested from the legitimate Superior without grave inconvenience of the penitent or without danger of violation of the sacramental seal (such as grave difficulty of returning to the confessor, danger of grave scandal, e.g., difficulty of abstaining from communion without some mark or suspicion);

"3) Outside the territory of the one reserving, even if the penitent departed from it only to obtain absolution" (namely, in fraud of the law).

Therefore there are five cases: a sick person unable to go out; - a betrothed person about to enter marriage; - faculty denied in a determinate case; - grave inconvenience of the penitent; - departure from the territory of the one reserving.

VII. The efficacy of reservation is sufficiently obtained and yet at the same time circumscribed by the admonition of can. 899:

"1) Once reservations have been established which they have judged truly necessary or useful, let Ordinaries of places take care that these be brought to the knowledge of subjects in the way which seems better to them, nor let them impart faculty of absolving from reserved cases to anyone and indiscriminately" (but only to select confessors).

"2) But this faculty of absolving belongs by the law itself to the penitentiary canon according to the norm of can. 401, § 1, and habitually let it be imparted at least to vicars forane (that is, deans), with the faculty added, especially in places of the diocese more remote from the episcopal see, of subdelegating as often as confessors of their district recur to them, if and when for some more urgent determinate case they do so.

"3) By the law itself pastors or others who are regarded in law under the name of pastors[5] can absolve from cases which Ordinaries in whatever way have reserved to themselves, during the whole time (even legitimately anticipated or extended) useful for fulfilling the Easter precept (even if the confession is not made for fulfilling the precept), - and individual missionaries during the time when missions (and perhaps spiritual exercises given collectively) happen to be held for the people" (not for a particular institute, or association, or group, e.g., of clergy).

[5] See above, p. 20.

VIII. Practical observations. - 1. The foregoing instructions are general norms according to which bishops ought to act in their legislation, rather than laws which the Roman Pontiff himself directly imposes. And therefore if bishops have not changed diocesan laws, or establish new reserved cases beyond the norms indicated, these nevertheless must be stood by. But the dispensations indicated in can. 899 and 900 can be applied (cf. n. VI and VII).

2. Nevertheless today in Belgium there are no longer sins reserved by bishops; however, by the Council of Malines (in the Acts, n. 205) the case is foreseen that they could be introduced.

3. For pilgrims, vagi, and religious, who by force of jurisdiction received from the Ordinary of the place are absolved, there always and only exists the reservation in force in the place of confession. For they are absolved from the jurisdiction of the Ordinary of the place in which they confess (can. 874, 881); which jurisdiction is affected by the reservation in force there, since reservation directly restricts the power of the confessor (can. 893). - On the contrary, pastors outside the diocese can absolve their own subjects from cases reserved by another bishop; and perhaps from cases reserved to their proper Ordinary, since some do not hesitate to assert this.

4. When a penitent accuses a reserved sin, let the confessor immediately inquire whether or not all conditions necessary for incurring the reservation are present. If it is established that the sin is truly reserved, and at the same time the confessor lacks the due faculties, let him admonish the penitent either to approach the superior or a special confessor, or to return after a few days, namely when the necessary faculties have been obtained, which penitents generally prefer; - unless, however, it is a more urgent case, because then the reservation ceases according to can. 900.

But if the penitent has been ignorant of the reservation, he is to be taught concerning it, so that he may conceive horror of sin.

5. Absolution from reserved cases can be given directly or indirectly: directly, when the reserved sin is expressly declared before a confessor who has the faculty of absolving from reserved cases; as is also a simple confessor, in the case in which according to can. 900 the reservation ceases;

indirectly, when, without sacrilege, it either is not declared, or is declared before a simple confessor who cannot absolve from reserved cases: then it is remitted indirectly, if at the same time other sins are declared from which the penitent is directly absolved.

Hence a confessor, lacking special faculty, who knowingly, without a case of necessity, absolves from reserved cases, sins gravely by violating the laws of the Church in a grave matter, indeed he incurs suspension according to can. 2366; nevertheless the absolution is valid, if along with reserved sins another sin has been declared: for when a non-reserved sin is directly absolved, the others are indirectly remitted.

But such a simple confessor who acts thus, as also he who absolves from a reserved case by inadvertence, must correct this error according to his powers. Therefore he must admonish the penitent concerning the reservation, if he can easily do so, so that the error may be repaired and the sin again declared to the superior or his delegate in order to obtain its direct remission; otherwise let him leave him in good faith, since in the next confession he can be absolved indirectly from this sin and obtain its remission together with that of the other sins, or indeed he has already obtained it.

6. A penitent, from inculpable forgetfulness, omitting a reserved sin in confession made before a privileged confessor, is validly absolved. Nevertheless he is afterward held to manifest the omitted sin in confession, but this probably is now not reserved. The reason is that a privileged

confessor is judged, as far as he can, to absolve a duly disposed penitent. Therefore he is judged to absolve him indirectly from the reservation, because he has this power.

The matter holds somewhat otherwise if the penitent has confessed invalidly or sacrilegiously. It is certain, if he has kept silent about the reserved sin, that it has not been remitted. But if the reserved sin was manifested, and the nullity or sacrilege occurred for another cause, the reservation itself seems to have been removed, since one having the faculty of absolving has judged rightly concerning it and has imposed congruent satisfaction, which in the case is always to be fulfilled. Therefore in the following confession the penitent must repeat the whole accusation and confess the sacrilege committed, but he can now be absolved by a simple confessor.

An exception is made if, at the time of Jubilee, he confessed sacrilegiously a reserved sin to a simple confessor; for in the time of Jubilee only those penitents enjoy the privilege of receiving absolution from any confessor whatever who wish to fulfill all things which are prescribed for gaining the Jubilee. But first of all a good confession is prescribed.

Chapter III: Concerning the Use of the Confessor's Power

The formal use of the confessor's power consists in remitting sins or retaining them. He remits sins by pronouncing the sentence of absolution; this, in the sacrament, has itself after the manner of form. For while the penitent places the matter by contrition, confession, and satisfaction, the priest, joining the words of absolution to these, perfects the sacrament.

Hence we shall speak:

1. concerning the essence of the form of absolution,

2. concerning the signification of the form,

3. concerning the requisites for the validity and liceity of the form of absolution.

Question I: Concerning the Essence of the Form of Absolution

St. Thomas, III, q. 84, a. 3; Opusc. 22.

I. Thesis I. The fitting and legitimate form is: I absolve you, or words formally equivalent, e.g.: I remit to you, I pardon..., let Peter be absolved from sins. - Thus the decree of the Council of Florence for the Armenians; and the Council of Trent, sess. 14, c. 3.

It is proved from St. Thomas, III, q. 84, a. 3:

"Since the sacraments of the New Law effect what they signify..., it is necessary that the form of the sacrament signify that which is done in the sacrament proportionately to the matter of the sacrament. Whence the form of Baptism is: I baptize you, and the form of Confirmation: I sign you with the sign of the cross and confirm you with the chrism of salvation, because sacraments of this kind are perfected in the use of the matter; but in the sacrament of the Eucharist, which consists in the very consecration of the matter, the truth of the consecration is expressed when it is said: This is My Body. But this sacrament, namely of Penance, does not consist in the consecration of some matter, nor in the use of some sanctified matter, but rather in the removal of a certain matter, namely sin, insofar as sins are said to be the matter of Penance... Moreover such removal is signified by the priest when it is said: I absolve you; for sins are certain bonds... Whence it is clear that this is the most fitting form of this sacrament: I absolve you." "Therefore it must be said that this form is taken from the very words of Christ by which He said to Peter (Mt. XVI, 19): Whatever you shall loose on earth" (ib. ad 1). "Yet because the priest absolves as minister, something which pertains to the first authority of God is fittingly added, namely, that it be said: I absolve you in the name of the Father and of the Son and of the Holy Spirit" (ad 3).

Briefly: the form must express the exercise of the power of the keys, or of the power of remitting sins, conceded to the ministers of the Church, to be exercised in the name of God, of which the sacrament of Penance is the use and effect; which the form furnishes: I absolve you from your sins in the name of the Father, etc.

II. Thesis II. The form must express the exercise of the power of the keys, or the power of remitting sins by the minister himself, the priest. Whence 1) a merely deprecatory form does not suffice; but, 2) if apparently, materially, and as to the mode of speaking it sometimes was or is deprecatory, at least according to the sense it must be formally indicative.

The first is proved: a) The form must indicate the exercise of the power of the keys, or of loosing sins. But to ask is not to loose. Therefore a merely deprecatory form does not suffice, but the form must be indicative at least as to the sense.

b) The pronouncing of the form is a judicial act (Council of Trent, sess. 14, c. 6 and can. 9). But a judicial sentence is not a deprecation: for to judge is the act of one having power; to deprecate is the act of one supplicating. Therefore the same act is not a judgment and a deprecation under the same respect.

The second is proved: A form deprecatory according to grammatical construction must, according to sense, partially be equivalent to an indicative or enunciative form. For sacramental absolution is a judicial sentence. But it would not be a judicial sentence unless in some way there were signified a) judicial power in the one pronouncing, b) the use of this power, and c) the actual effect, namely, the right conceded in order to the remission of sins. Therefore.

III. Conclusions. - Hence 1) an expressly and formally indicative form is fitting, which states the actual use of judicial power in order to the remission of sins furnished in the present. For, as St. Thomas says, a. 3:

"This form is taken from the very words of Christ, by which He said to Peter (Mt. XVI, 19): Whatever you shall loose on earth. And the Church uses such a form in sacramental absolution" (ad 1). But "in certain absolutions which are made publicly in the Church, as at Prime and Compline, and on the Lord's Supper, the one absolving does not use indicative prayer, so that he says: I absolve you, but deprecatory prayer, when he says: May almighty God have mercy on you, or: May almighty God grant you absolution and remission" (Objection 1). "But absolutions of this kind made in public are not sacramental, but are certain prayers ordered to the remission of venial sins. Whence in sacramental absolution it does not suffice to say: May almighty God have mercy on you, or: May almighty God grant you absolution and remission, because through these words the priest does not signify absolution to be made, but asks that it be made" (ad 1).

2. Nevertheless, of itself a deprecatory form can be valid, if by reason of the circumstances it sufficiently shows that the minister absolves and remits sins, or if the Church has attached this sense to it.

This is established a) from history: For at the beginning and through the first ten centuries, in both Churches all forms which are known to have been employed were deprecatory, e.g.: God, pardon him, absolve him or release him, etc.

This is established from the Sacramentaries (e.g., the Gelasian) and Penitentials; and from the concordant testimony of the Fathers, e.g., Ambrose, *de Spiritu Sancto*, III, 18; Jerome, *in Ps.* 28; *c. Lucif.*, n. 5; Augustine, *de Bapt. c. Don.*, V, 20; serm. 99; Leo the Great, ep. 108 ad Theod., etc.; who always allude to the deprecatory mode of the formula, never to the indicative. - But from the eleventh century, in the Latin Church a transition begins from deprecatory formulas to indicative ones, and

both are used together so that an indicative formula is added to the deprecatory. Nevertheless the use of the deprecatory formula endured, so that at the beginning of the thirteenth century it was still in vigor, which we know from the testimony of William of Auxerre, William of Paris, and Hugh the Cardinal, and from the very little work of St. Thomas on the form of absolution, who, while defending the indicative form, nevertheless could not simply deny this (c. 2 and 5). But a little later, the indicative form was commonly received; yet in such a way that the accompanying prayers are a vestige of the ancient discipline. - But in the Eastern Church, after the thirteenth century, the deprecatory form remained, and today remains among non-united Greeks, indeed among united Greeks who are outside Europe, and in the Coptic Church of Alexandria. But many, even among Schismatics, have borrowed the indicative form from the Latin Church, such as the Jacobites, Armenians, Copts, Russians, Romanians; likewise the united Greeks who are in the parts of Europe, and the Maronites: but the schismatic Ruthenians use a form which is at once deprecatory and indicative.

b) by reason: A deprecatory formula, with the intention of absolving, and by reason of adjuncts, namely: the cause having been known, by one who has the power of remitting, and is held by all as a judge who truly remits, although not by his own authority but by God's, sufficiently shows (whether implicitly, or even by explicit words, e.g.: "through my ministry," or by mention of the power of the keys conceded) that the priest is the minister of God and absolves only by His authority; nor does it impede this that the priest is a judge and truly absolves ministerially, especially if the Church so prescribes or tolerates and the use is common. Then the sense will be: "May you be absolved or may you be loosed by me, through my ministry." Thus also the formula: May almighty God bless you, uttered not by a layman but by a priest, from whom a blessing is sought according to the accustomed rite of the Church, signifies: I bless you by the authority of God; likewise absolution from censures is often given in a deprecatory mode, and nevertheless is a judicial act. And the words: Let the servant of Christ be baptized, are equivalent to the form of Baptism: I baptize you.

Nor does it stand in the way that the Church cannot change the matter and form of the sacraments instituted by Christ, because not all forms of the sacraments were always altogether determined by Christ according to material uniformity, but only according to signification; whence if the Church has the right of defining the ultimate determination of the form, nothing prevents a deprecatory form, with the manifested intention of bearing a judicial sentence, from being able to be valid. But those who would think otherwise would have to see how they could reconcile their theory with the facts. Therefore the indicative form is more express and more befits judicial power, which belongs to the ministers of the Church, because it is certain that they not only ask that remission be made but, as instruments of God, effect it authoritatively; but the deprecatory form can also be legitimated, because the minister remits not in his own name but in the name and authority of God; whence he says as if imperatively: May God absolve you, that is, in the name of God I pronounce that God ought to absolve you.

3. Nevertheless, practically in the Latin Church only the indicative form can be employed. For since in the Western Church already for several centuries the use of the indicative formula has been prescribed, one can deservedly doubt concerning the value of the deprecatory formula in the Latin Church.

For the Church can prescribe one form as valid, and can declare another not to be legitimate, and therefore no longer to have an indicative sense; she can establish the conditions of exercising a judicial act and the one authentic form: for she can choose not to concede jurisdiction except for the indicative form. But whether this was the intention of the Church is not certain, but doubtful. Whence, because this is at least uncertain, one must abstain from a deprecatory form as doubtful.[1]

[1] There are also imperative forms, but these are reduced to deprecatory ones if, namely, they are directed to God, e.g., May God absolve you, may He forgive, they are valid as: God, pardon him, forgive; others are reduced to indicative or enunciative ones, if they are directed to the penitent, e.g., be absolved by me, be absolved by God, that is, God through my ministry absolves you.

Question II: Concerning the Signification of the Form

I. The form signifies the use and effect of the power of the keys, that is, the remission of sin itself or of fault made by the minister, so that the sense is: I truly remit the fault to you. - This is indicated by the definition of the Council of Trent, sess. 14, can. 9; whence "the thing and effect of the sacrament, as regards its force and efficacy, is reconciliation with God" (Council of Trent, sess. 14, c. 3).

II. Therefore the sense of the form is not:

1. I show or declare you absolved, namely, in the face of the Church.

Thus against Protestants, who said that sin is remitted by faith alone, not by force of the sacrament, and that absolution "is not a judicial act, but the bare ministry of pronouncing and declaring that sins have been remitted to the one confessing, provided only he believes himself absolved," which was expressly condemned by Trent (can. 9). And against Peter Lombard and other old writers who asserted the same thing, but in a very different sense, since they admitted the assisting virtue of God, operating by itself alone interiorly what is signified by exterior absolution, without attributing true instrumental causality to the minister or to his sentence as regards the remission of sin, but only as regards remission in the face of the Church; yet this does not sufficiently cohere with the doctrine of the Council of Trent.

And indeed a) the sacraments effect what they signify; but the form of Penance signifies the remission of sin; therefore it effects it. Therefore just as the form of Baptism: I baptize you, does not signify: I show you washed, but washes; so the form of Penance not only shows a man absolved, but absolves (III, q. 84, a. 3, ad 5);

b) for otherwise the power of the keys would be weakened: it would have been given fruitlessly to the Apostles if they could do nothing except show, since every learned and prudent man (by discussion of conscience) could do this.

2. Nor is the sense: I absolve you from punishment, as Richard of St. Victor and certain scholastics, and Baius, interpreted.

For a) it is against the obvious sense of the form and John XX, 22: from sins; b) according to the Council of Trent, sess. 6, c. 15, eternal punishment is remitted together with fault; therefore if the form does not remit fault, neither does it remit eternal punishment; c) according to the same Council, sess. 14, c. 1, the priest has power for reconciling the faithful who have fallen after Baptism; but reconciliation is made by the remission of fault and not of punishment alone (cf. condemned

propositions 57 and 58 of Baius). And d) then "there would not be required the will of receiving the effect of the keys for the remission of fault, just as the vow of receiving other sacraments is not required which are not ordered to the remission of fault but against punishment" (*Quodl.*, q. 18, a. 1).

3. Nor is the sense: I absolve you from the obligation of again subjecting sins to the keys, as St. Bonaventure has it, IV Sent., dist. 18, p. 1, a. 2, q. 1.

For a) it is against the obvious sense of the form and John XX, 22: to loose from sins; b) absolution from venial sins, or from sins already remitted, would now have no signification and would not be valid.

4. Nor is the sense: I give you grace remissive of sin of itself, as Suarez says, *de Poen.*, disp. 19, sect. 2, n. 13-20.

For the words directly signify remission of sin and only indirectly grace, because in the present order a grave offense is not remitted without the infusion of grace. Namely the words of themselves, that is, from human institution, do not directly signify the conferral of grace, although they produce it from the institution of Christ according to sacramental signification. Therefore the sense rather is: I remit your sins to you through the infusion of grace. - Nor does it stand against this that then remission precedes the infusion of grace. For remission, as the yielding of divine right to aversion, precedes the infusion of grace in reason, and the taking away or expulsion of sin follows this infusion.

III. The true sense of the form is: I judicially impart to you the sacrament (or sacred practical sign, or title and cause) of absolution (that is, remission), as St. Thomas has it, q. 84, a. 3, ad 5, and in the little work on the form of absolution, c. 3; in other words, I judicially cause that it is owed to you that you be freed from sin. Whence the sense of absolution is verified, even if someone is already in the state of grace, or if, from defect of the subject, grace is not conferred.

Question III: Concerning the Requisites for the Validity and Liceity of the Form of Absolution

I. For the validity of the form the essential words are required: I absolve you, and probably also: from sins.

1. Certainly these are required: I absolve you, because they sufficiently declare the effect of the sacrament, the judicial mode by which it is effected, and the receiving subject.

2. Probably also: from sins, because the words: I absolve you, are not sufficiently determined and can be understood concerning absolution from censures or from punishments, although nevertheless probably the matter is sufficiently indicated from the prior confession of sins itself; but in practice they must be added because in the ministration of the sacraments what is safer must be done: but if they had been omitted, the form would have to be repeated under condition.

3. On the contrary, the following are not essential: I, in the Latin language, and your, because they are sufficiently included in: I absolve you; nevertheless they pertain to the integrity of the

form.

4. In no way are the words required: in the name of the Father, and of the Son, and of the Holy Spirit, which are neither prescribed by Christ nor found in the ancient formulas.

Hence a) voluntary omission or substantial corruption of an essential word, or of a word which probably is such, is always a mortal sin, because it invalidates the sacrament or exposes it to danger of nullity, and the penitent to deprivation of sacramental grace;

b) absolution under an equivalent form, although gravely illicit, is valid, e.g., if it were said: I remit or pardon you; I absolve you all or your excellency; or let such a one be absolved from sins, etc., because the same sense remains and it is only an accidental change;

c) the omission only of the words: in the name of the Father... is judged a light transgression of ritual law.

II. For liceity, the form must be carefully observed in the Latin Church by the minister, which is prescribed by the Roman Ritual, or by the particular rituals of religious Orders, together with the accompanying ceremonies and the preceding and subsequent prayers.

A. According to the Roman Ritual, on Penance, c. 2:

"1. Therefore when he has wished to absolve the penitent, a salutary penance having first been enjoined and accepted by him, he first says: May almighty God have mercy on you, and, your sins having been forgiven, bring you to everlasting life. Amen.

"2. Then, the right hand having been lifted toward the penitent, he says: May the almighty and merciful Lord grant you indulgence, absolution, and remission of your sins. Amen. May our Lord Jesus Christ absolve you; and I, by His authority, absolve you from every bond of excommunication, suspension, and interdict, insofar as I can and you need. Then: I absolve you from your sins, in the name of the Father, and of the Son, + and of the Holy Spirit. Amen.

"3. If the penitent is a layman, the word 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 shall have done and evil you shall have borne, be to you unto remission of sins, increase of grace, and reward of eternal life. Amen.

"4. For a just cause, May He have mercy, etc., can be omitted, and it will be enough to say: May our Lord Jesus Christ, etc., as above, up to that: The Passion of our Lord, etc.

"5. But when some grave necessity is urgent 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 should be noted: 1) It is a pious custom, not obliging under sin, that the priest before confession say: May the Lord be in your heart and on your lips, that you may worthily confess all your sins, in the name..., etc., or at least bless with the sign of the cross, so that thus "the penitent... may be admonished that he himself with bended knees fortify himself with the sign of the cross" (Rit., c. 1, n. 10).

2. The ceremony of the elevation of the hand, from the word Indulgence up to the formation of the cross in the absolution to be imparted, does not oblige under grave sin, just as neither does the sign of the cross under absolution; indeed according to some, not even under light sin, which can be admitted, though not while the form itself is pronounced.

3. The prayers May He have mercy and Indulgence can be omitted in more frequent confessions, as if there is a great concourse of penitents, or in shorter confessions, as if the penitent often returns, or after absolution remembers a sin; otherwise it is not fitting to omit them, although it can be done without sin, because they are not of precept but of counsel, since the Council of Trent, sess. 14, c. 3, says that they "are laudably joined." This counsel the Code again inculcates, can. 885: "Although the prayers joined by the Church to the absolving formula are not necessary for obtaining liberation itself, nevertheless, except for a just cause, let them not be omitted." And the same is valid concerning the words: The Passion of the Lord...; nevertheless there are those who think that by this prayer all the works of the penitent in some way participate in the efficacy of sacramental satisfaction, as St. Thomas also reports (*Quodl.* III, q. 13, a. 28), and on account of this opinion they say that it is less fitting to omit the aforesaid prayer.

4. By precept of the Church, absolution from censures is premised to absolution from sins as a precaution; because it is not fitting that one be reconciled to God through the ministry of the Church who first has not been reconciled with the Church herself. Whence a) a confessor certainly knowing a censure sins gravely if he absolves from sins before from censures, yet the absolution is valid; b) to omit absolution from censures, where the confessor is morally certain that censures are not present, is not a sin, but nevertheless as a precaution of rectitude it is to be premised; c) it is venial if there is a probable suspicion of censure.

5. The word suspension is omitted if it concerns laymen, since they cannot be suspended; but it is prescribed for those who are in sacred Orders, and by counsel is to be used for clerics.

6. Hence voluntary omission or corruption of a non-essential word in the form itself, without sufficient reason, is a grave or light sin according as the change itself is reputed notable or not: for although it does not invalidate the sacrament, nevertheless it imports irreverence toward it against the Church's ordering concerning sacred worship.

Thus the omission of the words: in the name of the Father... is judged light; on the contrary, the change of the word: I absolve, into another equivalent, or the omission of the words: from sins, would be notable, and even omission of absolution from censures can be grave, as was said.

B. These things, however, can vary in other Liturgies, and especially in certain religious Orders. Thus according to the ceremonial of the Order of Friars Preachers:

"1. Form of absolution commonly to be observed in sacramental confession:

"If you are held by some bond of excommunication (suspension) and interdict, from which I can absolve you: I absolve you, and restore you to the holy sacraments of the Church, to the communion and unity of the faithful. In the name of the Father +, and of the Son, and of the Holy Spirit. Amen.

"May almighty God have mercy on you, and forgive you all your sins, deliver you from every evil, save and confirm you in every good work, and bring you to everlasting life. Amen.

"May our Lord Jesus Christ, Son of the living God, through His most pious mercy absolve you: and by His authority, which I exercise, I absolve you from all your sins, that you may be absolved here, and before the tribunal of the same our Lord Jesus Christ, and may have eternal life, and live forever and ever. In the name of the Father +, and of the Son +, and of the Holy Spirit +. Amen.

"The Passion of our Lord Jesus Christ, and the merits of blessed Mary ever Virgin, and of blessed Dominic our Father, and of all the Saints, and whatever good you shall have done and intend to do, or evils which you suffer and shall suffer, be to you unto remission of sins, unto increase of grace, and the reward of eternal life. In the name of the Father +, and of the Son, and of the Holy Spirit. Amen.

"2. Shorter form to be observed in reconciliation, or in more frequent and shorter confessions:

"May He have mercy can be omitted, and it will suffice to say:

"If you are held by some bond of excommunication (suspension) and interdict, from which I can absolve you: I absolve you. In the name of the Father +, and of the Son, and of the Holy Spirit. Amen.

"Likewise I absolve you from all your sins. In the name of the Father +, and of the Son, and of the Holy Spirit. Amen.

"3. Very brief form to be observed when necessity is urgent in danger of death:

"I absolve you from all censures and sins. In the name of the Father +, and of the Son, and of the Holy Spirit. Amen."

III. The mode in which the form must be pronounced, required for validity, is a) that it be uttered by mouth, b) directed to one present, c) independent from a suspensive condition in the future.

A. Uttered by mouth in words properly so called. Concerning this perhaps someone could doubt, because that sacrament was instituted by way of judgment; therefore what is rigorously required for bearing sentence in other judgments could suffice also in this judgment. But in others a writing, nod, and generally whatever sign by which a sentence can be manifested suffices. Therefore also in this sacrament words properly so called could be not required; which is confirmed by the example of matrimony, in which a nod can suffice. Nevertheless words properly so called uttered by mouth are required for validity. This is proved:

a) From the words of Eugene IV, in the Council of Florence, decree for the Armenians, teaching that the sacraments are perfected by three things, one of which is words as form; and if these are lacking, the sacrament does not exist. And although afterward he said, concerning matrimony, that it is regularly perfected by words, thus indicating that sometimes it can be done without words, nevertheless this exception is placed only for matrimony and thus confirms the rule; indeed the form of Penance is said to be words of absolution which the priest pronounces, when he says, which can properly be understood of words alone.

b) Likewise from the Council of Trent saying, sess. 14, c. 3: "the form of the sacrament of Penance... has been placed in those words of the minister: I absolve you, etc."

c) The reason is taken from the institution of Christ, which Tradition and the perpetual custom of the Church have manifested in fact and doctrine.

Moreover the difference from matrimony is: a) that Christ the Lord did not institute it as something new as a sacrament, but elevated matrimony itself to the dignity of a sacrament; b) in matrimony words are required for this, that consent become known to the other party; but in the other sacraments words are not required for this; c) matrimony by its nature is for all, even the mute, therefore words are not required for validity; as to Penance, from its nature it is not unfitting that mute persons cannot absolve.

Hence in practice: 1. the opposite opinion, which once belonged to several, has no foundation;

2. whence no attention is to be given to this, that Sporer says that in a case of extreme necessity a mute priest can, if every other priest is lacking, give absolution by a nod or writing;

3. nevertheless it is not necessary that the words be heard, but it suffices that of themselves they be audible; indeed prudence rather demands that they be pronounced not in a loud voice, but in a subdued voice, lest those standing by be able to notice that someone is dismissed without absolution.

B. Directed to one present. The words: I absolve you, suppose the penitent to be morally present. Moreover moral presence is that within which men, speaking with a louder voice, can and customarily do speak with each other and be heard; which St. Alphonsus with many others thinks can certainly extend to about twenty paces, especially where the penitent has not yet gone out from the sight of the confessor; but if the distance is greater, or if the confessor and penitent are in diverse rooms altogether separated, absolution will be doubtful, and therefore outside a case of extreme necessity one must abstain from it, because in such a doubt that which is safer must be done. Hence in practice:

1. If a penitent goes out from the confessional before absolution has been given, he can safely be absolved if he is certainly known to be within a few paces; which can be extended to about twenty if he is still seen by the confessor; otherwise let him be kindly recalled to the confessional. But if he is now far away and cannot be found, let the matter be committed to God; afterward, however, if he returns to confession, let him be admonished to grieve over all his sins, even past ones, and let him be absolved.

2. A dying person can be absolved already from the door of the room.

3. In battle a multitude of soldiers can be absolved, although some are distant much, because they form one moral thing and by this reason all are sufficiently present.

4. In a case of necessity all those who are perceived in some sense, even confusedly, can be absolved (under condition), e.g., those falling from a roof, slipping into a river or sea, lying in a fire, even if they are only looked at from afar, provided it is in some way probable that they are morally present, because in some sensible way they are present before the confessor.

C. Independent from every suspensive condition in the future. For the sacraments immediately operate the effect which they can, nor is it in the power of the minister to suspend this into the future. For at the time at which the sacrament is conferred, the effect is not produced, since the execution of the condition is uncertain and the intention of the priest, which is required for the validity of the sacrament, remains suspended; but at the time at which the condition is verified, the sacrament now does not exist, and therefore cannot produce the effect. Hence:

1. Absolution under a condition concerning an uncertain future is invalid, e.g., I absolve you if within a month you shall have made restitution.

2. On the contrary, under a condition concerning the present or past it is valid, if the condition is verified, e.g., I absolve you if you are alive, if you are capable, if you have made restitution, if I have not absolved you, etc. For this does not suspend the effect, for when the condition is verified, the absolution is in reality absolute, and consequently it is valid in the same way as this and immediately produces its effect.

IV. Corollaries. - From this practical corollaries can be deduced:

1. Absolution is illicit and invalid if given to an absent person, whether by letter or through an intermediary, even if he is confessing in this way, both because it is not done by vocal words, and because it is not done to one present.

Several once admitted this, such as Peter Paludanus, Adrianus, Sylvester, whose opinion according to Fr. Soto can be held. John of St. Thomas besides adduces for it I. Medina, *de conf.* Q; and Navarrus, *Summa*, c. 21, n. 30. Against it stand Cajetan and Ledesma and generally more recent authors; and St. Thomas is adduced, III, q. 84, a. 3 ad 3; a. 4, ad 3; and IV Sent., d. 1, q. 1, a. 3, ad 3; d. 14, q. 1, a. 1, qc. 1, ad 2; d. 17, q. 3, a. 4, qc. 3, ad 3; St. Bonaventure and St. Albert the Great in IV Sent.; Alexander of Hales, III, q. 60, m. 1, a. 1; Richard in IV, d. 17, a. 2, q. 5; Ferrariensis, *c. Gent.*, IV, c. 72.

Moreover the nature of the sacrament of Penance seems to demand that, from the mode in which it is ministered, of itself at least the priest can become certain of the actual state of the penitent; for this there is required present confession and absolution of one present; nor does an intermediary bear the place of the penitent as regards disposition. On account of this Clement VIII, on 20 June 1602, in the Congregation of the Holy Office, condemned at least as false, rash, and scandalous this proposition: "it is licit through letters or an intermediary sacramentally to confess sins to an absent confessor and to obtain absolution from the same absent one," and commanded that it never in any case be brought into practice. From which it follows that absolution is not only illicit but also invalid, for otherwise sometimes, at least in extreme necessity, it could licitly be brought into practice.

2. Absolution given to an absent person is likewise invalid, even if confession was made to a priest present, on account of the same motives.

3. Likewise absolution given to one present is invalid, but by force of a confession made in absence and here and now in no way renewed, not even in general. For then present matter (namely confession) is lacking, and therefore absolution would not be sacramental, as not

informing the matter, nor is the priest more certified concerning the actual state of the penitent.

It is also reported that Clement VIII pronounced that he had condemned and prohibited the adduced proposition not only copulatively but divisively, concerning absolution and confession separately; and most certainly Paul V, in the Congregation of the Holy Office, 14 July 1605, declared that the decree is valid in the divided sense, so that he ordered the contrary interpretation to be expunged from the writings of Suarez.

4. Hence, as an axiom, they are accustomed to say: absolution is invalid whether a) an absent person confesses and is absolved while absent, or b) a present person confesses and is absolved while absent, or c) an absent person confesses and is absolved while present.

5. Nevertheless the practice is not disapproved of absolving the dying who are destitute of the senses, who manifested desire of confession, concerning which testimony is had through those standing by, as Clement VIII declared.

For then there is present confession of one present made to one present through those standing by, as if through interpreters. For as Billuart says, *de Poen.*, diss. 7, art. 3, § II, "the penitent is present, those standing by are present, the confessor is present, and through the testimony of those standing by the confession itself is present." Namely, the penitent is present, and his confession is morally continued and expressed by the mouth of those standing by, so that the priest can be morally certain concerning the actual state of the penitent, since it is in no way likely that he, while danger of death stands, has changed his good disposition.

6. Finally, absolution by telephone, or through a long phonetic tube, is invalid, or at least very doubtful.

For according to the natural and ordinary mode of speaking together, the penitent and confessor are not present to one another, and by the common estimation of men, the conversation is judged to be made among the absent: simple communication is not yet presence. Indeed neither is the very voice of the one speaking heard, but it is only perfectly reproduced; but artificial transmission of the voice does not suffice that absolution which reaches the penitent be truly vocal. Whence, at most, in a case of extreme necessity, and only under condition, could the penitent thus be absolved, from lack of a more certain mode.

But if the Sacred Penitentiary, 1 July 1884, to a question proposed concerning this, rescripted that nothing was to be answered, it seems to have wished to signify: that the question does not pertain to it, but to the Holy Office.

V. Observation. - Concerning the validity of absolution under a condition concerning the present, doubt sometimes existed, especially concerning the condition: if you are disposed. Thus once several Louvain authors and certain others, such as Collet, said that this condition, like several others, stands against the special character of the sacrament of Penance, which was instituted by way of judgment.

They distinguished between conditions of fact, e.g., if you are alive, if you are baptized, etc., concerning which the confessor does not have to judge, and conditions of law, e.g., if you are

disposed, if you wish to make restitution, etc., concerning which he does have to judge. The former they generally admitted, because they do not invalidate the sacrament; but the condition concerning which the confessor must judge, such as that one: if you are disposed, they rejected as invalidating, because it takes away the nature of judgment, since through it the confessor supposes precisely that concerning which he must judge and bear judgment. Whence just as there would be no sentence of a civil judge concerning a litigated thing if he said: "I adjudge the thing to you, if it is yours," so absolution is invalid if the confessor says: "if you are disposed, I absolve you." This opinion is now obsolete.

For the opinion which, even at the time of the dispute, was most common outside the school of the Louvain authors, and now, after the controversy has ended, altogether common, holds that the sacrament of Penance is valid if a condition is placed beneath. The reason is the general doctrine: conditions concerning the present do not invalidate the sacraments; because when the condition is verified, in the case the disposition of the penitent, the conditioned form is equivalent to an absolute one, and thus all things required for the value of the sacrament are present.

And indeed: 1) Such a condition does not take away every judgment. For it is some judgment to say: if you are disposed, I make for you the right by which it is owed that sin be remitted to you and no longer imputed. Even in human judgments, a conditioned sentence is rather often borne, e.g., "you will go to prison unless within three days you pay the debt," or "I condemn you to prison, but, if you do not fall again into fault, for a time you will be immune from punishment," or "you are condemned or liberated, if in your desk there is this or that document," which immediately is ordered to be inquired into by trustworthy men.[1]

[1] Cf. Lehmkuhl, *Th. M.*, II, n. 370, who adds: "Indeed the sentence even of human judgment and in a civil matter not rarely has this condition implicitly in some way, 'if only the testimony of the witnesses was true'; for unless it rests on this estimation and condition, which nevertheless can sometimes fail, the sentence would be unjust and thus null... By parity, a sacramental sentence always rests on this supposition, that the penitent speaks truly and truly grieves..."

2. That condition does not take away the nature of the judgment proper to this sacrament. The confessor must judge concerning the disposition of the penitent; but, according to St. Thomas, q. 17, a. 3, this is only a judgment of discretion, so that the confessor may prudently and licitly absolve, but it is not the judicial sentence itself nor is it necessary for its validity. Here the essence of judgment consists only in the pronouncing of the sentence of absolution upon a contrite and confessed guilty person; - for otherwise he would absolve invalidly who absolves while judging nothing concerning the dispositions of the penitent or judging him positively indisposed while nevertheless he is duly disposed; which no one will admit.

3. To the arguments of the adversaries the response is: there is a disparity with human judgment. a) This does not give a right but declares it and therefore is null if it is made under that condition which precisely must be declared, because it declares nothing if it supposes in the condition what it must declare: thus it supposes what is being asked; on the contrary, the sacrament of Penance gives a right, which can also be done under condition. - b) Human judgment must be committed to execution by men, and therefore it is necessary that it be known and declared that the condition is verified; God Himself executes the sentence of the priest, and therefore it suffices that God knows whether the condition has been fulfilled. - c) As to the example brought forward, parity is denied, because it belongs to the essence of civil

judgment that the judge pronounce whose the thing is; it does not belong to the essence of sacramental judgment to pronounce that the penitent is capable, disposed, lives, has made restitution, etc., but to pronounce that a right is conceded to him for liberation from sins.

Although the condition: if you are disposed, leaves the sacrament valid, nevertheless it does not seem opportunely to be used in practice, indeed generally not even licitly, as will be said below, c. IV, q. 2, a. 3, VII.

Chapter IV: Concerning the Duties of the Power of the Confessor

I. As there is a twofold end in administering the sacrament of Penance, so also in the minister there is distinguished a twofold function, or office: namely, of judge and of physician.

1. The primary office is that of judge, because it is essential to the minister of this sacrament, which was instituted under the form of judgment. But since this judgment is not condemnatory but liberative and for the utility of the penitent, and was instituted not only for blotting out past sins but also for guarding against future ones, 2) consequently the confessor must also perform the parts of a physician, healing his wounds and suggesting opportune remedies. "The priest," says St. Thomas (*in IV Sent.*, D. 19, at the end of the exposition of the text), "must search out the conscience of the sinner in confession, as a physician searches out a wound and a judge a case." Hence can. 888: "Let the priest remember that in hearing confessions he sustains equally the person of judge and physician, and has been constituted by God the minister at once of divine justice and of mercy, so that he may consult the divine honor and the salvation of souls."

But since a) one of the human infirmities and causes of sins is ignorance, and since the minister of the sacrament is bound to teach those approaching those things which are necessary for receiving the sacrament validly and licitly, the physician and judge must perform the office of teacher, teaching the ignorant and dispelling ignorances.

Likewise b) because the various functions tend to this, that they generate and nourish the spiritual life, the confessor is the spiritual father of penitents; which function he will not exercise fruitfully unless he love them with paternal affection (Gal. IV, 19; I Thess. II, 7).

Hence by some after St. Alphonsus four functions are distinguished: of father, teacher, physician, and judge; concerning which Haine, *Th. M.*, III, *de Poen.*, q. 97: as father he should put on the bowels of charity; as teacher he should excel in knowledge; as physician, in prudence; as judge, he must preserve equity by which he looses and binds, not indeed according to his own arbitrariness, but as has been commanded him by God. Yet these four are easily reduced to the last two.

II. Moreover, in exercising any function whatever, the confessor must have before his eyes:

1. The good of the sacrament, so that with great diligence he procure its validity and liceity, and the honor of God.

2. The good of the penitent, that in the best way in which it can be done he may receive the sacrament and its fruit for repairing past sins and guarding against future ones; for the sacraments are for men.

3. The public good, by taking care lest anything less right in the exercise of the function cause scandal or some other evil in the community.

Therefore, that we may speak of all these things in order, inquiry must be made, in three questions, concerning the duties before the act, in the act, and after the act of confession.

Question First: Concerning the Duties Before the Act of Confession, or Concerning the Qualities of the Confessor

Besides the power of order and of jurisdiction, which are necessary for the value of the sacrament, several endowments or qualities are required in the minister, without which he could not licitly and fruitfully execute his function for the spiritual salvation of those confessing. Therefore the confessor must prepare himself for receiving confessions by acquiring the qualities which are necessary for duly fulfilling this function: on the part of the speculative intellect, knowledge; on the part of the practical intellect, prudence; on the part of the will, goodness of life. Thus the Roman Ritual, tit. 3, c. 1, n. 1.

Article I: Concerning the Knowledge of the Confessor

I. Outside the case of necessity, the confessor is bound under grave obligation to have that knowledge which is required for duly undertaking his function and which is competent; namely, not eminent, but moderate, by which he can solve cases which commonly occur in the place where he is accustomed to hear confessions, and at least prudently doubt concerning more difficult ones, so that he may be able to consult books or others more learned.

It is proved: For if this knowledge is lacking, he exposes himself to a proximate and morally certain danger of fulfilling his function badly, with injury to the sacrament and damage to penitents. For as minister he must procure the validity and integrity of the sacrament; as teacher, he is held to instruct the ignorant concerning duties; as judge, he must judge concerning the sins, dispositions, and obligations to be urged upon penitents; as physician, he must investigate the cause of spiritual diseases and propose opportune remedies. All these certainly require no small knowledge; and when this is lacking, the sacrament is exposed to nullity or defects, and penitents suffer detriment in a most grave matter, according to that saying (Mt. XV, 14): "But if the blind offer guidance to the blind, both fall into the pit." - Hence St. Alphonsus, *Pr. Conf.*, n. 18: "I affirm that that confessor is in a state of damnation who, without sufficient knowledge, exposes himself to receiving confessions."

It is said A) moderate, by which he can solve cases commonly occurring; namely, a) as minister he is bound to know 1) what pertains to the essence and effects of the sacrament of Penance, to its validity and licit administration and reception; - b) as judge and teacher: 2) the principles of discerning between mortal and venial sins both in general and in the individual precepts; 3) what pertains to the species, number, and circumstances of sins necessarily to be declared; 4) what pertains to the restitution of reputation and of goods; 5) reserved cases and the more frequently occurring censures; 6) impediments of marriage and obligations of states; - all which things it is impossible to know unless he knows the general principles of moral science concerning human acts, conscience, sins, and laws; - c) as physician: 7) the roots and occasions of sins and opportune remedies;

B) in the place where he is accustomed to hear confessions: for the same knowledge is not required in all confessors, but greater or less according to the diversity of places, times, and penitents. Thus, for example, greater knowledge is required in a city than in a remote village, for hearing any faithful whatever of diverse conditions than for the faithful of the same state and condition;

C) outside the case of necessity: for, if necessity presses, not only extreme but even grave, a less learned confessor licitly receives confessions, since generally the ignorance of the confessor does not obstruct the validity of the sacrament, but only its integrity or its fruitful administration; indeed in a case of true necessity, it is not always illicit to administer the sacrament with danger lest it remain defective or invalid. But a priest who fears lest the sacrament be null can absolve only conditionally.

II. Corollaries. - From the things said theologians deduce the following:

1. Natural endowments of talent or sound sense, or natural judgment, are not sufficient in a confessor. It is indeed sufficient for knowing the first moral principles, but not for their ultimate conclusions; nor does it help much for detecting positive laws concerning vows, justice, sacred ministration, the scope and limits of jurisdiction, reserved cases, matrimonial impediments and dispensations, and other things of this kind. Moreover natural and sound judgment, which is necessary for the application of principles and rules, is helped not a little by the study of theology, where one can find practical admonitions and counsels, which the common sense of the wise has elaborated and digested through many centuries. He would lack sound judgment who despised the wisdom of other prudent men.

2. Nor is experience alone sufficient: for it does not supply knowledge, but only helps it. Namely, it profits much for searching out the interior dispositions of penitents, and also for applying rules according to the various circumstances of places, times, and persons; but it does not furnish knowledge of principles and rules. Hence those who rely on experience alone necessarily commit many errors. Add that from so many matters so diverse and disparate among themselves, especially from those which are prescribed by positive law and occur more rarely, many very easily fall from the mind unless they are rather often recalled to mind.

3. A priest sins gravely who, while certainly knowing that competent knowledge is lacking to him, accepts the function of confessor, even if only from charity or obedience; - nor is it sufficient once to undergo a good examination, but he is bound to preserve knowledge by study, indeed to increase it, on account of new cases occurring, new positive laws, new decisions, for example, of the Roman Congregations. Nor does the approbation given by the bishop excuse him, since this supposes knowledge but does not supply it; although nevertheless, in doubt whether it is lacking or not, he can follow the judgment of the bishop.[1]

[1] Benedict XIV does not hesitate to assert, *Inst*. XXXII, n. 4, "that some priests, who at the beginning had accepted the function of Confessor most excellently, thereafter after a long time, every care of studies having been neglected, lose the former knowledge of moral theology, so that those who had been most skilled in an art of this kind, at length, instructed with a scanty and confused knowledge of this art and with its first rudiments, are scarcely numbered among beginners."

4. Likewise a bishop sins gravely who would approve a confessor whom he knew to be ignorant, because thus he would cooperate in his sin; - although nevertheless he can be excused if he approve one less suitable in a case of necessity, for example, for small and remote places, when he cannot find one more learned: for it is better for the faithful to have an unlearned confessor than none. In which case the bishop is bound to admonish him concerning the obligation of obtaining competent knowledge as soon as possible.

5. Likewise the penitent sins gravely who deliberately chooses an inept confessor, if thus he exposes himself to grave spiritual damage, since besides the damage which he suffers, he is the cause that the sacrament is ministered in an undue mode.

6. Students of seminaries who are destined for the sacred ministry are bound under grave obligation to apply themselves for a long time and seriously to the study of theology, not only dogmatic but also moral, so that they may be made fit for exercising the function of confessor.

7. Likewise a confessor sins who for a long time neglects the study of moral theology, if he does not retain it in memory; and indeed easily gravely, if he exposes himself to a proximate danger of committing grave errors and of harming penitents.[2]

[2] St. Alphonsus writes (*Praxis Conf.*, n. 17): "The lips of the priest shall guard knowledge, and they shall seek the law from his mouth (Malach. II, 7). For the confessor, that he may duly perform the office of teacher, there is need that he know the law well; for he who is ignorant of it cannot teach others. But here that must be adverted to which St. Gregory writes, namely, that the office of directing souls through the way of eternal salvation is the art of arts: *The art of arts is the rule of souls*. And St. Francis de Sales used to say that the office of hearing confessions is the greatest and most difficult of all. In truth it is so. It is the greatest of all, because it is the end of all sciences, which ought to be nothing other than eternal salvation; and it is the most difficult of all, first, because the function of confessor requires knowledge of all sciences, all offices, and arts; secondly, because the science of moral theology embraces so many matters diverse among themselves; thirdly, because in great part it consists of so many positive laws and sacred canons, whose understanding must be taken according to their true signification: moreover each of these laws is rendered difficult, since by reason of circumstances which make cases dissimilar, resolutions must be varied. Certain men, who boast themselves to be learned and theologians of great note, disdain even to read cursorily the moralists, whom they call casuists (a name of disgrace among them). These say that, so that confessions can be duly received, it is sufficient to know well the general principles of morals; for by them, they say, all particular cases can be resolved. Who can deny that all particular cases must be resolved by these principles? But the whole work and the whole labor is in adapting principles of this kind to particular cases, entangled in such diverse circumstances, and that it may be discerned which of the principles agrees with the occurring circumstances; this cannot be done without great discussion of the reasons which stand for each side. And this is what the moralists have accomplished, while they labored in explaining from which principles many particular cases had to be resolved. Moreover, in this our age, as has been said, there are so many positive laws, so many bulls, so many decrees, which cannot be known unless the casuists are read, who have collected them, and according as the variety of matters demands, there those things are opportunely found; and therefore, the more recent these moralists are, the more useful they are than the ancient. Moved by a just reason, the author of the *Instructions for New Confessors* (Part. i, 18) affirms that many theologians, the deeper they are in speculative sciences, the ruder they are in the moral sciences, which, as Gerson writes (*Tract. de orat.*), are the most difficult of all, and no learned man, however much he is most versed in these, is such that new things do not happen to him day by day; from which he infers that the study of moral theology must never be abandoned by the confessor. The most learned Sperelli (*De Episc.*, p. 3, c. 4) likewise says that those greatly err who apply themselves wholly to the study of scholastic theology, judging time to be spent vainly in moral theology, and afterward do not know how to distinguish leprosy from leprosy; which error (he adds) drags confessors and penitents together into eternal perdition."

III. Observations. - 1) Lest errors be committed when difficult cases occur, it is not expedient to solve them at once, but the penitent must be told that he should give time for considering the matter more maturely and for consulting books and those more learned; yet meanwhile he can be absolved, provided that he is prepared to obey the decision to be given or to approach a more learned confessor.

2. Likewise it is very useful for new confessors, even when they had to solve a case at once, to consult books and those more skilled concerning the same case, so that they may at once know whether they acted rightly or not: for thus defects admitted can be repaired and future errors guarded against.

3. Likewise here the ecclesiastical conferences concerning theological dogmatic and moral matters are especially to be commended.

Article II: Concerning the Prudence of the Confessor

I. To knowledge prudence must be added, that is, practical wisdom which orders the best means to the end. For it is especially necessary to the confessor, that he may know how to bring principles into practice and apply general precepts according to the condition of persons and circumstances, so that he sin neither by excess nor by defect, nor strike upon laxity nor upon rigor, but safely lead to an honest Christian life, and to perfection and eternal life. For it belongs to a judge and physician rightly to adapt those things which are required for judging cases or curing diseases; but the confessor is judge and physician of souls; for this therefore it is required that he know the character of the penitent and that he treat different penitents not in the same mode, but according to their diverse character and condition. - Moreover difficult cases not rarely occur, whose circumstances can be varied unto infinity, and in which the confessor cannot proceed rightly unless prudence direct him.

Moreover he must be prudent both toward the penitent and toward himself, lest he harm either; and toward the Christian commonwealth, lest, with detriment to religion, he give scandal, but according to his powers procure the public good.

A. Toward the penitent he must be prudent 1) as regards contrition, so that he propose motives of contrition according to the talent, character, and sins of individuals; and that he be not too easy in judging that the penitent is contrite, nor too rigid, but bear an equitable judgment from indications and circumstances;

2. in confession: a) in judgment concerning the morality of actions, so that he consider not only the object, but also the subjective circumstances, the dispositions and conscience of each, which more often change the species or gravity;

b) in interrogations, which in no way must be immoderate, indiscreet, or untimely, yet must be adapted to the character, age, and condition of each, namely, for taking care lest he teach simple and innocent persons unknown sins and lead them into temptation, or offend penitents; and nevertheless they must be sufficient for detecting hidden wounds and the causes, occasions, and gravity of spiritual diseases;

c) in counsels to be furnished and instructions, by admonishing ignorant penitents or by leaving them in good faith, according as he knows it generally to be expedient for the good of the penitent;

d) in leaving perfect liberty of approaching another confessor;

3. in absolution, that he rightly discern the disposition or indisposition of the penitent, and that he deny, grant, or defer absolution according as it is expedient for his salvation, especially with occasionaries and relapsers;

4. in satisfactions, that he impose salutary and fitting ones, accommodated to the quality of the sins, but still more to the good of the penitent; likewise that he suggest opportune remedies accommodated to the sins, especially by removing the causes of sins;

5. in the consequences attached to confession: a) in correcting his own errors; and b) in guarding the seal, so that he beware of every danger that directly or indirectly something be revealed, and indeed so strictly that in doubt he do that which is safer; indeed c) in abstaining from every word concerning the defects of other confessors.

B. Toward himself: 1) in inquiring into the circumstances of sins, especially against chastity, lest by those very minute modes he excite temptation in himself;

2. in avoiding the sight of women, especially younger ones;

3. in acting cautiously with women, even those dedicated to spirituality or tending to perfection, namely by avoiding superfluous conversations or familiarity, by not receiving little gifts, by not visiting them at home without necessity, by showing himself rigid and austere rather than gentle, etc.

C. Toward the Christian commonwealth: for although the confessor by reason of his office is bound principally to devote himself to the good of the penitent, nevertheless since the sacraments are for the Church and he himself is a minister constituted for the good of the Church, not only the private good but also, as far as possible, the public good must be procured by him, to which no harm is to be done and to which the private good of the penitent must be subordinated, as St. Alphonsus admonishes, *Th. M.*, l. VI, n. 615.

II. The principal prudential rules to be observed by the confessor are handed down as follows:

1. Before he receives confessions, the confessor should always implore by devout prayer the help of God, whose ministry he performs and whose assistance he needs.

2. If a difficult case occurs, let him not be hasty in defining it, but let him diligently inquire into all the circumstances of the fact, nor, when questioned, answer inconsiderately; but let him attentively and maturely weigh all things, and even, if need be, ask time for deliberating and for consulting a learned man.

3. Let him equally avoid excessive laxity and excessive rigor, but adhere to the sound and safe mean.

4. In selecting opinions for the direction of the penitent, before all else let him inquire what the spiritual good of the penitent demands; nor nevertheless let him impose the more rigid opinions unless it is necessary for avoiding the proximate danger of formal sin.

5. In perplexed cases let the confessor do that which, with all circumstances considered and the light of God invoked, he believes ought to be done; nor afterward let him be troubled, because if perhaps he erred, nevertheless he proceeded prudently, and therefore is justified before God.

III. The means necessary for acquiring prudence can be indicated conformably to the doctrine of St. Thomas concerning the nature and parts of prudence:[1]

[1] II-II, q. 47, a. 6-8; q. 48 and 49.

1. Purity of intention, namely, the sole desire of pleasing God and leading men to salvation. For prudence always supposes a right appetite of the end. Hence prudence will be greater according as charity is greater. And indeed, the more a man burns with desire of the good, the more industrious he is in devising the means of obtaining it, cautious in choosing the more apt means, diligent lest he omit anything which he can turn to his purpose, generous that he may overcome difficulties that present themselves and execute what he has decreed. Therefore let the confessor cast away every affection of pleasing men or of pursuing his own advantage.

2. Acquisition of necessary knowledge, namely, a) by the study of moral science, by which the rules and principles to be applied are known; b) by experience of long practice, which is a very great aid for judging concerning those things which happen for the most part, and concerning the better mode of questioning, concerning the mode of admonishing penitents or leaving them in good faith, concerning the mode of disposing them, of treating them more indulgently or more rigorously, of finding remedies, etc.; c) by docility of mind, by which the confessor, distrusting himself, seeks the knowledge, experience, and counsels of others: which is altogether necessary for younger men, indeed sometimes for all.

3. Perspicacity of intellect and rectitude of judgment, by which namely: a) the business is rightly considered with its circumstances as it truly is; b) it is solved precisely by those principles which are to be applied; c) and indeed by a right deduction after they have been applied.

4. Circumspection and caution, so that also the various circumstances of persons or even external impediments are weighed, all of which could render means ineffective, judgment unstable, counsel inopportune.

5. Solicitude, so that due diligence is employed in all things, and especially in providing for the amendment of the sinner for the future and for his stable reconciliation with God.

Article III: Concerning the Goodness of Life of the Confessor

I. Besides knowledge and prudence, goodness or honesty of life is also required. This consists not only in the state of grace, which is regularly necessary for avoiding sacrilegious ministration of the sacrament, and therefore is ordinarily required in one who is accustomed to hear confessions, nor must he be exposed to a proximate occasion; - but also in the complex of virtues which are desired for duly undertaking the function of confessor, both so that he himself not be contaminated while handling the ulcers of sinners, and so that he can direct others in the way of holiness.

Moreover the principal virtues necessary for the confessor are customarily enumerated:

1. Supernatural zeal of souls, by which from sincere charity toward God and neighbor he consults solely and uniquely the honor of God and the salvation of neighbor and spends his whole self, and loves penitents with a special paternal love as spiritual sons of God committed to him to be led to eternal life, as brothers of Christ, redeemed by His blood and to be formed by His virtues. For this there are required: paternal gravity, which demands reverence, and by which nothing appears in countenance, bodily gesture, or speech which does not befit a mature man, every too sensible affection being excluded; - and meekness, by which, without any manifestation of weariness, anger, impatience, or astonishment, he shows himself kind and

gentle to all, putting on the bowels of mercy, not only when he questions, instructs, admonishes, and disposes, but also when he corrects, joining goodness to firmness. Wherefore

a) let him not flee from the troubles of the ministry on account of the multitude or rudeness of penitents, or on account of the mass of sins;

b) let him not prefer the rich and noble to the poor and rude, devout or little-devout women to men burdened with a graver fault, but let him embrace all with paternal affection, and especially the more miserable and those guilty of graver sins;

c) and if a great number of penitents is present, nevertheless let him not hasten more than is fitting, "so that, for the hearing of the confessions of many, there be a deficiency either concerning the integrity of confession, or concerning due disposition, or that he omit furnishing them necessary admonitions" (St. Alphonsus, *Praxis confes.*, n. 179).

2. Patience, which especially befits a minister of Christ, and is very necessary for instructing the ignorant and rude, - for disposing those who approach unprepared, especially if they are occasionaries or relapsers, or have sinned much and have scarcely a spark of contrition, - for kindly receiving those who institute prolix confessions (as the scrupulous), especially if already the session of the sacred tribunal has lasted for long hours, - for not disturbing penitents, who thus could be exposed to the danger of keeping back sins.

3. Fortitude, lest from vain fear and pusillanimity, or from partiality, he omit to admonish and correct, especially the rich, noble, and powerful, and prescribe salutary remedies to them; for which reason let him not be too easy in admitting the good faith of those who neglect their grave duties.

4. Excellent purity, lest, while he cleanses the stains of others, he himself be stained.

5. Finally, as the prerequisite foundation of all other virtues: humility, by which he considers himself a sinner and one needing the mercy of Christ.

II. Observation. - Hence the opposed vices come to be avoided: harshness - impatience and precipitation - respect of persons - affectionate familiarity - vanity and estimation of one's own name. Cf. Aertnijs, *Th. Past.*, n. 18 sq.

III. Especially concerning the charity of the confessor, St. Alphonsus deserves to be heard, *H. Ap.*, tr. 21, n. 1 sq.:

"The confessor first must employ charity in receiving all kindly, whether they be poor, or rude, or sinners. Some spend time only in hearing the confessions of certain devout persons or of persons of standing, because they do not have so much courage as to repel these from themselves. Yet if some miserable sinner approaches them, he is heard with difficulty, and, burdened with insults, is driven away; whence it happens that that miserable man, after he has applied the greatest force to himself so that he might come to confess his sins, feeling himself received so harshly, conceives hatred toward the sacrament of Penance, and, despairing that he can find anyone who will help him and absolve him from sins, rushes headlong with loose reins into the slippery way of a ruined life, and falls into despair of salvation.

"Good confessors act otherwise. When sinners of this sort flock to them, they receive them kindly, and rejoice as a victor over captured prey, considering that the lot has fallen to them to snatch a soul from the hands of the devil. They know that this sacrament was properly instituted not for the just, but for sinners; for venial faults, that they may be remitted, do not need sacramental absolution, since they can be remedied in many other ways; they also know that Christ protested in these words: For I came not to call the just, but sinners (Mk. II, 17). Therefore the confessor, putting on the bowels of charity, the more he finds souls stained by the multitude and atrocity of sins, the more, that he may gain them for God, he embraces them with greater charity, and gives them courage by these or similar words: Come now, brother, be of good courage, do not fear; confess your sins fearlessly. Open all things confidently; be ashamed of nothing. It does not matter if you have not looked into all the folds of your conscience: it is sufficient if you answer the things asked. Give thanks to God, who has waited for you until now unto penance. Now your life must be changed. Rejoice, because God certainly remits all sins, however great, if you have a good will, and therefore He has waited for you, that He might spare you. Therefore with a cheerful mind say all things, cover nothing with wrappings.

"Then he must show far greater charity in receiving the confession. Let him beware lest he show himself impatient or affected by weariness, nor show that he is struck with admiration concerning the sins which are narrated, provided the penitent is not so hard in spirit or petulant that he would set forth more and more atrocious sins without any shame and without any displeasure and sense of soul; because then he has need, according to his powers, to bring it about that the deformity and magnitude of those sins be perceived by the penitent; and therefore then a sharper correction is required, that he may wake from his deadly lethargy. It is indeed true that in the act of confession confessors must abstain from making correction, lest perhaps penitents, being terrified, keep back sins; nevertheless this is understood as speaking regularly... Yet let him take care lest he exasperate or terrify the penitent. Wherefore after he has corrected him as much as necessary, immediately let him give him courage to confess the remaining sins, saying: Come now, brother, do you wish to recover from this vice? And since you are prepared to do this, be of cheerful mind. Therefore narrate the remaining sins, keeping back nothing. Beware, I ask you, lest you be about to commit a sacrilege. For this would be the greatest of all the sins which you have committed up to now. Therefore say all things with a strong mind, conquer yourself, confess all things sincerely: for God is prepared to spare you.

"Then, at the end of the confession, it is necessary that the confessor with more vehement ardor and zeal apply himself, that he make the penitent perceive the gravity and multitude of his sins, and the miserable state of damnation in which

they are found; but let this always be done with the greatest charity. Nevertheless it is more fitting then to use graver words, so that thus he may be able better to return to good fruit of mind; nevertheless he must bring it about that the penitent understand that what is said to him proceeds not from an angry spirit, but from singular love and compassion toward his soul. This could be expressed in this way: My son, do you consider the life of one damned, which you have led? Do you perceive the evil which you have done? What evil did your God ever do to you, whom you have so ruinously despised? If no one had been so hostile to you as Jesus Christ, could you have borne yourself worse toward Him? But, I ask you, consider who this Jesus is. He is the one who, though He

was God, needing nothing, became man for you; He willed to die on the cross, that He might redeem you from hell. Ah, son, if meanwhile you had died, if this night, whither would you have gone? Where would you now be? You would be in the eternal fire of hell. What will become of you if you continue in the future to live the life led up to now? Will you be able thus to be saved? Awake, and see that, unless you change your morals for the better, already you are damned. What good have you gathered for yourself by so many sins?... Come then, son, turn away from evil, cease to sin, and commit yourself wholly into the arms of God, which are extended to receive you; enough, how much you have sinned against Him... For God is always prepared, and for this reason He has bestowed this time upon you, that you may turn away from evil and do good. Oh how good it is to have God as a friend..."

Question Second: Concerning the Duties in the Act of Confession

The confessor sometimes must exercise his function, - and then he is bound to know the case, - and to bear sentence.

For exercising the function, it is necessary to know from what and when he is obliged to this.

To the knowledge of the case belongs: 1) as judge, of itself, to question the penitent and form for himself a judgment concerning the case; then, accidentally and occasionally, also 2) as teacher, to instruct and admonish; 3) as physician, to furnish remedies; 4) as father, to dispose and prepare.

To the pronouncing of the sentence, as minister exercising the power of the keys and sacramental judgment, he must grant, deny, or defer absolution.

Concerning these things we must speak in three articles.

Article I: Concerning the Obligation of Hearing Confessions

I. "Pastors and others to whom the care of souls has been committed by reason of office are held by a grave obligation of justice to hear, either by themselves or through another, the confessions of the faithful committed to them, as often as these reasonably seek to be heard." Thus can. 892, § 1. For those who take upon themselves the care of souls bind themselves to this by a tacit contract with their subjects, from whom they receive sustenance or honor under the condition of ministering the sacraments; and with the ecclesiastical superior, who does not commit the care of souls to anyone except under the condition that he faithfully fulfill the functions of this office: but one of these offices is to hear the confessions of subjects.

Hence, as we learn from the treatise on charity, not only 1) in extreme necessity, but also 2) in grave urgent spiritual necessity of subjects, they are bound under grave obligation, by themselves or through another, to minister the sacrament even with danger of life; 3) in common necessity, however, they are bound to hear their confessions when they themselves reasonably seek it, that is, on account of true spiritual utility. For the shepherd must furnish pasture to the sheep, not only when they are in extreme or grave need, but also when they are in common need; otherwise they would not be sufficiently provided for. But one of the principal acts of feeding is exercised in the sacrament of Penance. Yet this is to be understood in such a way that, on account of a legitimate impediment, penitents can be sent away for a short time: for since there is not urgent necessity, the law does not oblige with so great inconvenience. Hence:

a) They sin gravely if they declare that they do not wish to hear confessions except rarely and on a few determined days, for example, once or twice in any month; and if often they show themselves difficult and morose in receiving confessions: for thus confession is rendered odious, and not a few faithful are deterred from its practice.

b) But if someone once or twice, outside urgent necessity, refuses to hear the confession of someone, even without a legitimate reason, he does not sin gravely, generally speaking, because the damage which is inflicted is easily repaired.

c) But he in no way sins if he dismisses those who wish to confess too frequently and without a special reason: for these do not reasonably seek it.

d) If the pastor has suitable assistants, he is not bound so strictly to receive confessions by himself, but can satisfy this office through vicars; unless he is required by name, or a special necessity of the penitent demands that the confession be heard by the pastor. Nevertheless it is altogether fitting that pastors, in this matter, furnish a good example to vicars, by hearing confessions as often as they are not impeded by graver business.

II. "When necessity urges, all confessors are held by an obligation from charity to hear the confessions of the faithful, and in danger of death all priests." Thus can. 892, § 2.

Hence, as we know from the treatise on charity, 1) if the neighbor is placed in danger of death, all priests are bound under grave obligation to hear confession even with a sufficiently great inconvenience, for grave necessity, indeed with certain danger of their own life, for the extreme spiritual necessity of the neighbor;

2. if outside danger of death the neighbor is placed in grave spiritual necessity, confessors furnished with sufficient jurisdiction and accustomed to exercise it are bound under grave obligation, when others are lacking, with some detriment in temporal goods, to be prudently estimated; - indeed with grave inconvenience, if there is a common scarcity of confessors;

3. if a neighboring sinner is placed in common necessity and seeks confession, the confessor is bound to hear, provided that it can be done without any inconvenience and there is not another who can opportunely be approached.

III. Observation. - That for a simple priest or confessor there be a grave obligation of hearing confessions with danger to his own life, three things are required: 1) that the spiritual necessity of the neighbor be morally certain, and therefore that there be no other who can bring help; 2) that likewise certain or probable hope of absolving the dying person be present; 3) that from the death of the priest greater evils not follow, for example, the probable damnation of several others, if there is no other priest in this place.

Article II: Concerning the Duties Previous to Absolution

I. The confessor, as judge, is sometimes bound from office to question the penitent with moral diligence, and indeed of itself under grave obligation, as often as he probably judges that the penitent, whether culpably or inculpably, perhaps omits certain things necessary to know for absolution.

It is said 1) sometimes, for if from the confession itself or from the condition of the person of the penitent he judges that he knows the sins in full and the dispositions of soul sufficiently, the confessor is not bound to question: for then questioning would become idle and odious; whence neither are the rude to be questioned if they seem to be sufficiently instructed and diligently to confess their sins with number and circumstances according to their state and capacity;

2. with moral diligence, because the confessor is only bound to question in order to supply the defect of the penitent, who himself is not bound to greater diligence; and besides, excessive diligence would render the sacrament burdensome and odious;

3. of itself, under grave obligation: for it concerns a grave matter, as pertaining to the salvation of the penitent and to the reverence of the sacrament; although nevertheless there can be negligence lightly culpable, as if in a long series of sins one or another question should be omitted. As a judge acts perfidiously if he believes that a witness is keeping back something which it is necessary to declare for judging the case, and omits to ask that, and dissimulates; so the confessor who in grave matter is lacking in this office, of itself gravely offends. This sin pertains to the genus of sacrilege.

It is proved: a) from the authority of the Church, namely from the Fourth Lateran Council, chapter *Omnis utriusque sexus*: "Moreover let the priest be discreet and prudent... diligently inquiring both into the circumstances of the sinner and of the sin"; and from the Roman Ritual, tit. III, c. 1, n. 16: "if the penitent has not expressed the number, species, and circumstances of sins necessary to be explained, let the priest prudently question him";

b) by reason: The confessor, as judge, cannot bear sentence unless he knows the case, namely, both the sins which the penitent has committed as to number, species, and gravity, and his dispositions, and also often the occasions and causes of sins, which he must be disposed to leave or combat. But for this it is often not sufficient that he hear the penitent, but it is required that he question him: for not rarely the penitent, because of ignorance, or forgetfulness, or confusion, or negligence in examination, or a slight disposition of sorrow or purpose, is silent about sins or at least the number or circumstances of sins; more often he says or manifests nothing concerning dispositions, and still less concerning the causes and occasions of sins. Therefore the confessor sometimes cannot know these things except by questioning, and he is bound to do this as often as he knows or reasonably doubts or presumes that the penitent does not sufficiently open them.

Therefore he is bound to question concerning three things, namely those which, and insofar as they, are necessary for procuring 1) the validity of the sacrament, 2) the integrity of confession, or 3) the correction or amendment of the penitent.[1]

[1] Concerning the mode in which questioning is to be done in practice, see our little work: *Concerning Various Categories of Penitents*, p. 18 sq.

II. The confessor, the case having been inspected from sufficient accusation or, if necessary, from supplementary questioning, as judge is bound from office to form for himself a prudent judgment concerning it, namely concerning the sins committed and concerning the dispositions of the penitent.

It is proved: 1. The confessor is bound to form a judgment concerning sins, which is necessary for knowing what satisfactions or remedies are to be imposed, and whether the dispositions of the

penitent are sufficient. Hence he must bear judgment concerning the morality of sins, that is, concerning their species and gravity both objective and subjective, insofar as possible. And indeed a) concerning objective morality it is required at least that, endowed with habitual knowledge of the principles by which the gravity and diverse species of sins can be distinguished, he hear the penitent and, in hearing, judge according to the said common principles; b) concerning subjective morality he can presume it to be the same as the objective, unless there is a special reason for doubting, in which case he must question the penitent; c) concerning all things let him judge as much as he can by ordinary diligence, for it is not always possible concerning individual delicts to say whether they are of such species or gravity, mortal or venial, which not even great theologians can do; because often the matter is difficult in itself, and besides not even the penitent himself is always able to say whether he fully consented; - but if he lacked the aforesaid knowledge or from ignorance judged falsely concerning sins, confession would not for that reason be invalid; d) but if because of distraction or noise or singing he did not hear certain sins, it is necessary to question if it is probable that in these perhaps grave matter is present; e) nevertheless he is not bound distinctly to remember all sins at the moment of absolution, but it suffices that confusedly he remember the state of the penitent.

2. The confessor is also bound to bear judgment concerning the sufficient disposition of the penitent, which is necessary for knowing what sentence he ought to pronounce, namely, whether to grant or deny absolution; - which disposition can be known by conjectural signs, concerning which a. 3, n. III.

But what must be done by a confessor who doubts concerning the sincerity of the penitent, or knows or presumes that he is keeping back a sin? Resp.: He must attend to the principle: the penitent speaking both for himself and against himself must be believed, unless it certainly appears that he is lying: for he is at once the accused and the witness, whose testimony of itself has force in this tribunal alone and is better than any other, since he himself knows better than anyone else whether he has sinned or not, whether a sin committed has already been declared or not. Hence:

a) if there is doubt concerning the sincerity of the penitent, the confessor is bound to question diligently, and can exhort him to perfect sincerity; but if the penitent perseveres in his declaration, he must be believed and absolved;

b) if the confessor certainly knows that the penitent is keeping back a grave sin committed, and indeed from his own experience, he must convince the penitent, and if he continues to deny, he must be dismissed without absolution, unless it can be thought that he is in good faith, ignorant of the gravity of the fault, or that he has already confessed it, or has a just reason for keeping silent;

c) if the confessor knows this by the testimony of others, he is bound to question the penitent specially concerning the sin, but if he continues to deny, he is to be absolved, unless nevertheless the testimony of others were of altogether greater authority so that it made true or perfect certitude;

d) if the confessor knows it from the confession of another, for example, of an accomplice, wife, betrothed woman, etc., he cannot question him except generally as he is accustomed to question, and not specially unless he also would have questioned persons of the same condition in that way; nor is it expedient to ask from the accomplice permission to use the knowledge acquired, because in the case it would render confession odious. But while the penitent perseveres in keeping silent, he can

absolve him as if he had not received the confession of the other; because he is not bound to use knowledge acquired in confession, and on the other hand he cannot impede the sacrilege; - indeed he seems to be bound to absolve (at least under condition), because otherwise he would break the seal, since he would quite openly use knowledge of confession for the governance of another.

St. Alphonsus, however, asserts that absolution is to be denied, but that somewhat of prayer is to be said and that the denial of absolution is to be dissembled: on the one hand, he says, the priest does not break the seal because he manifests nothing and causes burden to neither; on the other hand he consults the reverence of the sacrament, by impeding its frustration.

III. The confessor, as teacher, is bound from office to instruct the penitent, as far as possible, concerning those things which are strictly necessary for duly receiving the sacrament, unless absolution can be deferred to another time; - indeed regularly and of itself at least to admonish concerning the Christian truths and precepts to be learned, both common and particular to his state, which the penitent ought to know.

It is said 1) he is bound to instruct or teach the things necessary for duly receiving the sacrament; therefore he is not to instruct him concerning all things which the penitent is bound to know and can learn elsewhere (unless accidentally from charity if it were impossible for someone to learn elsewhere), but of itself concerning all things which he is bound to know for receiving the sacrament here and now duly; - nevertheless there is an exception: a) if to teach here and now is impossible and there is extreme necessity of receiving the sacrament which cannot be deferred; b) if absolution can be deferred to another time;

2. concerning other truths and obligations to be learned he is bound only to admonish, and indeed of itself and regularly; because accidentally he can not be bound if from it a greater evil would follow (for the penitent or for others).

It is proved: The minister of penance 1) is bound from office to procure valid and fruitful administration, and therefore he is teacher for teaching those things which are necessary for valid and fruitful reception; and 2) since the sacrament is for amendment and liberation from sins, he is also bound concerning the truths to be learned and known and the duties to be fulfilled, from office (and not only as any man from charity if it can be done without inconvenience), at least to admonish insofar as it contributes to the aforesaid end, because from office he is bound to lead the penitent away from future sin and lead him into the way of salvation. This is confirmed by the authority of the Roman Ritual, tit. 3, c. 1, n. 11 and 18.

And indeed, since for the validity of the sacrament the confessor needs jurisdiction, he is either the proper pastor of the penitent, or from a certain delegation he holds the place of the proper pastor. Hence it pertains to him from office to teach subjects their duties and obligations, and the means for avoiding defects in the future; indeed, since in ministering the sacrament he is the minister of the Church, he is also bound to procure the common good if possible.[2]

[2] "For although the confessor is bound by reason of his office principally to devote himself to the good of the penitent, nevertheless, since he himself is part of the commonwealth and is constituted minister for the good of the Christian commonwealth, he is bound to prefer the public good to the private good of the penitent. Thus with Busembaum..., Lugo..., Roncaglia..., the Salmanticenses... with Aversa, Dicastillo, and others commonly," St. Alphonsus, *Th. M.*, l. VI, n. 615.

Hence he must 1) teach, and indeed before absolution, the truths necessary for receiving the sacrament here and now, namely those which, even only probably, are necessary to know by necessity of means for salvation, and those which pertain to the necessary dispositions of contrition, confession, purpose, satisfaction, as to substance and according to the capacity of each;

2. likewise admonish concerning duties which result from the sins declared, for example, as to restitution to be made, scandal to be removed or repaired, hatred to be laid aside, reconciliation to be sought, etc.;

3. admonish concerning truths necessary to know by necessity of precept, to be learned, and concerning the duties of Christian life, both common and particular to one's state: a) if ignorance of them is vincible or soon becomes so, b) even if it is invincible but fruit is hoped for from admonition, c) even if fruit is not hoped for but ignorance is to the greater detriment either of the penitent himself (for example, because it exposes him to danger of sinning or of persevering in sin), or of others or of the common good.[3]

[3] More practical matters concerning the obligation of instructing and admonishing you will be able to see in the little work: *Concerning Various Categories of Penitents*, p. 24 sq.

IV. The confessor, especially as spiritual physician, is bound from office to indicate salutary remedies for obtaining the perseverance of the penitent and for guarding against his future fall.

It is proved: For the sacrament of penance was also instituted for the healing of souls and their preservation from future sins; and therefore the minister would frustrate it as to its partial end if he did not indicate remedies against future sins. "Although penance," says St. Thomas, q. 12, a. 3, ad 3, "from its first institution or intention regards the past, nevertheless consequently it regards the future, insofar as it is a preserving medicine." This is confirmed from the Roman Ritual, tit. 3, c. 1, n. 18.

But for this it is necessary to know (also by questioning concerning these things) the causes and occasions of sins, as a physician investigates the causes of diseases; which causes, besides, must rather often already be investigated for judging the dispositions of the penitent, among which it is required that he himself be willing to avoid or combat the said causes (as was said n. I). The causes, I say, and occasions of sins must be known a) because otherwise they cannot be extirpated by the root, and, unless they are extirpated, they will again produce evil effects; b) because according to diverse causes diverse opportune remedies are to be assigned: thus, for example, some remedies are to be indicated against lust, whether it comes from an external occasion, or from the internal complexion of the body, or from depraved thoughts or temptations.

In proposing such remedies the confessor, besides the satisfaction itself, cannot impose a strict obligation, unless nevertheless he declares those things to which the penitent is already bound from elsewhere, for example, avoiding proximate danger of sinning: for it belongs to a physician, as such, to counsel, not to command in a strict mode.

Therefore the confessor must 1) know by what things depraved habits are corrected, temptations overcome, and relapses guarded against;

2. question penitents concerning the habit of sinning, concerning proximate occasions, concerning the time, the place, the persons with whom, and by what concurrence of things, they are accustomed to slip into sins;

3. prescribe apt remedies which suit the penitent more according to his condition, age, temperament, etc.;

4. also remedies proportioned to the gravity and origin of the sins, whether:

a) general, such as frequent prayer, frequent reception of the sacraments of Penance and Eucharist, especially confession to be instituted immediately after a fall, the imposition of a previously determined penance after a relapse, devout consideration of the last things and recollection of the divine presence, serious daily examination of conscience with an exploration of the causes of sin and the formation of sincere contrition and purpose, the choice of a prudent confessor and frequent recourse to his counsels, flight from evil associates and other occasions of sinning, practice of mortification, custody of the senses and chastisement of the voice, acts of charity toward God frequently repeated, works of mercy, devotion toward the Holy Eucharist, the Blessed Virgin Mary, the Sacred Heart of Jesus, etc.; or

b) particular, which are better and more directly opposed to each vice, for example: Let it be insinuated to him who is held by hatred that daily he pray for him whom he hates, and at the memory of the injury let him recall the insults by which he himself has affected God. - Let it be enjoined upon him who has slipped into shameful sins that he avoid idleness, flee evil associates and occasions. - To him who for a long time has contracted a depraved habit in this vice, let it be prescribed that he avoid not only proximate occasions, but even certain remote ones, which to him, so weak for resisting, have become as proximate (cf. St. Alphonsus, *Pr. Conf.*, n. 15-16); but

c) first of all it is better to impose medicinal satisfactions; then to insinuate spiritual remedies;

5. finally to correct, even strongly, and to furnish admonitions of salvation.

6. Moreover they are gravely lacking in the office of confessor who, content with the remission of past sins, wholly neglect the guarding of the new life and the medicine of infirmity. Cf. St. Alphonsus, *Pr. Conf.*, n. 6-7.

V. The confessor, as father, generally is bound from charity, insofar as it can be done, to propose apt motives of contrition to the indisposed and thus prepare them for absolution.

It is said 1) to the indisposed: for if the confessor prudently judges that the penitent is well disposed, he is strictly bound to nothing, although to exhort to contrition is always expedient because the exhortation of the confessor is effective before others, and at least he can briefly exhort him to renew the act of contrition;

2. apt motives, such as the deformity of sin, the value of divine grace, danger of damnation, the brevity of life and danger of death, the goodness of God, the love and benefits of Christ, and like things, according to the capacity and disposition of each;

3. from charity, and not strictly from office, because for this it suffices to absolve those who are disposed, but he can send away the indisposed until they are disposed; but from charity he is often bound to act otherwise;

4. insofar as it can be done, that is, if there is founded hope, and time for disposing to contrition; unless nevertheless in extreme necessity, in which there is a grave office of attempting all things even with the greatest inconvenience.

It is proved: From charity we are generally bound to procure the good of the penitent and avert grave damage from him, at least if it can be done easily. But a sinner who is dismissed without absolution incurs grave damage, since he is exposed to the danger of remaining for a long time in the state of mortal sin, and perhaps is deterred from confession. But since the indisposed cannot be absolved, insofar as it can be done the confessor must dispose him. Whence the Roman Ritual, l. c., n. 18: "he will strive to lead him by efficacious words to sorrow and contrition, and will induce him to amend and better institute his life, and will hand down remedies for sins."

This obligation of itself is grave, at least if the neighbor is in grave spiritual necessity and without great inconvenience can be induced to due disposition.

Article III: Concerning the Obligation of Granting, Denying, or Deferring Absolution

I. After the confessor has questioned penitents, admonished them and exhorted them to contrition and amendment, and inspected their disposition, he will find some certainly disposed for receiving absolution, others doubtfully disposed, and finally others positively indisposed. Therefore the Ritual says, tit. 3, c. 1, n. 23: "Let him diligently see when and to whom absolution is to be conferred, or denied, or deferred, lest he absolve those who are incapable of such a benefit." Concerning this the following principles are valid.

II. Absolution regularly and of itself, and indeed from justice and under grave obligation, is to be granted to a penitent guilty of grave sin who is certainly well disposed. This general principle is enunciated in the Law, can. 886: "To a penitent certainly disposed and seeking absolution, this is neither to be denied nor deferred."

For the confessor, by receiving confession, obliges himself by a quasi-contract to bear sentence according to the institution of Christ. But according to the institution of Christ, absolution of itself must be granted to the well disposed, since this sacrament was instituted precisely for remitting sins. Therefore of itself by force of contract, and therefore from justice, he must absolve the duly disposed, who accordingly have a strict right to absolution; - and indeed under grave obligation, if the penitent is in the state of mortal sin, because it is a grave injury, since he is unjustly deprived of the greatest good of sacramental grace.

It is said 1) guilty of grave sin, because if he has only venial sins or mortal sins already remitted, to defer the penitent a few times is not a grave sin, because grave injury is not inflicted upon him; indeed, if this happens from a reasonable cause, there will be no sin;

2. who is certainly disposed, that is, morally or quasi-certainly, by practical and imperfect certitude, which excludes every prudent and grave doubt, so namely that there is a grave

reason for judging this and no serious reason for doubting. For often it is impossible to have greater certitude concerning dispositions;

3. regularly and of itself: for regularly absolution granted at once profits more than if it is deferred, because it furnishes sacramental grace by which the penitent can more efficaciously resist temptation and cultivate virtue. Nevertheless sometimes accidentally absolution can be deferred even to one sufficiently disposed: a) so that before absolution restitution or reparation which can be made in the present be urged; which is an apt mode of exploring more and proving the disposition of the penitent and of obtaining the fulfillment of the duty more certainly; - b) also if the confessor as physician prudently judges that this is more useful to the penitent, who then would be unwilling irrationally; yet his consent is to be sought, because generally delay will not profit unless the penitent consent to it. Hence by the general rule it is already established in law: "to a penitent certainly disposed and seeking absolution, this is... not to be deferred";

c) only for a brief time, for example, for some hours, for a day, for eight days or a little more, because to remain long in mortal sin is a grave inconvenience.

III. Indications of positive disposition are required, so that there be a truly grave motive for bearing a truly founded or morally certain judgment concerning the sufficient disposition of the penitent.

Of this kind are: 1) the due preparation of the penitent for confession, 2) the confession itself duly performed, especially if it is done spontaneously, for example, for more easily avoiding sin and obtaining the state of grace, 3) the affirmation of the penitent if it appears true and sincere, 4) the mode of confessing, namely, a mode evidently candid and humble. These are ordinary signs, namely, which of themselves and in ordinary circumstances suffice; but when there is a special reason for doubting concerning the disposition or sincerity of the penitent, graver signs are required, drawn from the special circumstances of the penitent, or extraordinary conjectural signs, whether of more abundant grace, or of more intense sorrow, or of firmer purpose:

A. Of more abundant grace, as 1) if he confesses from a supernatural and particular motive, for example, on the occasion of preaching, or the death of a friend, or an impending evil; 2) if he had to undergo a rather great inconvenience in order to confess, such as a long journey, loss of a day's gain, a great external conflict; 3) if the confession is made altogether spontaneously from the impulse of grace alone, with no other external circumstance impelling, especially in regions where faith has grown weak and human respect does not impel to the sacraments.

B. Of more intense sorrow, for example, 1) if he employed special means (fasting, alms, prayers, Masses) so that he might institute a good confession; 2) if he says words flowing from the heart, or gives forth sighs and pours out tears, which is a sign having force in many, but not always certain or sincere; 3) if he confesses with greater sincerity, outpouring of heart, for example, sins which he had previously culpably omitted; 4) if he signifies that he apprehends better his sins and danger of damnation.

C. Of firmer purpose, as 1) if he says that after the sin he immediately repented; 2) if he especially asks for remedies and willingly promises to employ them, or willingly accepts a great penance; 3) if already for some time he has persevered or has employed diligence for this by the remedies indicated,

for example, by fleeing the occasion, burning depraved books, renouncing the society of the depraved; in one word, if there is already a change of life; 4) if he has relapsed with greater difficulty, that is, after notable resistance, or more rarely in the same circumstances; 5) if he has already fulfilled a difficult obligation, for example, restitution or reparation of reputation or honor or reconciliation with enemies.

IV. Absolution is to be denied to those who are morally certainly incapable or unworthy. This is altogether certain, since in each case absolution is invalid or at least fruitless; but knowingly and willingly to administer a sacrament in a certainly invalid or fruitless mode is grave sacrilege.

Radically incapable are the perpetually insane, - those not yet baptized, - the certainly dead, - those not knowing the things necessary to be known by necessity of means, - and those who certainly are not morally present.

Those incapable because unworthy are indicated by the Roman Ritual, l. c., n. 23: "Let him not absolve those who are incapable of such a benefit, such as: those who give no signs of sorrow, - who do not wish to lay aside hatreds and enmities - or to restore the goods of another, if they can - or to abandon the proximate occasion of sinning - or in another way to leave sins behind (for example, a depraved habit or sinful art) - and to amend life for the better (for example, by employing necessary remedies), - or those who have given public scandal, unless they satisfy publicly and remove the scandal." To these can be added in a general way all those who do not wish to fulfill a grave obligation known to themselves; or who refuse to confess their sins integrally, unless they are excused from material integrity by a grave reason. For in these or similar cases there is lacking the essential condition required for the validity of absolution, namely, contrition.

Moreover let it be noted that the confessor: 1) before he denies absolution, generally must exhort sinners to contrition so that as far as he can he may dispose them, and if by a fervent exhortation he renders them contrite, he can absolve them; - 2) if he must deny absolution, let him do this only with great charity and kind words, by explaining the reason why he cannot act otherwise and by declaring that he will willingly grant absolution as soon as the penitent is disposed.

V. Absolution is regularly to be deferred to those who are doubtfully disposed, unless a grave reason urges that they be absolved under condition. - This is altogether certain, for of itself it is illicit to expose a sacrament to danger of nullity or fruitlessness, because the reverence owed to the sacrament forbids this as sacrilege; - unless accidentally, if there is a grave and proportionate reason, or a notable utility of the neighbor to be obtained at once, because the sacraments are for men. This is to be understood when the confessor has employed every effort for obtaining sufficient disposition, and certain disposition cannot be obtained.

Namely, as often as there is danger of nullity for the sacrament and danger of notable detriment for the neighbor, and both cannot be avoided at the same time, rather the danger of the neighbor is to be avoided and nevertheless the sacrament is to be conferred under condition: for the sacraments are for men, and the law of charity in a case of grave necessity prevails over the law of religion. Thus in the following cases:

1. in danger of death, while the necessity of absolving here and now urges and there is only doubtful matter, - or doubtful disposition, - or a doubtfully capable subject, for example,

because there is doubt concerning his life or concerning sufficient presence to the minister;

2. in the case of a marriage soon to be celebrated, or Confirmation soon to be received, if the disposition of the penitent is doubtful; likewise in return to the Church after Baptism repeated under condition;[1]

[1] Not thus of itself, while the precept of communion urges, because this can be postponed; - unless accidentally there is a founded fear of infamy or scandal, as is said under 4.

3. in a case in which a doubtfully disposed penitent would for a long time lack the occasion of confessing;

4. in a case in which a doubtfully disposed penitent would be exposed to grave infamy or to giving scandal to others, if he were dismissed unabsolved;

5. if it is greatly to be feared lest one doubtfully disposed and dismissed be cast into despair or not be about to return to receive the sacrament; not however if he seriously threatens this, because rather it is a sign of indisposition;

6. in doubt concerning the sufficiency of matter which is doubtfully grave, or concerning the sufficient or perfect use of reason in the penitent, while the precept of confession urges, or perhaps grave matter is present;

7. finally in doubt whether the minister has already absolved or absolved duly, that is, with the due form. This case is reduced to doubt concerning the condition of the subject, because if the penitent had already been validly absolved, the matter of the sacrament, namely, a new confession, would be lacking.

Therefore there are only six cases on the part of the penitent, and one on the part of the minister.

VI. According to St. Leonard of Port Maurice, those are judged doubtfully disposed: a) who have relapsed in the same or a worse mode, without employing the remedies prescribed by the confessor and without serious effort of amendment; b) who respond only coldly that they are sorry, especially if they have already often relapsed; c) if they show great affection for sin, or have derived great utility from sin, or put their whole zeal into satisfying passions; d) when they are of a freer and more lax life, or rashly excuse their sins, or institute contention and altercation with the confessor, or seem to boast concerning the sin committed; e) when they approach the sacrament not spontaneously, but only by command of parents or others, or from mere custom, or to please others, or from fear lest they lose reputation; f) if they refuse a moderate penance proportioned to their strength.

Therefore those are called doubtfully disposed in the strict sense against whose disposition a grave suspicion arises from positive indications (such as we have enumerated), without on the other side a probable and prudent judgment concerning sufficient disposition being able to be formed on account of much graver reasons.

It is said: 1) from positive indications; therefore if against dispositions proved by grave reason no grave positive reason militates, or only a slight and tenuous reason, then the penitent is not judged doubtfully disposed, because in human and practical matters a solidly founded opinion to which no

grave reason is opposed is equivalent to practical certitude. And thus the opinions of some, who contend that probable disposition suffices (understanding probability in the strict philosophical sense of greater likelihood), are reconciled with the opinion of St. Alphonsus, who requires morally certain disposition;

2. without on the other side a probable and prudent judgment concerning sufficient disposition being able to be formed. For although from one or another motive, for example, from repeated relapse, a grave suspicion can arise, on the other side there can be much graver reasons concerning sufficient disposition, namely, extraordinary signs of contrition. But a notably more probable opinion is equivalent to practical certitude. Then therefore absolution is to be given at once, and indeed in an absolute mode.

VII. It is asked under what condition one doubtfully disposed is to be absolved?

Several more recent authors indicate the condition: if you are disposed; the reason of which can be assigned from the difference between Penance and the other sacraments.

Namely, the disposition necessary for justification, namely attrition, which is not of the essence of the other sacraments, is a necessary part of this sacrament, and, added to absolution as form, together with confession and satisfaction, constitutes the very matter of the sacrament. Hence, just as the other sacraments, when doubt exists concerning the matter, are ministered under the condition: if I am able, so this sacrament is ministered to one doubtfully contrite under the condition: if you are disposed. - Hence also the sacrament of Penance cannot be at once valid and unformed or fruitless: for if it is valid, the disposition for justification, namely attrition, is present, and therefore the fruit is obtained at once.

Several others reject the condition: if you are disposed, and do not admit, just as for the other sacraments, any condition except: if you are capable.

They judge that contrition, which is a necessary part for the value of the sacrament of Penance, is not the same as that which is a sufficient disposition for justification or the fruit of the sacrament (as is explained where the effect of contrition is spoken of): they say the first contrition is that which can be externally manifested and judged by the confessor with practical certitude, namely, that which is internal and sincere, supernatural and universal; but as a disposition for justification there is required more, namely, also contrition appretiatively supreme, by which a man is so disposed that he has sin as the supreme evil and efficaciously wills to suffer all things rather than commit it: but this escapes human experiment and cannot be judged by practical certitude, and therefore does not pertain to the sensible sign of the sacrament. Hence if the former contrition is present and the other lacking, the sacrament will be valid but fruitless: but when the other disposition arrives, it will obtain fruit and revive.

From this it is to be concluded, they say, that just as for the other sacraments, absolution is never to be ministered under the condition: if you are disposed, that is, if you have all the dispositions required for the sacrament; but under the condition: if you are capable, namely, of receiving the sacrament, to which all other conditions placed on the part of the subject can be reduced: if you live, if you are baptized, if you have sinned, if I have not absolved you... For the formula: if you are disposed, in the case in which disposition, namely, contrition appretiatively supreme, were absent,

would render the sacrament wholly null and would impede its reviviscence forever; - on the contrary the form: if you are capable, would leave the sacrament valid in the case in which that lesser contrition were present which suffices, as a part of the sacrament, for value, and that greater one were not present which is required for fruit, namely, justification; and therefore, if the penitent afterward elicited contrition appretiatively supreme, by that fact the sacrament would revive and the penitent would obtain the effect of grace in the same way as happens in the other sacraments. Namely, the reviviscence of the sacrament is not to be impeded.

In practice, the aforesaid conclusion is legitimate, even if the second sentence is not certain, but only probable, as in fact it is. For from this it follows that attention must be given to it in practice. For the sacraments are not to be ministered in any merely probable and uncertain mode, but in the safer and more certain mode for the good of the penitent, and indeed not in such a way that their effects are impeded, but so that they may profit men as much as possible. And therefore one must abstain from the condition: if you are disposed, and employ that other: if you are capable.

Namely, the same reason why the sacrament is to be given with danger of fruitlessness or even invalidity, the spiritual necessity of the neighbor or the danger lest he be deprived of grace necessary to him, is also the reason why it should not be conferred under

the condition if you are disposed, so that namely the sacramental fruit, if not in the present at least in the future, may be able to come to him, and thus assistance may be given to his spiritual necessity. For it is better to permit the absence of present fruit than to impede reviviscence and future fruit; because the danger of the sacrament, as the lesser evil, is to be preferred to the danger of the salvation or spiritual good of men. And this seems to be the reason why the Church in her rituals is silent concerning the aforesaid condition, and although she enumerates many conditions, she never makes mention of this one; indeed this one was unknown in the Church until the seventeenth century.

VIII. Observations. - 1. If some penitent is doubtfully disposed, all efforts are to be employed that he may be led to certain disposition; only then is he to be absolved under condition, if certain disposition cannot be had and yet there would be grave danger of spiritual detriment, because the grace of the sacrament is necessary to him here and now.

2. It is not licit regularly or always to absolve under condition, because the sacrament of penance was instituted under the form of judgment; but judgment must regularly be pronounced in an absolute mode.

3. Hence concerning the sufficiency of dispositions the confessor is bound from office to judge, and the practice of those is to be reproved who, in order to avoid difficulties, simply absolve under the condition: if you are disposed.

Question Third: Concerning the Duties After the Act of Confession

After the act of confession there are three offices or obligations of the minister; a) of themselves:

1. of preserving the sacramental seal;

2. of not using, with burden to the penitent, the knowledge received in confession;[1]

[1] The seal or secret to be preserved is one thing; the obligation of not using knowledge acquired in confession, even without lesion of the secret, is another. This latter is rather inaccurately called by some the accidental seal; indeed many treat of each together promiscuously and without distinction. Nevertheless they must be distinguished: namely, the seal obliges much more strictly than the other; besides, the obligation of the seal is special, concerning which St. Thomas expressly treats; the other obligation is general, of not causing burden, which comes to be declared according to common principles, concerning which nothing special occurs in St. Thomas.

b) accidentally:

3. of supplying defects and correcting errors.

Article I: Concerning the Obligation of the Sacramental Seal

St. Thomas, *Supp.*, q. 11.

I. The sacramental seal, or seal of sacramental confession, is the most strict obligation of preserving under secrecy those things which in sacramental confession, or in order to sacramental absolution, have been declared by the penitent, and whose revelation would in some way manifest the sin and the sinner and would render the sacrament burdensome or odious. It is called a seal metaphorically from the seal by which we seal letters which we wish to be secret, and it is the obligation of concealing things heard in confession. Briefly St. Thomas says (a. 3): "the seal of confession is nothing other than the debt of concealing confession."

According to can. 889: "The sacramental seal is inviolable; wherefore let the confessor diligently beware lest by word or sign or in any other way and for any cause whatsoever he in any way betray the sinner," that is, the person and the sin. Namely, there is a most strict obligation under grave obligation of being silent outside confession concerning sins which are known by sacramental confession, unless the penitent has given permission to speak. This obligation arises from a threefold right, natural, divine, and ecclesiastical. It arises

1. from natural right: a) because between the confessor and the penitent there intervenes an implicit pact, by force of which the latter confesses his sins only under the condition of preserving secrecy perfectly; but this is a committed secret to be preserved from justice; b) moreover the natural law forbids that the reputation of another be unjustly harmed;

2. from divine right, because Christ implicitly willed the sacrament of penance to be ministered in such a way that the faithful would not be driven away from it; but for this it is necessary that confession be secret for secret sins. For he who wills the end wills the means. Therefore Christ willed those things without which confession cannot stand. But confession cannot stand without a strict seal. Therefore;

3. from ecclesiastical right, as is clear from the Fourth Lateran Council, c. 21, and from canon 889 cited above.[1]

[1] The law of the seal, in the primitive Church, was not declared with the same rigor as it is now customarily done. For satisfaction was fulfilled publicly, even for occult delicts, or absolution was also given publicly; which at first sight could seem incompatible with the law of the seal. But the faithful at that time did not urge it so strictly, nor did they see its incompatibility with the publicity of penance, from the fact that publicity took place in the family and that we are all sinners, as Tertullian says. Penance at that time was a social thing, not an individual thing. Hence in the case there was no

unjust defamation; otherwise even in confession itself defamation could have seemed to be present, especially because they were not yet accustomed to confess venial sins.

Moreover let it be noted that the argumentation of St. Thomas in establishing the thesis can be reduced to this: It is never licit to act against the signification of a sacrament, because this is a violation of the sacrament, and therefore sacrilege against the reverence owed to it as instituted by Christ. But by confession it is signified that sins are to be covered. Therefore by force of institution the priest is bound to conceal them. The minor is proved: Those things which are done outwardly in the sacraments are signs of those things which occur inwardly: thus confession is a sign of the interior subjection by which one is subjected to God. But God covers the sins of him who subjects himself as if they had never been. Therefore this also must be signified in the sacrament of Penance (q. 11, a. 1).

Moreover note the doctrine of St. Thomas: "That which is known under confession is as if unknown, since someone does not know it as man but as God" (a. 1, ad 1). Hence

a) "if it is commanded... that he say whether he knows something concerning such a sin, he must not say, because he must judge that the intention of the one commanding is: if he knows as man; but this he does not know as man. And, even if he were to express concerning confession, when questioned he must not say..., because he is not subject to his superior except as man; but this he does not know as man but as God" (ad 2);

b) "A man is not adduced into testimony except as man, and therefore without wound of conscience he can swear that he does not know what he knows only as God" (ad 3);

c) "But the one confessing can bring it about that the priest know also as man that which he knew as God, which he does when he gives him permission to speak; and therefore if he speaks, he does not break the seal of confession; nevertheless he must beware of scandal in speaking, lest he be judged a breaker of the seal" (a. 4);

d) "That which a man knows otherwise, whether before confession or after, he is not bound to conceal as to that which he knows as man; for he can say: I know that because I saw it. Yet he is bound to conceal it insofar as he knows it as God; for he cannot say: I heard that in confession. Nevertheless, for avoiding scandal, he must abstain from speaking about this, unless necessity is imminent" (a. 5).

II. Nature of the obligation. - The obligation of the seal is of religion and justice at once: of religion, because the reverence owed to the sacrament demands it, which otherwise would be odious to the faithful; of justice, because it protects the right of the penitent, both to reputation and especially that he not be harmed by revealing a committed secret. Hence violation of the seal always imports a twofold malice: of sacrilege on account of wounded reverence owed to the sacrament, and of injustice on account of the violated pact entered with the penitent, or also on account of harmed reputation.

The seal urges strictly, so that it admits no exception, and in no case ever can be relaxed without the certain and entirely free consent of the penitent, who can yield concerning his right, since the secret was instituted in his favor; - which consent cannot be presumed, but must be given by indubitable signs explicitly (by words) or implicitly (by deeds), nor extorted by force, deceit, importunate prayers, or reverential fear, nor afterwards revoked. Yet the consent need not be spontaneous, but can be sought by the confessor for a grave cause.

Hence no end, however good and useful, excuses violation of the seal, whether before or after the death of the penitent, without his permission: neither the good of the confessor, whether temporal (for example, to preserve life or in defense of himself) or spiritual (for example, that he himself may confess integrally), - nor the good of the penitent himself or of a third party (even for avoiding a greater damage,[2] for example, that one or the other be corrected or an innocent person be declared), - nor the good of the commonwealth itself[3] (for example, in the case of a traitor, for guarding against the destruction of the commonwealth), - nor the good of religion (for impeding lest the sacrament of Eucharist, Order, or Matrimony be received unworthily, indeed lest heresy or schism be spread into a part of the Church). For no cause of obtaining good or avoiding evil can compensate that evil of hatred toward a sacrament altogether necessary for salvation. Indeed it concerns the spiritual good of the whole Church in preserving the frequentation of this sacrament instituted for the salvation of all, which outweighs every other good.[4]

[2] Thus Innocent XI, 18 Nov. 1682.

[3] Clement VIII, 26 May 1593.

[4] Therefore natural secrecy differs much from the seal, 1) because its lesion of itself is not sacrilege; 2) because of itself it admits lightness of matter; 3) because its obligation can cease in certain cases.

Hence, even in doubt whether there is danger of revelation or of breaking the seal, whether it is a doubt of law (for example, whether something falls under the seal), or of fact (for example, whether something is already known from elsewhere, or was said in order to confession), one must stand for the safer part, even if the other is more probable, because it does not concern honesty alone but the spiritual damage of the whole community, to be avoided by all means.

Yet in the case in which the confessor knows that grave damage is imminent to himself, or to a third party, or to the commonwealth or the Church, he can and must admonish the penitent that by himself or through another he impede that damage (for example, by manifesting the guilty person to the superior or by turning the accomplice away from the delict), and to one refusing to do this he can deny absolution as indisposed; but he will never be able to reveal the secret without the permission of the penitent.

III. Root of the obligation. - The obligation of the seal arises from every and only sacramental confession made for accusing oneself to the minister of the Church, as such, or also for obtaining absolution, whether complete or begun, valid or invalid; - even if absolution, for any cause whatsoever, was not granted, or the confession is sacrilegious (for example, without sorrow or purpose), or only supposed (for example, made in good faith before one who does not have power). For since the seal is in favor of the penitent, the obligation of the seal arises from the fact that on his part he placed the things necessary for sacramental confession and ordered it to absolution. Hence the seal does not arise

1. if someone knowingly confesses to a non-legitimate minister, for example, to a layman or a priest lacking jurisdiction;

2. if before a legitimate minister he institutes a simulated confession for another cause, for example, solely for deceiving or mocking the confessor, for obtaining alms or asking counsel,

for extorting testimony of confession, or for seducing the confessor, without intention of receiving the sacrament;

3. if in confession he declares something not pertaining to confession, but altogether extrinsic.

In these circumstances there can exist a natural secret; but if someone communicates something to a priest under condition of the seal and the condition is accepted by him, nevertheless there is not an obligation of the seal but a promised natural secret: then namely "he is bound from the promise to conceal it in this way, as if he had it in confession, although he does not have it under the seal of confession" (q. 11, a. 2, ad 2).

IV. The subjects of the seal are all those who from sacramental confession, whether immediately or mediately, whether licitly or illicitly, have knowledge of a thing comprehended under the seal, or have heard something: of itself and first the confessor, secondarily and by participation all to whom, by chance or industry, knowledge of confession comes. For since all these have been participants of the secret of sacramental confession, they are also participants of the obligation of preserving it (cf. can. 889, § 2). And indeed:

A. Immediately they have knowledge: 1) the confessor, whether true or fictive, even a layman, the true one of himself, but the fictive accidentally;

2. the confessor who outside confession is consulted by the penitent concerning sins to be accused in a confession to be made to himself, because the confession is already begun;

3. the interpreter employed in performing confession, namely communicating in the very act of confession, or he who writes down the sins of another to be confessed, at least within confession;

4. those standing by and neighbors hearing confession whether by chance or by industry, indeed all who attempt to hear one confessing by that very fact are guilty of violation of the seal; not however those before whom the penitent, while noticing that he is heard, speaks more loudly and confesses publicly;

B. Mediately they have knowledge: 1) the superior to whom one provisionally absolved from reserved things presents himself by law, or from whom outside confession the faculty of absolving reserved things is sought;

2. the consulted theologian to whom a case of conscience is referred with permission of the penitent: for he is a participant of the secret;

3. all those who from the confessor or from others have heard, sacrilegiously, or imprudently, or legitimately, sins accused in confession, or to whom either the confessor or any other having knowledge has shown something falling under the seal; indeed

4. he who has read the written confession of another, if the writing was in fact the means of confession, for example, if he read the paper either in the act of accusation, while the penitent is actually using it, or already handed to the confessor, while it is in his hand, or lost by the

confessor, or left in the confessional after absolution; likewise he who has read letters directed to the superior for the faculty concerning reserved things.

C. On the contrary, the following are not held by the seal: 1) he who reads a paper on which the penitent has described his sins by way of examination of conscience, or as a means for helping memory or for making confession more easily, which namely he used before confession or preserved afterwards: for it is mere preparation for confession and is ordered to confession only remotely and accidentally;

2. he whom the confessor consults with the permission of the penitent, but concerning a confession to be made to another, or who writes the confession outside confession;

3. the penitent himself: for the obligation of the seal is in favor of the penitent.

Yet they are held by natural secrecy, even the penitent himself, who must be silent concerning those things from which either infamy, or confusion, or damage would happen to the confessor unjustly, without a just reason.

V. The object or matter of the seal is generally all things which are known by sacramental confession and whose revelation can betray the sinner; moreover the seal can extend itself to something either directly or indirectly, of itself or accidentally:

A. Directly and of itself the seal extends itself to everything and only that which has been manifested in order to sacramental confession, namely:

1. the very sins declared, all of them, even the slightest, or only material, even thought and not fulfilled, internal and external, past or future to be perpetrated: mortal even in general, venial in such a species, or in sufficiently notable gravity or multitude; secret and even public as confessed. For St. Thomas says, q. 11, a. 5, ad 1: "The confessor can speak about thefts notorious in law already known to him from elsewhere, but he cannot say: the thief confessed to me his thefts, because in no case can he say that he heard something in confession";

2. the objects of sins, as they can be the sins of another, for example, if someone says that he spoke evil concerning a pregnant girl, concerning the theft or homicide of Titius, that he cursed a drunken son or the deflowerer of a virgin, that he hated his mother on account of adultery, despised his father on account of stinginess;

3. circumstances, as such, even declared after absolution, which are or are judged necessary or useful for the manifestation of sin, for example, frequenting the theater, reading depraved books, boasting of nobility, the quantity of theft: thus occasions, temptations, ends of sin;

4. accomplices of sin who, legitimately or imprudently, are in some way manifested, for example, I committed theft with my brother. Hence the confessor cannot betray the accomplice without the permission of the penitent.

B. Indirectly but of itself there fall under the seal: all things which of themselves can lead to knowledge of sin, as declared by the penitent, or of the sinner, namely:

1. a disgraceful denial of absolution, such as is not from defect of matter or because there is a custom of not absolving at once;

2. the indisposition of the penitent;

3. the satisfaction imposed, unless it is very slight, because it is an occasion of suspecting the penitent to be guilty of mortal sins or of many venial sins;

4. counsel sought or given, if it has connection with confession, for example, for correcting a defect.

C. Other things of themselves in no way fall under the seal; yet sometimes they can fall accidentally. Thus:

1. sins committed in confession, for example, of impatience, insult against the confessor;

2. sins of the penitent or of others as known from elsewhere; unless nevertheless things less certain have been confirmed from confession, or less accurate things have been completely declared;

3. the confession itself and the conferral of absolution;

4. virtues, charisms, and gifts of God, or good works;

5. mere natural or moral defects whether of body or soul.

Yet these can be the object of natural secrecy, as if by approaching secretly the penitent by word or deed signified that he did not wish it to be known that he had confessed; - indeed accidentally they can be matter of the seal, either directly: if they were declared as circumstances of sins (for example, of abuse or ingratitude), or indirectly if from adjuncts they can suggest suspicion concerning the sins or state of the penitent, or concerning the state of others. Thus if someone is revealed to have confessed who had approached secretly, or to an extraordinary confessor (for example, a religious), or to one who enjoys a special faculty, for example, of absolving from reserved things, or one who is not accustomed to confess much and approached on a day on which there is no custom, because there is suspicion of a graver sin, or at least of a non-ordinary one; likewise if someone is said to have confessed only slight things, if he has graver things to accuse, namely on account of suspicion of sacrilege or keeping back; likewise if one or another is praised and put forward as absolved, while nothing is said about others: for then concerning others suspicion easily arises.

VI. One violation of the seal is direct or immediate, another indirect or mediate. Direct violation is done by expressly revealing that which is matter of the seal and at the same time sufficiently designating the person who did it. Yet for this it is not necessary either a) that the person be known to the hearers, provided that he is sufficiently determined or designated, or b) that the hearers know that the priest is speaking about things heard in confession; but it suffices that in reality he speaks thus. Thus, for example: Titius confessed mortal sins, or committed homicide - Peter was not absolved - the prefect of such a city committed adultery - the first whom I heard today confessed adultery, if the hearers can know him. This is a mortal sin from its whole genus, which admits no

lightness of matter: for the direct manifestation even of venial sins is very odious to penitents and would drive them away from the sacrament; therefore by direct injury of the seal in light matter, grave injury is done to the sacrament.

Indirect violation is done by saying or doing or omitting something from which others can know or suspect that which is the object of the seal, with probable danger of making known or suspected the person who did it. It is not so much a formal violation of the seal as danger of violation, namely, of knowing at once the sin and the sinner. For this it is not required that the hearers know the person or suspect, but that suspicion can prudently be made. This is a mortal sin from its own genus, which nevertheless sometimes admits lightness of matter, namely, when the danger of knowing the matter of the seal and rendering the sacrament odious is slight and very remote.

VII. The indirect modes of violating the seal, whether by words or by deeds, are various according to the various adjuncts. We report some of them from approved authors.

A. By words: 1) If the confessor, in narrating some fact from confession, mentions such circumstances that the penitent can easily be known from them. The example is most known of the pastor who, after twenty-five years of priesthood, narrates in company that the first penitent confessed adultery to him; a little later a man enters and narrates to all the hearers: I was your first penitent.

2. If, after hearing the confessions of a few, he says that he heard such a grave sin, although he conceals the person, provided that the penitents can be known by those to whom the sin is narrated: for each one from that revelation suffers some suspicion against himself.

3. If, from those things which he knew only by confession, he says concerning a community (college, convent, village, town, region, religious order) a relatively graver sin, or relatively many more, or altogether special vices, besides those which are known to be committed there, even with every danger of suspicion concerning determinate persons in particular excluded: for suspicion nevertheless is concerning individuals, or at least lower estimation or infamy and disgrace redounds upon the whole community, and therefore upon the penitents insofar as they are members of the community; and the detriment is the graver because the matter is confirmed by the authentic testimony of the confessor.

Therefore he who says that in such a convent he heard a grave sin, or that in such a religious order grave sins are committed, which he knows from confession alone; and he who asserts that in a small place (of about 3,000 persons, or fewer) an occult vice dominates, or venereal disease, or such grave crimes are perpetrated, which he knows from confession, for example, many sacrileges or thefts; and he who concerning a somewhat larger place narrates an infamous sin or enormous crime, such as incest or sodomy; - not however if he narrated grave things only concerning religious in general, or concerning an order, if it were more numerous and notoriously relaxed, or even said greater things concerning great cities, in which such things are also committed.

4. If he addresses or rebukes a penitent with so loud a voice that those standing by understand from his responses, or from the admonitions, what the penitent has confessed, or that he has sinned gravely.

5. If not from the very beginning, but in the progress of confession, he says to a deaf penitent in a loud voice: come back, or something similar.

6. If he says that someone confessed to him as an extraordinary confessor or as one endowed with greater faculties, or approached him secretly, or that he denied absolution to such a one, or (unless the custom somewhere were general) had not yet absolved him, or only after a trial, or had sent him away for a time, or had not yet received his completed confession, or had imposed a grave penance on him; for from this it is inferred that a grave crime was present.

7. If, by comparing several penitents, either explicitly or implicitly (as brothers or fellow-students), he praises one or two, for example, concerning purity of conscience or concerning the fact that he brings only venial sins, but says nothing concerning the others: for then rather often he will suggest suspicion of some matter of moment, or mortal sin, or indisposition.

8. If he admonishes parents or superiors of the penitent that they watch especially in those circumstances, for example, in such a place or time.

9. If he speaks with another confessor concerning a sin which the penitent confessed to each.

B. By deeds: 1) If the confessor sitting in the confessional rises and, in a mode which those standing by can observe, reads the list of reserved cases.

2. If by visible gesture, groan, or exclamation he manifests wonder or sadness.

3. If, after hearing confession, he immediately departs from the church, not at all solicitous concerning the communion of the penitent, which otherwise would be likely.

4. If he denies a certificate of confession to a penitent who asks before others, or in circumstances in which it is customarily granted to all; concerning which see in the following article.

5. If, after hearing confession, he changes his mode of acting toward the penitent, where this is perceived by others who from it could suspect that some determinate or graver sin had been declared; concerning which again in the following article.

VIII. Observations. - 1. In ecclesiastical law, according to can. 1757, § 3, as incapable of bearing testimony are repelled: "priests, as regards all those things which have become known to them from sacramental confession, even if they have been loosed from the bond of the seal; indeed things heard by anyone and in any way on the occasion of confession cannot be received even as an indication of truth."

2. According to can. 2369: a) A confessor who has presumed directly to violate the sacramental seal incurs by that very fact an excommunication reserved in a most special manner to the Apostolic See.

b) But he who has violated the seal only indirectly is liable to penalties *ferendae sententiae*, the same as confessors soliciting to shameful things (can. 2368, § 1), namely suspension, or even inability to

receive confessions, deprivation of benefices, dignities, and active and passive voice, indeed, in the graver case, degradation.

c) Rash, and therefore conscious, violation of the seal by an interpreter or by all others to whom knowledge of confession has in any way come, is established to be punished, according to the gravity of the guilt, by a salutary penalty (*ferendae sententiae*), which can even be excommunication.

3. Lest the seal be broken indirectly, it is always better to answer in the same way. Thus, when questioned concerning sins, let him say that he has heard or knows nothing; - when questioned concerning absolution given, let him say: I have performed my office, or: should such questions be asked?; - when questioned concerning Communion to be ministered (for example, in a hospital), let him say: ask the penitent whether he wishes to communicate.

Article II: Concerning the Obligation of Not Using Knowledge Acquired in Confession

I. From the properly so-called violation of the seal there differs the exterior use of any knowledge had from confession, which can also be present without anything being revealed, while violation properly so called is always done with some direct or indirect revelation of those things which fall under the seal. This use, without permission of the penitent, is generally illicit, because of itself or accidentally it could generate confusion, shame, evil suspicion, or some harm, disgrace, annoyance, damage, or any burden whatever to the penitent or to another (Clement VIII, 26 May 1593; Innocent XI, 18 Nov. 1682); not only

a) if there is danger of direct or indirect revelation;

but also b) if from it there follows a moral or material burden of the penitent or of another, and therefore hatred of the sacrament, which is also true if from non-use a much graver damage of the penitent would follow (Innocent XI, 18 Nov. 1682); and

c) if suspicion of the violated seal arises, and therefore scandal.

But in other cases the confessor can use this knowledge of his, because it is not properly a breaking of the seal nor of itself repugnant to the seal.

Hence can. 890: "1. The use of knowledge acquired from confession with burden to the penitent is altogether prohibited to the confessor, even with every danger of revelation excluded.

"2. Both superiors existing for the time being, and confessors who afterwards have been announced as superiors, can in no way use, for exterior governance, knowledge which they have had concerning sins in confession."

Moreover the aforesaid illegitimate use is a mortal sin from its own genus, because from its nature it is born to cause great burden and grave scandal, and thus to render the sacrament very odious; nevertheless it admits lightness of matter, for example, if the burden arising from it is very moderate.

II. From this the following rules are easily established concerning the use of knowledge drawn from confession:

A. As regards the penitent himself as such:

1. It is illicit outside confession to address the penitent concerning things known from confession, unless with his permission: this causes shame and renders the sacrament odious.

2. On the contrary it is licit, a) if the penitent speaks first, because he implicitly gives permission,

b) immediately after absolution, because the judgment is morally continued,

c) in following confessions, where the priest is the minister of God, if it is in some way useful to the penitent or expedient for the rectitude of the present confession: for the past state has some relation to the rectitude of the present judgment.

3. It is illicit to reveal sins committed in confession (even not accused), natural or moral defects, of body or soul, manifested from confession alone, indeed gifts known from confession alone, if it is with burden to the penitent: for example, that he is illegitimate, a eunuch, falsely noble, of the race of Jews or magicians, poor, burdened by debts, ignorant, incapable, less skilled in an art, rude, dull, scrupulous in a case in which this does not fall to the praise of the penitent; - on the contrary it is licit, if it is known also outside confession, for example, that he is stammering, lame, deaf, or is of such condition.

B. As regards exterior governance:

1. Superiors cannot use knowledge acquired in confession, even if it does not appear that they direct themselves from such knowledge, and even if the penitent does not notice this: it is to the burden of penitents, if they knew that this is licit.

Thus they cannot use knowledge to remove an unworthy man from office, to deny him a vote of election, to deny sacraments to a sinner, or assistance at marriage on account of an impediment, to take away keys from him, to eject a pregnant maidservant or one committing thefts, to denounce or institute an inquiry.

2. Likewise the confessor himself cannot look upon the penitent with hostile eyes, address him less amicably than before, manifest by his manner of acting that he remembers the sins, make less of him than before, correct him, address him harshly, show him a severe countenance.

Indeed neither may he therefore refuse to hear the one confessing because from the preceding confession he knew him to be troublesome, scrupulous, entangled in conscience, or tenuously disposed, unless he has an external cause distinct from confession, for example, if the penitent were commonly known to be too prolix in confessing, or he did it on account of another motive. Yet the confessor can dismiss him at the beginning of confession, if he is not disposed or seeks irrationally; likewise he can admonish him in confession not to call upon him thereafter.

3. Hence the confessor is not to be questioned by parents, teachers, etc., concerning the morals of their penitents; nor consulted where it concerns admission to religion or promotion to Orders, but let him testify only to the frequency of the sacraments.

C. As regards morals exclusively his own:

1. The confessor can, on account of knowledge of confession, reform his own morals, better perform his office, pray before God for the penitent, or act more kindly toward him, consult books or wise men, temper rigor, direct himself in interrogations, guard himself from danger and occasions of spiritual or temporal damage such as death, plots, or poison, watch his flock more diligently, instruct others or admonish in general that they beware for themselves, indeed abstain from the celebration of Mass in a violated church or with poisoned wine, provided that he gives no notion to others of the sin accused or of its accusation, nor inflict burden on the penitent, for example, because others know not from this but from elsewhere, or the priest abstains or departs under another pretext. Yet in doubt let permission of the penitent be sought.

Thus, even if the penitent or others perhaps notice that it arises from knowledge of confession. "The reason is," says Haine, o. c., q. 117, "because thence the penitent suffers no shame or inconvenience, nor would men reasonably be drawn back from confession on account of this, nor finally is the action or omission of the confessor a revelation of the seal, since it is supposed to be so indifferent that others ignorant from elsewhere cannot thence come into knowledge of confessed sins. Hence if they do come into knowledge, this rather arises from the previous knowledge which they have, than from the action or omission of the confessor."

In truth, the case which would present difficulty is rather metaphysical, says Lugo, *de Poen.*, disp. 23, n. 110, since a means of escaping these dangers will never be lacking, either by the permission of the penitent or from some pretext.

2. Preachers can speak about those things of which they would not have thought unless they had received confession; not however concerning the particular sins of penitents in small communities.

III. Observations. - 1. Concerning the certificate of confession to be given or denied, let it be noted: a) such a certificate can always be given to all those who truly intend sacramental confession, whether absolved or not absolved; - b) the certificate cannot be denied to an indisposed penitent who truly confessed, if he asks for it outside confession; because thus the confessor would use knowledge of confession with burden to the penitent; - c) likewise it cannot be denied to a penitent asking for it in confession, provided that the penitent is placed in circumstances in which it is customarily given, because it would indirectly be a violation of the seal, since it would be revealed that the penitent was not duly confessed; - d) it must always be denied to those who simulate confession, even if this happens for obtaining the certificate: for then no obligation of the seal is present, indeed by giving the certificate the confessor would mendaciously say that the penitent was confessed; yet on account of grave inconveniences he could say that such a one approached him or that he heard him in the confessional; - e) testimony of absolution granted cannot be written for him who was not absolved, because it would be to lie; yet if a printed certificate imprudently showed testimony of absolution, it would have to be handed over even to him who was not absolved, at least if generally it is customarily handed over, or he himself publicly asks: thus on account of the seal; nor would the confessor lie, but he would place only the material act of handing over (or signing) the certificate on account of a proportionately grave reason, in circumstances which sufficiently indicate the restriction.

2. Concerning seeking counsel. - If the confessor needs counsel in a difficult case: a) he can recur to a theologian to whom the penitent is altogether unknown; - b) if this cannot be done, let him propose the case in such a way that the danger of revelation is avoided, that is, as fictive, by omitting adjuncts not necessary, from which the penitent could be known, and by mixing false things which do not change the substance of the matter; - c) or, if it is not conveniently done thus, let him ask from the penitent permission of taking counsel and speaking with another concerning a matter pertaining to confession; - d) but if this is denied, and in no way can he avoid danger of revelation, let him send him to another confessor, or if this can be done only with difficulty, study and prayer having been diligently employed, let him trust in God and solve the difficulty himself in the best way he can.

3. Concerning conversation about things heard in confession. - Lest confessors easily be exposed to danger of illicitly using knowledge of confession, and be held breakers of the seal, from greater prudence the Holy Office established generally that they should not converse among themselves about things confessed as such or make public discourse. Thus in the instruction of 9 June 1915, which nevertheless is not proved to have the character of a strict law, since in no way is it referred to in the *Acta S. Sedis*, nor in the annotations of the Code, nor in the *Sources of the Code of Law*. But at least it contains a most grave admonition.

Article III: Concerning the Obligation of Supplying Defects or Correcting Errors

I. A threefold defect or error can occur: 1) either the error vitiates the very value of the sacrament, for example, forgetfulness of absolution, an invalid form, indisposition of the penitent, lack of jurisdiction; - or 2) the error offends the mere integrity of confession or of the sacrament, for example, a due question omitted concerning the species or number of sins, satisfaction not enjoined; - or 3) the error regards the obligations of the penitent and inflicts damage on the penitent or on a third party, for example, a proximate occasion which is not removed, undue restitution imposed, due restitution not imposed.

II. An error invalidating the sacrament and gravely damaging to the penitent is of itself and regularly to be corrected, and indeed under grave obligation and from justice; - indeed even with grave inconvenience, if it was committed from grave fault of the confessor. For the confessor, from a quasi-contract with the penitent and therefore from justice, is bound to impart absolution to one rightly disposed; from charity indeed he hears confession, but once it has been heard, now from justice he is obliged to furnish the remaining necessary things. Therefore if he erred as to the value of the sacrament, he is bound from justice to correct it if he can, and if he erred from grave fault, even with great inconvenience: for then he is an unjust damager, and consequently he is bound to repair grave damage unjustly inflicted even with grave inconvenience; - otherwise without grave inconvenience, unless nevertheless the penitent were in grave danger of dying in the state of sin, as if he were placed in the article of death or in probable danger of not confessing any more, in which case the confessor would be obliged even with grave inconvenience, but from charity.

Therefore justice does not always oblige in an equal mode, but when wounded from fault it obliges more strictly than when wounded without fault, as appears in the case of one holding a thing of another in good or bad faith as regards restitution. Hence the gravity of the obligation and of the

inconvenience to be undergone is to be measured both from the gravity of the damage and from the gravity of culpability or negligence.

The principle supposes 1) that the error is still gravely damaging to the penitent; for if the damage is light, for example, because the penitent had not accused mortal sins, or if the damage does not persevere, because the penitent approached another confessor by whom he was validly absolved, or because he was justified in another way (namely by Extreme Unction or perfect contrition), the obligation now does not urge;

2. that the error comes from the part of the confessor; for if the error comes from the fault of the penitent, because for example he was knowingly indisposed, the confessor indeed is bound to repair the damage as a cooperator, but not so strictly, - except in the case of extreme necessity, - because the penitent could otherwise provide for himself by instituting a new confession.

III. The apt mode of repairing the defect is diverse:

1. If because of defect of jurisdiction the sacrament is invalid, let the confessor induce the penitent to confess again, and, if it is necessary for this, admonish him concerning the invalidity of absolution, even without permission of speaking about confession previously obtained from the penitent: for since the reason of nullity is exclusively on the part of the confessor, not from defect of the penitent, there is no use there of things heard in confession.

2. If because of omission or defect of absolution, and a) this is detected immediately or shortly after confession and the penitent is still morally present, he can be absolved again, even without previous admonition, provided that it is clear he is duly disposed; b) and if he is too distant, let him be called back to the sacred tribunal, while it can be done without inconvenience; otherwise let the confessor himself approach the penitent and absolve him; c) but if the error was not repaired immediately or after a short time, let the confessor induce the penitent to confess again; let him exhort him to grieve not only concerning the sins accused in the present confession, but also concerning past sins, especially concerning those accused in the last confession; and let him duly absolve him.

3. If because of the indisposition of the penitent, let the confessor approach the penitent and induce him to confess again as has been said; but if this cannot be done efficaciously, the confessor, having first obtained the permission of the penitent to speak with him about a matter pertaining to confession, should admonish him concerning the invalidity, so that the error can be repaired.

IV. In a case of error touching only the integrity of the sacrament: 1) If the confessor negatively impeded integrity by omission (whether from forgetfulness or from culpable negligence), he is not bound to repair the damage or admonish the penitent outside confession, because the obligation of procuring integrity affects the confessor as minister of the sacrament, that is, within confession, and on the other hand admonition outside confession is of itself and generally troublesome to the penitent; - yet in another confession, where the confessor is spiritual physician and minister of the sacrament, the error is to be corrected if it can be done without great inconvenience.

2. If he positively impeded integrity, the confessor is bound to admonish even outside confession (the permission of the penitent having first been obtained), provided that he can do so without scandal and grave inconvenience, and more strictly if he erred culpably than if inculpably.

The reason is that each one is bound to repair damage which he positively inflicted, and to remove the cause of it which he placed; namely, he is bound lest from his positive action others take damage, even from material sin. Yet not with grave inconvenience, because if grave damage excuses the penitent from preserving integrity, *a fortiori* it excuses the confessor from procuring it; thence a somewhat lesser cause will excuse him who erred inculpably. And in fact the confessor is rarely bound to correct.

V. In the case of an error which inflicts damage on the penitent or on a third party, a principle similar to that in the preceding case is valid:

A) If he erred negatively by omission, from office the confessor is bound toward the penitent, even outside confession, to admonish and correct, if from that omission the penitent is moved to believing licit and doing that which is illicit or to the damage of a third party: more strictly or less strictly, with greater or lesser inconvenience, according to the gravity of the damage and culpability. But he is not bound from justice to repair the damage of the third party, because from office the confessor is not bound to procure the good of the third party.

B) But if he positively induced the penitent into error, for example, if, when questioned, the confessor pronounced that restitution was to be made, where there existed no obligation of making restitution, or the converse; and

1. the error was culpable (for example, from malice, vincible ignorance, grave negligence), the confessor is bound from justice, even outside confession, and in grave matter under grave obligation, to repair and restore either to the penitent or to the third party: for he was positively cooperating with the damage of another through counsel;

2. if the error was inculpable, likewise the confessor is bound, if he can without grave inconvenience, to repair; but if he does not do this, he will be bound to restore.

The reason is that everyone is bound from justice, not only not to inflict damage directly and deliberately on a neighbor, but also to procure that from his action damage not come to the neighbor; but if he does not correct the error when he can, he is bound to restore by reason of omitted retraction, which is truly an unjust and efficacious cause of damage by which that damage becomes voluntary and culpable. But he is bound only without grave inconvenience, because the damage does not arise from an unjust injury, since the action was inculpable.

Chapter V: Concerning the Abuse of the Power of the Confessor

The minister can abuse his power in several ways: by inquiring into the name of an accomplice, by absolving the unworthy or repelling the worthy, by requiring an undue satisfaction or not requiring a fitting one, by violating the seal, etc., which, when occasion is given, are customarily examined in the course of the treatise on Penance; but now it comes especially to be said concerning a twofold abuse more specially prohibited by ecclesiastical authority, namely: 1) concerning the absolution of an accomplice in a base sin; 2) concerning the solicitation of a penitent to base things.

Question First: Concerning the Absolution of an Accomplice in a Base Sin

I. To avoid lest confessors be able to abuse their power for sinning more freely, Benedict XIV established that every confessor outside danger of death lacks the faculty of absolving his own accomplice in a base sin, and prohibited absolution of this person, outside a case of extreme necessity, under pain of excommunication.

"We interdict and prohibit each and every priest, secular as well as regular... lest any of them outside a case of extreme necessity, namely in the very article of death and then also with another priest lacking who could undertake the function of confessor, dare to receive the sacramental confession of a person who is an accomplice in a base and dishonorable sin committed against the sixth precept of the Decalogue, for that reason any authority and jurisdiction whatsoever over any person whatever for absolving from a fault of this kind having been taken away from him; so indeed that the absolution, if he imparts any, is altogether null and void, as imparted by a priest who exists deprived of the jurisdiction and faculty necessary for absolving validly, which by these our presents we intend to take away from him. And nevertheless, if any confessor has dared to act otherwise, by that very fact let him incur also the penalty of major excommunication, the power of absolving from which we reserve only to Ourselves and to our successors."

Thus in the Bull *Sacramentum Poenitentiae*, 1 June 1741; which he confirmed and explained more in the Constitutions *Apostolici Muneris*, 28 February 1745, and *Inter praeteritos*, 28 November 1749.[1] Moreover the Code of Law ratified this, can. 884:

[1] These documents, as also other responses of the Holy See to be attended to in the present and following question, can be read in De Smet: *On the Absolution of an Accomplice and Solicitation*.

"The absolution of an accomplice in a base sin is invalid, except in danger of death; and even in danger of death, outside the case of necessity, it is illicit on the part of the confessor according to the norm of the apostolic constitutions and by name of the constitution of Benedict XIV *Sacramentum Poenitentiae*, 1 June 1741"; - and can. 2367:

"1) One absolving or feigning to absolve an accomplice in a base sin incurs by that very fact an excommunication reserved in a most special manner to the Apostolic See; and this even in the article of death, if another priest, although not approved for confessions, without some grave infamy and scandal about to arise, can receive the confession of the dying person, except the case in which the dying person refuses to confess to another.

"2) He does not escape the same excommunication who absolves or feigns to absolve an accomplice who indeed does not confess the sin of complicity, from which he has not yet been absolved, but conducts himself thus because he has been induced to this by the accomplice confessor either directly or indirectly."

That discipline was established for a twofold end: namely both for protecting the sanctity of the sacred tribunal, or for removing from the sacrament every occasion of baseness and indecency and contempt; - and for meeting dangers to souls, namely for avoiding danger of seduction and relapse into the same sin, and for guarding against detriment of the penitent to be obtained from lesser shame or from defect of serious detestation or purpose.

Moreover, for explaining what has been established, it is necessary to declare what is 1) a base sin, 2) an accomplice, 3) to absolve.

II. A base sin is to be understood without restriction: any sin of lust, that is, against chastity and the sixth precept, not only perfect and consummated, but also imperfect and begun, such as touchings, kisses, embraces, indeed base speech and looks, as the Holy Office declared on 28 May 1873, provided that they are strictly lustful and import complicity; - not however sins against other virtues and precepts. Hence to absolve an accomplice in a sin of injustice, for example, in homicide or theft, is not specially prohibited; although even such absolution is indecent.

But the sin of lust must be a) grave, b) external, c) not yet directly remitted:

a) Grave, both objectively and subjectively, namely materially and formally.

Therefore light sins are excluded, whether from imperfection of the act, or from erroneous conscience, or from lightness of matter, while it concerns lust voluntary only in its cause. Hence if a boy from erroneous conscience certainly judges that touches shamefully perpetrated by a priest are not a grave sin, he could be absolved by this priest.

b) External, so that the sin is grave both internally and externally, and also so that it, as such, namely in the account of an external act, is gravely sinful.

For this reason merely internal sins of lingering delight and desire are excluded, and external sins venial under every respect, and also grave sins whose grave malice is not fully manifested outwardly. Hence if kisses or touches had from an internal lustful affection, as external acts, are not gravely evil in themselves, and the libidinous affection from which they are done is not fully manifested outwardly, they can be absolved.

c) Not directly remitted; whence if the sin has already been duly accused and validly remitted by direct absolution, so that now it is free matter of confession, the priest can absolve from it (Holy Office, 29 May 1867).

Nevertheless it must altogether be advised that he never hear the confession of his accomplice except when necessity compels, on account of the danger of temptation or irreverence toward the sacrament.

III. An accomplice is a companion and as if one implicated in a base sin. This must be understood without restriction, of whatever sex, age, and condition: anyone, whether male or female, whether pubescent or impubescent, provided he is capable of grave sin; indeed also a person with whom before receiving the priesthood the priest had sinned, as the Holy Office declared on 22 January 1879.

And therefore here he invalidly absolves an accomplice who institutes a general confession of sins, if the prior confessions certainly were sacrilegious, or even simply invalid.

But for complicity there is required:

1. A mutual sin, namely, that each internally and externally committed the same grave sin against chastity; or the consent of two in the same grave and external base sin, whether each cooperates, as in mutual conversations and embraces, or only one acts, for example, by touch, provided that the other consents both externally and internally: which consent is presumed sufficiently to be present if he in no way resists.

Hence the following do not fall under the law: a) an act which is mortal on one side, only venial on the other; b) nor an act externally light although internally grave on each side; c) nor an act, however grave, to which the other does not consent, indeed to which he has not furnished external consent, although he consents internally.

2. Formal complicity: a) at the same time of the sin; for in the case of sin with one sleeping, unwilling, totally drunk, insane, or ignorant of the baseness of the sin from erroneous conscience, or in good faith not attending to it, even if he had been led into error by the confessor, complicity is not present;

b) at the time of absolution; for 1. if during absolution the confessor does not recognize his accomplice, or 2. if he doubts and, by prudently questioning insofar as he could do this without danger of his own infamy or scandal of the penitent, he cannot remove the doubt, or 3. if the priest is in no way (neither in the act of sin, nor afterwards) known as a priest, but the penitent altogether does not know that his accomplice is a priest, the absolution is valid and licit. Then namely the abuse of power which the Church prohibits is not present.

Yet it does not matter if the confessor as accomplice is not known in confession by the penitent, provided that it is verified that he truly is an accomplice, and the confessor knows him, and nevertheless absolves: in this case the absolution is invalid.

IV. The aforesaid conditions having been posited, absolution, indeed confession, is invalid on account of privation of jurisdiction; but the absolution itself is required, true or fictive, not confession alone, that excommunication be incurred. Hence

1. this penalty is not incurred a) if the priest only heard the confession of the accomplice, provided that he does not absolve nor feign to absolve; b) if the penitent kept back the sin of complicity in confession of his own accord or by inculpable forgetfulness, although this does not escape the one absolving. For the privation of jurisdiction and the attached excommunication is in order to the base sin in which the confessor was an accomplice (Sacred Penitentiary, 16 May 1877);

2. but excommunication is incurred: a) if the priest simulates and feigns that he absolves before the penitent himself, as is now certain from the Sacred Penitentiary, 9 July 1751, 1 March 1878, and 19 February 1896, and the Holy Office, 10 December 1883, and ratified by the Code, can. 2367 § 1: thus, for example, if he absolves without intention or substantially corrupts the

form, or by pronouncing a certain prayer and other words, or by being silent, seems to the penitent by sign or gesture to absolve; not however if he dismisses a forewarned penitent with only a blessing, dissimulating before those standing by; b) if the confessor induced the penitent accomplice not to confess the sin of complicity, whether directly by admonishing him to be silent, or indirectly by persuading him that the act was not gravely evil, or is not necessarily to be accused, as for example already known to him.

Indeed, from the recent declaration of the Holy Office, 16 November 1934, he is also to be judged as inducing indirectly "a confessor who, either within or outside sacramental confession, has persuaded someone that in base things to be perpetrated between themselves either no sin or certainly not a grave sin is present, and consequently sacramentally absolves or feigns to absolve him when afterwards he confesses to himself concerning other things only." By which excommunication is now extended beyond the case of complicity in grave sin.

V. Observation. - That the established discipline have force, it is necessary that the case be certain and exclude every founded doubt of law and of fact; otherwise the rule is to be applied: in doubt odious things are to be restricted. Therefore it is required that the base sin be certain, certainly grave, and as such certainly external, certainly mutual, and that complicity in it be certain.

Hence the case of complicity in a base sin probably is not present, nor therefore to be attended to in practice:

1. if there is doubt whether the penitent sinned gravely;

2. if there was simple connivance, from the fact that the other did not impede a sin which by office he does not have to impede, or approval of base speech heard, which did not excite other base speech;

3. if the accomplice is not a companion immediately in the base act itself or in sin according to itself libidinous, but only in the sole base agreement concerning seducing a woman, who in reality is not seduced, or in the sole base permission or invitation of sinning with a spouse or offspring, which nevertheless is not corrupted: namely, cooperation alone in the base sin of another does not suffice;

4. if the accomplices are in an external act venial from its object (such as a pressure of the hand, a light kiss, a momentary touch, or an embrace on an honorable part), even if on each side internally it is done from a base affection or intention, provided that it has no joined external immodest circumstance, or manifestation by which the affection or intention of immodesty becomes sufficiently known outwardly.

VI. Absolution of an accomplice is not, as some have thought, a reserved sin, because not only is there a restriction, but the removal of power: for the incapacitating law brings it about that the confessor lacks all jurisdiction toward the accomplice accusing a base sin (or culpably keeping it silent), and that the very absolution of the accomplice as such, and not only of the sin of complicity, is void, so that no valid absolution is given, neither direct absolution of other sins nor therefore indirect absolution of the sin of complicity.

Thus not only according to the tenor of can. 884, but also according to the preceding Constitutions.

This is altogether clear from the words cited above of the Benedictine Constitution, which removes "any jurisdiction whatever over any person whatever for absolving from a fault of this kind, so that the absolution... is altogether null and void, as imparted by a priest who exists altogether deprived of jurisdiction... for validly absolving," indeed who "is not able to receive the confession of the said accomplice of this kind nor to bestow sacramental absolution on him, since for this effect and in this case no confessor, as one who exists deprived of jurisdiction and the faculty of absolving (not only) in the genus of this sin (but in this genus) and of penitent, is to be held for a legitimate and approved confessor."

Still more clearly in the Constitution *Inter praeteritos*: "We have deprived any confessor whatsoever of all authority and jurisdiction of absolving a person who is an accomplice in a base and dishonorable sin against the sixth precept of the Decalogue, so that absolution given by the same is null and invalid, as given by one who by Us has been deprived in that case of the jurisdiction necessary for absolving."

And in the Instruction of the Holy Office, 20 February 1867: "Every faculty and jurisdiction for receiving the sacramental confessions of a person who is an accomplice... is taken away from any priest."

Whence also in the instructions given by the Sacred Penitentiary, for priests to be absolved from censure on account of absolution of an accomplice, there occurs the clause that the accomplice priest admonish the penitent "concerning the nullity of past absolutions," and indeed without that restriction or distinction between the case of good or bad faith on the part of the penitent; indeed from the fact that the penitent is said to be admonished, good faith is rather supposed.

And these things also remain true after the promulgated Code, which repeats in the same sense, can. 884: "The absolution of an accomplice in a base sin is invalid, except in danger of death."

To these things some object the words of the Sacred Penitentiary praised above, 16 May 1877: that the privation of jurisdiction "is in order to the base sin itself in which the confessor was an accomplice." But undeservedly. For there the privation of jurisdiction is not denied, but affirmed; it is not said that the privation of jurisdiction affects only the sin of complicity, but the absolution of the accomplice in order to the sin of complicity itself, so that the confessor is deprived of all jurisdiction and as to every sin, but uniquely in view of and by reason of the sin of complicity, that is, when that sin is accused.

Besides, the Sacred Penitentiary could not temper by its own authority the law of the Holy Office or of the Benedictine Constitution, and without special intervention of the Supreme Pontiff, concerning which nothing is reported in the case. And also the end of the law demands that all these cases be comprehended; otherwise the law would be weakened, so that in several cases absolution could now be given indirectly.[2]

[2] The adduced words of the Constitutions of Benedict XIV are so clear that before the said response of the Sacred Penitentiary, which undeservedly gave occasion to some hesitation and to a more benign interpretation among some, the opinion denying any jurisdiction whatever over the accomplice "was common among theologians" (Aertnijs, *Th. Mor.*, II, n. 250). Hence we do not understand how Fr. Vermeersch could have written (*Th. Mor.*, III, n. 499): "Noldin... now thinks that a stricter response must be given, since the canon declares invalid the absolution of the accomplice himself, and not only of

the sin; but according to the preceding Constitutions the canon can be understood which refers to them." A stricter response is to be given not only according to the tenor of canon 884, but also according to the preceding Constitutions. Hence still less do we understand why in the new edition of Noldin's work Fr. Schmitt changed this opinion of his. He says indeed: the Code in this matter changed nothing, therefore according to can. 6, § 2, ancient interpretations have force. Therefore the controversy previously existing is not solved but there is a doubt of law (*Zeitschrift fur Kath. Theol.*, 1934, p. 150). But, as before the Code, Noldin held the opposite opinion to be in no way probable, so neither after the Code would he judge it probable, nor say that there is a doubt of law. Nothing in this matter has been changed. - Surely it does not suffice that some defend some opinion without any foundation, and against which very grave arguments militate; it does not suffice, I say, that this can be called truly probable, and that a doubt of law is truly present.

Hence, if in urgent necessity the penitent accomplice could not omit Holy Communion without grave scandal or infamy, nor could approach another confessor, content with a simple act of perfect contrition he ought to approach Holy Communion, nor could he be absolved by the accomplice priest.

VII. An exception is given for extreme necessity, that is, in the article of death, - and also in probable danger of death prudently judged, which is equated in law with the article[3] - if another priest is lacking, even one not approved, who could be called or approach without some grave infamy or scandal, and to whom the penitent is willing to confess: for then it is as if another priest truly were lacking, says Benedict XIV in the Constitution *Apostolici Muneris*.

[3] This is already clear from the Code itself, which has can. 884: "in danger of death," but can. 2367: "in the article of death."

Therefore in this danger, absolution on the part of the confessor is not licit, nor is the penalty of excommunication avoided, unless another priest is lacking who can be called without great inconvenience, and who does not refuse to receive the confession of the dying person (for example, on account of too great familiarity with the penitent, who is related to him by blood or is his maidservant), and to whom the penitent does not refuse to confess.

There will be a cause of excuse:

1. if the sick person publicly asks the confessor, bringing Viaticum to him, to be willing to receive his confession, because the confessor without scandal and danger of infamy (especially if he were pastor) could not refuse this;

2. if the dying person, without any fault of the accomplice confessor, altogether refuses to confess before another priest;

3. if without danger of infamy or scandal, or of a sacrilegious confession, the accomplice priest could not depart, or another could not be called or approach;

4. also probably, if there is present only a priest notoriously suspended or excommunicated: for such a one does not seem to be one who can undertake the function of confessor; and besides he would not easily be called without infamy or scandal.

On the contrary, absolution is illicit, and excommunication is incurred:

1. if, another priest being present and not impeded or easily able to be called, the accomplice priest absolves;

2. if another priest can be called, but the accomplice priest feigns danger of infamy or scandal where it is not present;

3. if the accomplice priest, as much as lies in him, does not employ opportune means so that danger of infamy or scandal does not follow, and place of confession lies open to the other priest (Constitution *Apostolici muneris*), for example, by not arriving under some pretext, or by departing from the house, feigning illness, forewarning the penitent, sending another priest to the sick person, etc.;

4. if a priest is present who would not himself be exposed to his own infamy, but before whom the accomplice priest would be defamed: with respect to one person either infamy is not given, or the accomplice must sustain some of it on account of the fault committed; otherwise it scarcely could happen that, a priest being present, the confessor could not absolve the accomplice.

Nevertheless absolution is always valid in danger of death, namely lest on this occasion someone perish (Constitution *Apostolici muneris*).

Danger of death is any case gravely dangerous whether from within, from infirmity or childbirth, or from without, from a very dangerous navigation, imminent battle, an inflicted blow. By privilege, those enlisted in the military who are constituted in the state of wartime convocation or mobilization can be equated to those in danger (Sacred Penitentiary, 29 May 1915); likewise, from the nature of the matter, those who are placed in danger of perpetual insanity.

But now several, proceeding further, from epikeia wish to equate with danger of death the case of a penitent who in a distant region, for example, of the Missions, would greatly fear lest he ever, or except after a very long time, could have a confessor, unless he confessed to the accomplice. But in the Constitutions of Benedict XIV only the case of danger of death is excepted, likewise in the Code of Law, although nevertheless things occurring in regions of the missions could not have been unknown by them: "absolution is invalid except in danger of death," says the Code; what is clearer?

Therefore the exception does not seem to be extended to other cases, besides those which are commonly judged to be equivalent to death. Interpretation, even if it were of many theologians or canonists, does not suffice for restricting or extending the sense of the law, but only authentic interpretation can do this; especially because a place is not customarily given to epikeia in invalidating laws on account of the common good. Therefore no positive foundation is present for the more indulgent opinion, which accordingly is not solidly probable.

Indeed, for the common good it is altogether important that missionaries, who, on account of special circumstances, are exposed to greater danger, not know for themselves an excessive facility of absolving an accomplice and escaping the consequences of their sin.[4]

[4] The accomplice priest will easily be able to foresee the case and have recourse to Rome so that, with the name kept silent and with a fictive indication of residence, he may obtain the faculty of absolving the accomplice; besides, even in the opinion of others, if he foresaw the case, he is bound to this.

VIII. The established penalty is excommunication reserved in a most special manner to the Supreme Pontiff, from which irregularity follows (can. 2261, § 1). For contracting the penalty there are required:

a) on the part of the delict: true or fictive absolution of one who accused the sin of complicity not yet directly remitted, or who keeps it silent while he was induced to this by the accomplice priest;

b) on the part of the delinquent: consciousness of grave sin, and knowledge of the censure, yet in such a way that crass or supine ignorance does not excuse from it (Holy Office, 13 January 1892, ad 3; can. 2229). Ignorance as to the existence of the censure can scarcely be given; more easily as to its extension, insofar as in good faith it can be judged that a case is present in which to absolve an accomplice is licit.

From the said excommunication regularly only the Apostolic See absolves; but in danger of death and in the more urgent case even a simple confessor can absolve, but only with the burden, under pain of reincidence, of having recourse at least within a month to the Holy See, even if recourse is here and now impossible (can. 2252, 2254, 2367). Hence the case is treated more rigorously than sins reserved on account of censure.

IX. Corollaries. - From the things said it follows:

1. A priest who at the beginning of confession does not know the accomplice, but nevertheless before absolution recognizes him, must admonish him concerning the defect of jurisdiction and dismiss him; for by this he himself incurs no defamation.

2. He who in the article of death illegitimately, that is, with another priest not impeded, began to receive the confession of an accomplice, is bound to yield place to the other priest and to abstain from absolving; indeed even if he began legitimately, with another confessor lacking, and such a one supervenes or the danger of death has now passed, he must cease, provided that this can be done without graver inconvenience.

3. He who absolves an accomplice in danger of death, when necessity urges, cannot, once the danger has passed, receive confession for completing the accusation, if the sin of complicity still remains to be accused.

4. He who doubts whether the penitent is an accomplice must inquire and question insofar as prudence permits; but if he does nothing to solve the doubt, he invalidly absolves the accomplice, and does not escape excommunication, because the ignorance is crass and supine (Holy Office, 13 January 1892).

X. A priest who unduly absolves an accomplice must have recourse, by himself or through another, for example, a confessor, to the Sacred Penitentiary.

For this, under a fictive name, let the case be set forth with all the circumstances which bear upon the matter, namely how many accomplice persons and how many times the priest attempted to absolve; whether he is a pastor, or having care of souls, or a mere confessor; whether he has contracted one or several irregularities from violation of censure by celebration of Mass or solemn exercise of sacred Order; whether at another time he has already received a rescript of grace for absolution from a crime of this kind; whether he has already been absolved in an urgent case.

Moreover the Sacred Penitentiary will prescribe:

1. that every occasion, as much as possible, of sinning with the accomplice be removed;

2. that the accomplice confessor, as far as he can without grave scandal, abstain from hearing the confessions of the accomplice person;

3. that, if the penitent accomplice again approaches him, he send him to another confessor and admonish him concerning the nullity of past confessions;

4. that besides sacramental penance, he fulfill another grave or also long juridical penance, imposed in the rescript itself or to be imposed by the confessor; and sometimes, also that he perform spiritual exercises;

5. finally, sometimes that he lay aside the office of confessor within a predefined time; not however always.

XI. The penitent accomplice himself incurs no censure, or penalty, or reservation of himself.

Let a person of this kind be received kindly by the confessor, so that he not blush to confess his own misery; and after repeated confessions invalidly performed before the accomplice, and the occasion of sinning having been removed, let him be dismissed absolved. But, as much as can be done, let him be turned away from further return to the accomplice confessor (as the Sacred Penitentiary prescribes, 16 May 1877), even if the law concerning fleeing the proximate occasion perhaps does not absolutely require this in the case.

But if besides, on the occasion of confession, he had been solicited to sin, the following question would have force.

Question Second: Concerning the Solicitation of a Penitent to Base Things

I. For protecting the sanctity of the sacrament of Penance, ecclesiastical legislation has struck down another abuse by a special discipline and penalties, namely, the crime of solicitation to base things.

Gregory XV, Constitution *Universi*, 30 August 1622, extended to the whole world the discipline against solicitors already introduced in Spain by Pius IV, 17 April 1561, and in Portugal by Paul V, 16 September 1608, increasing and more accurately determining the penalties to be inflicted, and imposing the burden of denouncing solicitors. The Holy Office began to urge this burden of denunciation under pain of excommunication, 3 January 1623 and 10 March 1677; and declared that it also has force for Orientals, 13 June 1710. But Benedict XIV, in the Constitution *Sacramentum Poenitentiae*, 1 June 1741, renewed the prescriptions of Gregory XV with the decrees of the Holy Office and proposed them in a more ordered way, and at the same time added a new disposition against false denouncers, whom he willed to be liable to a most special reservation.

Namely, he commands Ordinaries to proceed "against each and every priest, secular as well as regular,... who has attempted to solicit and provoke some penitent, whoever that person 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, whether in another place destined or chosen for hearing confessions, with simulation of hearing

confession there, to dishonorable and base things, whether by words, or signs, or nods, or touch, or by writing either then or afterwards to be read, or who with them by rash daring has had illicit and dishonorable conversations or dealings. Let each and every priest constituted for hearing confessions moreover remember that they are held and obliged diligently to admonish their penitents, whom they have known to have been solicited by others, as above... concerning the obligation of denouncing to the inquisitors, or to the aforesaid local Ordinaries, the person who committed the solicitation, even if he is a priest who lacks jurisdiction for validly imparting absolution, or the solicitation was mutual between the confessor and the penitent, or whether the penitent consented to the solicitation, or in no way furnished consent, or a long time has now flowed after the solicitation itself, or the solicitation was performed by the confessor not for himself, but for another person."

All these things were confirmed by the Code of Canon Law:

Can. 904: "According to the norm of the apostolic Constitutions and by name of the Constitution of Benedict XIV *Sacramentum Poenitentiae*, 1 June 1741, a penitent must denounce to the local Ordinary, or to the Sacred Congregation of the Holy Office, within a month, a priest guilty of the delict of solicitation in confession; and the confessor, his conscience having been gravely burdened, must admonish the penitent concerning this burden."

Can. 2368: "1. He who has committed the crime of solicitation, concerning which in can. 904, is to be suspended from the celebration of Mass and from hearing sacramental confessions, or even according to the gravity of the delict declared incapable of receiving these, deprived of all benefices, dignities, active and passive voice, and declared incapable of all these, and in graver cases also subjected to degradation.

"2. But the faithful person who knowingly has omitted to denounce within a month him by whom he was solicited, contrary to the prescription of can. 904, incurs an excommunication *latae sententiae* reserved to no one, not to be absolved unless after he has satisfied the obligation or has seriously promised that he will satisfy it."

Can. 2363: "If anyone by himself or through others has falsely denounced a confessor to Superiors concerning the crime of solicitation, by that very fact he incurs an excommunication reserved in a special manner to the Apostolic See, from which in no case can he be absolved unless he has formally retracted the false denunciation and, according to his powers, has repaired the damages, if any have followed therefrom, with a grave and long penance besides imposed, the prescription of can. 894 remaining firm."

Can. 894: "The sin reserved to the Holy See by reason of itself is false denunciation, by which an innocent priest is accused before ecclesiastical judges concerning the crime of solicitation."

For the declaration of these things, it is necessary successively to inquire what are: 1) solicitation and its conditions, 2) the connection with the sacrament of Penance or confession, 3) the obligation of denouncing, 4) the mode of denunciation, 5) the penalties to be inflicted upon solicitors, 6) the penalties to be inflicted upon false denouncers. To these we add 7) corollaries concerning doubtful solicitation, and 8) practical rules for confessors.

II. Solicitation to base things is a provocation to a grave sin of lust made by a priest with a certain relation to confession, or by a priest as confessor thus abusing true or simulated sacramental confession.

It is a very grave sin, a) because grave irreverence of sacrilege is inflicted upon the sacrament, and this is against religion; b) because it constitutes scandal against charity, while it inflicts deadly damage on the penitent, offering poison to him in place of medicine; c) because, if the confessor is a pastor, it contains a special injury against justice, since he himself from justice is bound to feed his sheep by word and example.

It is, moreover, 1. a provocation to sin, that is, an action, whether dishonorable of itself, or of itself indifferent, but outwardly manifesting a base affection, by which someone, in the case the confessor, attempts to induce another, the penitent, to some sin, whether explicitly, deliberately and intentionally, or implicitly, so that the mode of acting or speaking of itself allures. Namely, it is scandal given to the penitent, an invitation or incitement in whatever way it happens, by priests, by word or deed, or, as Benedict XIV speaks, "whether by words, or signs, or nods, or touch (on one's own body or another's), or by writing either then or afterwards to be read, they have attempted, or with him have had illicit and dishonorable conversations or dealings (that is, counsels, deliberations, agreements)," provided that the inducement to evil was certain: for in doubt no one is to be deprived of his reputation, and a doubtful law does not oblige; whence a doubtful delict is not judged a delict.

But true solicitation is present

a) whether it is efficacious, so that the person solicited consents, or inefficacious, by which someone merely attempted to solicit or provoke, even if the other person understood only afterwards;

b) whether it is immediate, for obtaining the consent of the penitent, or mediate, either through the penitent, for inducing another person into sin, or by writing afterwards to be read, as some writing concerning base things (prop. 6 condemned by Alexander VII; Holy Office, 11 February 1661, n. 1);

c) with any person of whatever sex, condition, age.

For it matters little whether it is a man or woman, pubescent or impubescent, whether he is solicited to sin with the confessor, or alone, or with a third person, for example, a young man with a girl (Sacred Penitentiary, 2 September 1904); provided that he is capable of solicitation, which one sleeping is not, or, for solicitation by words alone, one deaf or ignorant of the language.

2. It is to base things, that is, inducing to grave acts against chastity, - whether they are grave in themselves, or from an adjoined immodest circumstance, or from lustful affection outwardly manifested, - or to any grave sin of lust whatever, even internal, as of desire or complacency. Hence the crime of solicitation concerning which it is treated is not present:

a) if the provocation was made to another sin, for example, theft or homicide, although by natural right denunciation can sometimes be prescribed (Holy Office, 11 February 1661, ad 11);

b) if it was made to something dishonorable which is not certainly a mortal sin, for example, something merely sensual, a kiss given in passing;

c) if the solicitation is not complete but only preparatory, so that true scandal is not furnished, but only inquiry is made whether the person can be tempted with some hope; yet true solicitation begun

suffices.

Hence for judging in practice whether solicitation is present, one must attend whether the words or deeds, if not from themselves, at least from the adjuncts, signify a base affection and provoke to a base affection. Thus, for example, if a priest gives a gift in confession, or commits lightly immodest touches, even pressed or repeated rather often, if he expresses his love toward the person, or his inclination - if he were secular - of marrying her, or recognition or praise of her beauty and attractiveness, if he asks where she lives, or asks her to do what he himself would wish, or requests that she wait for him at home or, on the contrary, that she come alone into the house of the confessor, etc., from the adjuncts and subsequent effect it will have to be seen what the sense is (Holy Office, 11 February 1661, ad 12 and 16): whether these things are done only from imprudence and levity, or perhaps for a good end (for example, for admonishing concerning some danger); or on the contrary from a depraved intention, which sense they would easily have if it were clear that the priest, outside confession, fostered a base love toward that person, or was a man prone to lust.

3. It is by a priest as confessor, of whatever sort he was, whether secular, or regular, whether approved, or not approved but lacking jurisdiction. Hence there is not a special obligation of denouncing from ecclesiastical law:

a) if the one soliciting is not a priest, but an inferior cleric or layman, who feign that they are confessors;

b) also, probably, if he is a bishop, because it is uncertain whether he is designated under the word: priest;[1] although generally he would have to be denounced from natural law;

[1] We read in Fr. Vermeersch, *Th. Mor.*, III (ed. 1923), n. 603, p. 486: "The Code abstained from the word priest, which Benedict XIV used in his Constitution; and since, already before the Code, not a few wished bishops to be comprehended, the studied omission of that word priest in cc. 904, 2363, and 2368 furnishes us a certain argument of the mind by which the legislator wishes no confessor soliciting to be excepted from his decrees... Besides, the very practice of the supreme Congregation stands against the more benign opinion of several." Nevertheless, in all editions of the Code, as many as we have been able to inspect, canon 904, to which the other two refer, has: priest. Nor in the *Acta Apost. Sedis*, where errata of the Code indicate things to be corrected (T. IX), is mention made of the aforesaid canon. Therefore the reading: priest, is certain. Besides the canon says that one guilty of the delict of solicitation must be denounced according to the norm of the Apostolic Constitutions, by name of Benedict XIV, and these say: priest. And although Fr. Vermeersch adds: "The words... according to the norm of the Apostolic Constitutions are to be referred not to the person to be brought forward but to the delict which gives place to denunciation"; nevertheless this is not certain. Nor ought we to marvel so much that positive law did not attend to the case in which a bishop would solicit, because surely a most rare case could be neglected. But the practice of the Congregation is not an authentic declaration, and can be explained from the sole obligation of natural right; nor is any example of this practice brought forward.

c) if an interpreter, even a priest, employed in confession, solicits;

d) if the penitent alone solicits the confessor to base things.

Even if he merely consents, provided that the consent does not implicitly contain a new solicitation; on the contrary, if the solicitation is mutual, as if the confessor, first solicited to one species, himself solicits to another, or in the beginning dissents and after some time begins to solicit.[2]

[2] "Mutual solicitation is had if both do the things which are forbidden, even if one does it having been invited... for example, he who mixes in, even when provoked, base conversations, or words gravely illicit and contrary to chastity," Vermeersch, *Th. M.*, III, n. 603 and 605.

4. It must be with relation to confession or connection with the sacrament of Penance, as will be explained in the following number.

For our case is distinguished:

a) from solicitation made by a priest in the administration of another sacrament without relation to confession; in which case a special denunciation is not to be made from ecclesiastical law (Holy Office, 11 February 1661, n. 10), although nevertheless in certain adjuncts such an obligation can be present from natural right;

b) likewise from the sin of complicity, which can be committed without relation to confession, even before someone has been elevated to the priesthood.

III. The connection with the sacrament of Penance required is present: if solicitation is done by a priest "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, whether in another place destined or chosen for hearing confessions, with simulation of hearing confession there."

1. In the act of sacramental confession, that is, between the beginning of confession and the end: namely from the time when confession is begun up to and including the last words of absolution, or, as it is said, between the two crosses of the confessor.

Moreover confession is judged sacramental, provided that it was begun for sacramental absolution, even if it is interrupted and not brought to an end, so that the sacrament has in some way remained incomplete, or the penitent for any cause whatever is not absolved.

2. Or before, or immediately after confession, that is, if between true confession and solicitation there intervenes no external action or conversation which does not refer to solicitation.

Hence the crime of solicitation is present if the confessor immediately before or after confession speaks, from lustful affection, manifestly obscene words, or dishonorably touches the penitent, - or if the penitent, in the act and state of confession, already sitting at the feet of the confessor, asks to confess and the confessor assents and then solicits, even if the penitent now thereafter does not wish to confess, - or if the confessor solicits a woman who after confession approaches to kiss his hand, - or if at once he leads her into a bedroom or sacristy so that there he may solicit more securely, - or if immediately he says: wait a little while, and after an interval (not however the following day) solicits, - or if he consents to a penitent soliciting, but at once desists, and defers the completion to another time (Holy Office, 11 February 1661, n. 2): for thus he detains and confirms the penitent in solicitation.

On the contrary, if another action or another true intermediate thing has intervened, the case is not had, as if the solicitation is done on another day than confession, or after speech concerning indifferent matters or another business, or if the confessor approaches and solicits a person already gone out of the confessional, or after he has heard another penitent, unless nevertheless he began in confession by saying, for example: wait for me a little while, and said thus not for another business than for soliciting.

3. Or on the occasion of confession, that is, if from confession truly sought or made a motive or opportunity is taken for provoking to base things, so that confession is the accidental cause of soliciting the penitent.

Thus, either 1) on the occasion of confession sought: if the penitent, expressly or tacitly, asks to confess at once and, wishing to begin, is impeded from this by the confessor who immediately provokes him, confession having been delayed into the future; or if the confessor approaches a sick person as if about to confess him, called and asked for this, and on this occasion solicits; - or 2) on the occasion of confession heard: if the confessor in confession, or immediately before or after confession, hands to the penitent a note or letters afterwards to be read in which he solicits to base things (prop. 6 condemned by Alexander VII; Holy Office, 11 February 1661, ad 1); or if, knowing the inclinations or temptations of the penitent, he solicits him, provided that it is clear that it is done from hearing confession, by which already then he was impelled to this intention, concerning which it will rarely be clear.

On the contrary, probably at least, he does not solicit on the occasion of confession:

a) who abuses only knowledge drawn from confession, for example, concerning the frailty of the penitent, for soliciting him: then it does not happen on the occasion of the confession itself, but on the occasion of knowledge drawn from confession;

b) who hands to one confessing a note to be carried to another person, whom the confessor thus solicits, provided that the penitent himself is in no way an accomplice: for then the penitent himself is not solicited;

c) who, asked to receive a confession not at once but on another day or hour, indeed, according to some, even now, but not yet sitting in the manner of a confessor nor having the person kneeling before himself, solicits her (Holy Office, 11 February 1661, n. 4): for then it does not happen on the occasion of confession, but on the occasion of the request for confession.

4. Or on the pretext of confession, even if confession has not followed, that is, under the veil or color or appearance, or false allegation, of confession for covering the depraved end, namely if the occasion is taken from a fictive confession and proposed uniquely for this end, that it may serve solicitation. It is not indeed the penitent, but the confessor, who must pretext it, so that he may solicit the penitent.

Thus if he fictively invites some person to confess, that more easily he may induce her to base things, - or if he approaches the house of a sick person and speaks to her concerning confession for removing those standing by, and when they have departed, solicits her, - or if under pretext of confession he asks her to enter the bedroom as if a confessional, and then solicits.

But probably not:

a) he who for eluding others agrees with the person that she feign herself sick: for he does not solicit on the pretext of confession, but merely executes the sin, so that the pretext of confession is not ordered to soliciting, but to deceiving others;

b) nor he who, under pretext of confession, seeks permission from the superior to betake himself to a person whom in reality he intends to solicit: for the pretext is not with respect to the penitent but to

the superior, so that by pretext of confession solicitation is not done, but only permission is granted;

c) nor he who, under pretext of confession, invites a person to betake herself to the church, and there, outside the confessional, solicits her: for not the solicitation itself, but only the invitation of approaching the church, was done under pretext of confession;

d) nor he who, outside the time and place of confession, solicits a person and, that she may more easily yield, promises her that he will afterwards hear her confession: the solicitation itself is not done on pretext of confession, but only consent is obtained;

e) nor *a fortiori* he who merely consents to the person herself calling and soliciting him.

5. Or, even outside the occasion of confession, in the confessional, whether in another place destined or chosen for hearing confessions, but with simulation of confession. These two must be present, so that it is done in a place of confession and at the same time confession is simulated (Holy Office, 11 February 1661, n. 15):

a) simulation or figure of confession is had if they act so that outwardly they seem to institute confession (for example, the priest applying his ears), so that those standing by would deservedly think confession itself is being received. For this there is also required

b) the place of confession: that it be done in the confessional or in the special little structure destined for hearing confessions; - or in another place habitually destined for confessions, where confessions are customarily heard, as are the cell or sacristy where the somewhat deaf are customarily heard, or a parlor destined for confessions of priests (Holy Office, 28 April 1700), likewise the place where the confessions of nuns are heard (Holy Office, 25 November 1874); - or in any other place chosen transiently for confessions according to the adjuncts, as is the bedroom of a sick person, or the sacristy or choir or public square for a time of great concourse of the faithful; - not however in a place chosen precisely for simulating this single confession.

Thus if a penitent who for an end either good (to ask counsel) or evil (to tempt the confessor) comes into a place destined for confessions, and there is solicited with simulation of confession; or if a person wishing to communicate something to the priest is led by him into the confessional and there, confession having been simulated, is solicited; or if both, beginning base conversations, enter the confessional and, with confession simulated, go on in base speech (Paul V, 10 July 1614); - not however if the confessor, sitting in the confessional, but not simulating confession, solicits a person standing or sitting before the confessional (Holy Office, 11 February 1661, n. 15).

IV. The obligation of denouncing solicitors, and indeed grave, is present not only as general from natural right, by which all are obliged to this if it is necessary for removing scandal; but also as special from positive ecclesiastical right, by which solicited penitents are obliged within a month, and indeed under penalty of excommunication *latae sententiae* reserved to no one.

The end of this precept is not only the amendment of a particular person, but rather the public security of the sacrament and of souls, to be obtained from certain chastisement of the crime and from the unavoidable fear of confessors.

According to this statute of law:

A. All and only priests are to be denounced, even those not approved or lacking jurisdiction (Holy Office, 11 February 1661, n. 5; and 20 February 1867, n. 2), whether secular or regular, of whatever preeminence or dignity (yet episcopal probably excepted, as we noted above), soliciting by themselves; - not however mere interpreters or messengers of solicitation, or those commanding or counseling it, according to the Holy Office, 11 February 1661, n. 6 and 7.

They are to be denounced even if they themselves at once repented of the solicitation made or if, solicitation having been begun, they at once desisted (ibid. n. 2), or if they had been induced by grave fear (ibid. n. 9), or if they solicited a penitent not noticing the malice of the sin (Holy Office, 11 May 1707); - even if the crime had been committed a long time ago and remained occult or cannot be juridically proved (prop. 5 condemned by Alexander VII, 24 September 1665), or no admonition or fraternal correction had preceded (Alexander VII, 8 July 1660); - or they themselves have gone to a distant land or are now amended, indeed if they spontaneously denounced themselves (Holy Office, 26 July 1628), or even have been fully convicted and punished by a judge (Holy Office, 11 February 1661, ad 13), especially if it concerns a new crime or solicitation of another: provided that they are still living; - not however the deceased (Holy Office, 27 May 1707, and 6 March 1839; Sacred Penitentiary, 24 April 1884).

For the end of the law is not only the amendment of the one soliciting, nor only his punishment, but each together; wherefore those who now are amended or now punished are also to be denounced, because the total end of the law has not yet ceased; but not the deceased, because the end can no longer be obtained, but has ceased totally. Wherefore if some have been fully convicted judicially concerning the crime to be denounced, and at the same time appear fully and perfectly amended so that reincidence does not seem to be feared, there would no longer be an obligation of denouncing; but this scarcely has force in practice, for, as De Smet notes, *On the Absolution of an Accomplice and Solicitation*, n. 86, "with the strict secrecy to be observed in cases of this kind considered, it scarcely is ever clear on account of what crime the priest was convicted and punished."

B. Solicited penitents are obliged to denounce, even if they did not understand the solicitation and only knew it later (Holy Office, 11 May 1707), or, on the contrary (Holy Office, 25 July and 27 September 1624), they themselves consented, or first solicited, so that the solicitation was mutual, since they can keep this silent, indeed even deny it, if, which may it not happen, they are questioned about it (Holy Office, 25 July 1624, and 20 February 1867, n. 6); - even if a long interval of time has intervened (prop. 6 condemned by Alexander VII), the crime remained occult and proof is lacking, or if they promised and swore that they would never denounce, because a promise concerning an illicit thing does not hold, and an oath cannot bind to iniquity; - indeed if denunciation has already been made by another: for the law binds individual solicited persons.

Yet they are excused 1) on account of the death of the priest soliciting, as was said;

2. on account of great extrinsic inconvenience, as long as it lasts (Holy Office, 21 February 1630, and 20 February 1867, n. 5): thus notable damage or grave danger in the goods of life, reputation, or fortune, also, probably, for very near blood-relatives, unless from omission the common good of religion would be gravely endangered; likewise moral impossibility, which in certain regions can rather easily be had, of making denunciation either orally or by letters (Holy Office, 21 February 1630, and 22 January 1727); - not however inconvenience intrinsic

to the precept, as fear of some indignation to be incurred with the one soliciting, shame in manifesting the solicitation, danger of light inconvenience or a slight danger of a graver one; nor even danger of one's own infamy or publicity, which is not given on account of the cautions customarily employed;

3. on account of dispensation of the Holy Office, which is rarely conceded; nevertheless it can be sought if the penitent, even irrationally, altogether refuses that he will make denunciation (Holy Office, 20 February 1867, n. 7): for sometimes if there is excessive repugnance of the penitent, or not so great a utility of denunciation, dispensation can be given.

Besides the penitent himself, in the new law it now seems that it cannot be urged that others who certainly know solicitation are obliged to denounce by force of ecclesiastical law. For canon 904 expressly says: the penitent; - although nevertheless excellent authors, such as De Smet and Vermeersch, defend that the ancient law in this matter still has force; but this is not certain. Yet those who knew the matter from professional secrecy never had to denounce; nor did the confessor soliciting himself have to denounce himself (Holy Office, 17 November 1624), although, if he does so, he is treated more mildly and will be immune from vindictive penalties, but not always from medicinal ones (Holy Office, 20 February 1867, n. 13).

C. Confessors are bound under grave obligation to admonish penitents concerning the obligation of denouncing, even if these in good faith are ignorant of the obligation, and it is foreseen that they will refuse to denounce (Holy Office, 20 February 1867, n. 3): for the common good demands this; - with the sole exception of the article of death, lest penitents be cast into danger of damnation. Moreover confessors must teach the obligation of denouncing, the time within which it is to be fulfilled, the penalty to be incurred, the mode of making denunciation. But if penitents, without a grave excusing reason, refuse to denounce, they are not to be absolved, as indisposed (Holy Office, 20 February 1867, n. 5); but the confessor can recur to the Sacred Penitentiary or the Holy Office, to receive instructions or even to obtain dispensation.

Nor are they freed from the burden of denouncing from the fact that they confess before the soliciting confessor himself, who is not bound to admonish them against himself, as is clear from the very words of the pontifical Constitutions; Alexander VII condemned proposition 7: "The mode of avoiding the obligation of denouncing solicitation is if the one solicited confesses with the one soliciting: this one can absolve him without the burden of denouncing."

D. Solicited penitents neglecting to denounce contract excommunication by that very fact. To incur this there is required 1) a certain obligation of denouncing; 2) culpable omission, which supposes knowledge of the obligation, and also of the censure, so that ignorance of this excuses, unless it is affected; 3) the time of one month having elapsed, which runs from the moment at which the solicited person knew the obligation and the time of fulfilling it and the attached censure.

Such a penitent cannot be absolved unless he has made the denunciation, or at least seriously promised to make it; which having been done, he can be absolved by a simple confessor, because the censure is reserved to no one. "But if afterwards, his will changed, he does not denounce, the censure does not revive," says Noldin, *Th. M.*, III, n. 379, "because nothing is had concerning reincidence."

V. Mode of making denunciation. - According to the norm of law:

A. Denunciation is to be made to the Holy Office, or to the Ordinary of the place (can. 904), that is, the bishop, - or abbot *nullius*, - administrator, vicar or prefect apostolic, - and to him who, when the aforesaid are lacking, succeeds in governance (can. 198 § 1, for example, capitular vicar), or their delegate; - not however to the vicar general without special mandate (Holy Office, 14 July 1753 and 20 March 1901, and can. 2220 § 2), nor *a fortiori* to religious superiors (can. 501 § 2), who, although they come under the name of Ordinary, nevertheless do not come under the name of local Ordinary (can. 198 § 2).

Moreover of itself denunciation is to be made to the proper Ordinary of the priest soliciting; nevertheless practically it can also be made before the Ordinary of the place in which the delict was committed, or also the Ordinary of the penitent, who then must transmit the received denunciation to the Holy Office or to the proper Ordinary of the one soliciting.

B. Denunciation is to be made personally and orally, by the solicited person herself,

either 1) before the bishop or his delegate, and another ecclesiastical man functioning as notary, and with oath and subscription of name (Holy Office, 20 February 1867, n. 6);

or 2) orally and personally, before the confessor or another ecclesiastical man, to be deputed for this by the bishop, but without the intervention of a notary (ibid. n. 8).

For making this denunciation, in practice ordinarily an extrajudicial denunciation must precede.

This can fittingly be done thus:

a) If the solicited person is able to write, let her herself write to the bishop, by her own hand, and in letters not anonymous but signed with her name and residence, let her explain that she is held to making denunciation and asks that the mode in which it is to be made be indicated, or that a delegated person be sent to receive it; - or also let her manifest the delinquent, reporting the place, time, occasion, turns and individual adjuncts, and also whether it happened in the act of confession, or before or after, also the name and function of the confessor, or, if this is unknown, an accurate description of his person. And let her say that she is prepared promptly to conform herself to instructions to be given by the bishop; adding, if grave reasons are present, that she cannot approach the episcopal curia, but expects that a delegate be sent, or even that the denunciation fittingly be made to the confessor alone.

b) If she does not know how to write, or cannot without grave inconvenience, let her approach the bishop by herself or through a faithful intermediary; - and if she cannot (or does not wish to) do this, it is expedient that (with permission of the penitent) the confessor write (ibid. n. 7), not indeed to carry out denunciation in place of the penitent, but to inform the bishop, under pseudonyms, concerning the fact of solicitation and to request, with the impossibility of the penitent considered, opportune instructions. Yet the confessor is not strictly bound to this; unless exceptionally grave public damage is imminent. And if the confessor does not wish, the penitent will be able to await the occasion of another confessor who will minister this.

The penitent who has admonished the bishop, and is prepared to stand by his mandates, can be absolved; and of itself it suffices that thereafter he await the response of the bishop.

C. The Ordinary, according to the Instruction of the Holy Office, 20 February 1867, n. 10, must diligently inquire whether the denouncing person is worthy of faith, and, before proceeding against

the one denounced, have ascertained "that the women or men denouncing are of good name and are not led to accuse either by enmity or by another human affection."

"Therefore the Ordinary, as often as he has received some denunciation concerning the infamous crime of solicitation, will immediately proceed to diligences (that is, judicial investigation concerning the reputation of the denounced and denouncing person). To this end, either by himself or through a priest specially delegated by him, he will call (separately, namely, and with the circumspection he must use) two witnesses, as much as can be done, from the ecclesiastical group, each above every exception, who know well both the one denounced and each and every one denouncing, and under the sanctity of an oath concerning telling the truth and preserving the secret of the Holy Office, he will question them judicially, referring the testimony in writing according to the following formula; but he will transmit an authentic copy of each testimony and at the same time of the respective denunciation directly and by a safe way to this Supreme Congregation as soon as possible. But if two witnesses only cannot be found who know at once the one denounced and each and every one denouncing, several must be called. Namely, in this case so many witnesses as above will have to be called that a double testimony may be had as to the one denounced and as to each one denouncing." Thus the Instruction of the Holy Office, 6 August 1897, from which it follows that the bishop now cannot proceed judicially against the one denounced before he has transmitted the aforesaid documents to the Holy Office and received a response from it.

VI. Penalties against solicitors are *ferendae sententiae*. Yet they cannot immediately be inflicted from the first denunciation, unless perhaps reputation is evil and the one denouncing is above every exception; but the practice is that

1. after one or another denunciation, as suspect of the crime, the denounced confessor be observed;

2. or even that he be paternally admonished or, if the crime is certain, subjected to salutary penance, such as: removal from the place of the crime, spiritual exercises to be performed;

3. after the third denunciation he be called to judgment. This supposes that the guilty person is admitted to defense.

Moreover three penalties can be inflicted (can. 2368, § 1): a) suspension from the celebration of Mass; b) suspension from hearing confessions or inability for them; c) deprivation of benefice, active and passive voice, dignity, and inability for these; indeed, in graver cases, degradation. - Censures, because they are *ferendae sententiae*, are judged to be from man (can. 2217, § 1, 3); whence they cannot be remitted except by the Ordinary who inflicted them, or by the competent superior (can. 2245, § 2).

But if the guilty person appeared spontaneously and sincerely confessed the delict, he must be dismissed admonished and punished by penance; unless a denunciation has already been made, in which case the penalty will be diminished (Holy Office, 20 February 1867, n. 13).

Solicitation itself is not subjected to reservation; whence, if all other requirements are present, it can be remitted by a simple confessor (Holy Office, 13 September 1859, ad 3), unless nevertheless the case of absolution of an accomplice is present at the same time; - but the penitent priest is to be

admonished not to receive the confession of the person solicited, so that thus he may avoid danger of relapse.

VII. Penalties against false denouncers. - Innocent confessors are to be protected from those falsely denouncing. Wherefore those falsely denouncing by themselves or through others (for example, through a confessor) incur a grave penalty, and indeed a twofold one:

a) False denunciation before ecclesiastical judges is a sin reserved by reason of itself to the Holy See. Thus from can. 894. To incur this it is necessary:

1. that a priest be denounced as guilty of solicitation properly so called, namely, in connection with confession, as was explained above;

2. that the denunciation be false (materially and formally), so that the confessor is not known to be guilty of this delict, although perhaps he is guilty of other similar delicts;

3. that the denunciation was made before ecclesiastical judges, which several understand in the stricter and formal sense concerning judicial denunciation. And, if it must be understood thus, which nevertheless is not certain, an anonymous denunciation, or a simple signed letter, would not suffice.

Ignorance does not excuse from the aforesaid reservation, because reservation of sin is not a mere penalty, but principally and immediately a calling to the tribunal of the superior and therefore a restriction of the power of the confessor, which only mediately affects the penitent (can. 893, § 1), and because no ignorance excuses from an incapacitating law (can. 16, § 1).

De Smet nevertheless judges the contrary, because according to the Benedictine Constitution that reservation is a medicinal penalty, from which, according to can. 2229 § 3, ignorance excuses if it is not crass. But this no longer has force in the new law, in which it is expressly said (can. 893) that reservation limits the power of the confessor, and in the immediately following canon (894) false denunciation is said to be the only sin reserved by reason of itself to the Holy See. Therefore it is no longer principally a medicinal penalty, but a calling to the tribunal of the superior and a restriction of jurisdiction; as is now generally acknowledged. - Besides, practically ignorance is rarely present, since denouncing persons must be admonished by the judge or delegate concerning the reservation.

b) False denunciation made before superiors incurs excommunication reserved in a special manner to the Supreme Pontiff. Thus from can. 2363. By these altogether general terms there seems to be comprehended not only strictly juridical denunciation before judges formally acting as such, but any denunciation directed to superiors even by letter; not however an anonymous one, since it has no force (Holy Office, 20 February 1867, n. 6). Surely, not only the denunciation which is made in the judicial instruction itself, but also that which seeks this and advises concerning instruction to be made against someone, is now made before superiors as such.[3]

[3] Here also that has force which De Smet notes, o. c., n. 123 (striving to demonstrate that even an extrajudicial denunciation before a judge is a sin reserved by reason of itself), namely that otherwise "often there would be no place for the case of false denunciation in not a few places, in those not rare cases in which the Bishop proceeds in the case of solicitation from informed conscience, since then recourse to juridical denunciation is not required and often in fact recourse is not had; too often that penal law providently introduced would be eluded."

Yet ignorance excuses from the penalty, not indeed of the reservation alone, but of the censure, not however crass nor affected. From the penalty itself no one can be absolved unless:

1. he has formally retracted the false denunciation before the superior, or has already placed a means sufficient for this, or, if here and now it is impossible, has seriously promised this;

2. he has repaired according to his powers all damages following from the calumnious condemnation;

3. he has accepted a grave and long penance. Grave is that which for grave fault in the sacrament must of itself be given; long is that which lasts for about six months or beyond, with the quality of the person and the nature and frequency of the work imposed considered.

From all these things it follows:

1. the reserved censure extends more broadly than the sin reserved by reason of itself;

2. nevertheless the reservation of the sin can be contracted without the reservation of the censure being contracted, for example, on account of ignorance;

3. the reservation of the censure sometimes ceases, without the reservation of the sin ceasing, and conversely the reservation of the sin ceases, for example, in the case of a sick person who cannot leave home, without for that reason the reservation of the censure ceasing;

4. he who can absolve from one cannot always absolve from the other;

5. accomplices also are reached by each reservation, since they denounce through others; namely, those commanding, mandating, giving counsel, asking, promising, threatening, etc., in one word all who concur positively and efficaciously in the false denunciation.

VIII. Corollaries concerning doubtful solicitation. - 1. In doubt whether an action exercised or words uttered bear before them and signify solicitation, if there is doubt only concerning the intention of the confessor, the end is presumed to have been present consonant with the action exercised or the words uttered.

2. If the external action, not only according to itself, but also with all circumstances and indications considered both on the part of the matter and on the part of the agent, remains ambiguous, so that the delict is truly doubtful, the more benign parts can be preferred and denunciation is not of precept.

3. If the solicitation is certain, but there is doubt concerning the person, denunciation is to be made so that the superior can inquire concerning the person soliciting, if inquiry can easily be made without danger of defaming an innocent person; whence: a) it will have to be denounced if probable hope is present that the judge by his diligence can detect the unknown guilty person; b) on the contrary, he who remains doubtful between two persons and would have to indicate each in denunciation, for the most part should abstain from denunciation lest he harm the reputation of an innocent person.

IX. Practical rules for confessors.

A. Toward the priest soliciting.

The confessor hearing a priest guilty of solicitation:

1. of itself can absolve him, because solicitation is not a reserved case (Holy Office, 15 September 1859, ad 3); yet one already punished and suspended, he cannot absolve from suspension, because - as *ferendae sententiae* - it is as if from man and therefore reserved;

2. let him not absolve unless he first places the enormity of the crime before his eyes and excites him to more fervent contrition, yet encourages the contrite one also to full confidence in the infinite mercy of God;

3. let him require that he repair scandal, and in the future abstain from hearing the confessions of the person solicited;

4. but let him not absolve a relapser, after penance relapsed several times or with respect to several penitents, unless he has brought extraordinary signs of contrition and has previously promised to lay aside the office of confessor, which is a proximate occasion for him, or to request transfer to another place where he is exposed to lesser danger; or, if these are impossible, unless at least he has promised to employ altogether more efficacious remedies of a very fervent and mortified spiritual life;

5. let him diligently examine whether the soliciting priest has not sinned with the penitent, and absolved an accomplice, which having happened there would be present the case of absolution of an accomplice, which is struck by an excommunication most specially reserved to the Supreme Pontiff, concerning which we spoke above, Qu. 1, n. IX.

B. Toward the solicited penitent.

The confessor hearing in confession that a person was solicited:

1. let him diligently examine whether the denouncing person is worthy of faith: for often little women from envy, hatred, vengeance, jealousy, levity, hysteria, and other causes narrate concerning a confessor things altogether false, or, because their solicitations were repelled, accuse an innocent person; whence if he doubts concerning the veracity of the person, let him admonish concerning the atrocity of false denunciation, saying also that it is a case reserved to the Supreme Pontiff. But let him beware lest he inquire into the name of the one soliciting;

2. let him inquire whether the obligation of denouncing is certain; but if he cannot immediately judge the matter, let him admonish the penitent to return to him another day, and, if the penitent cannot (or does not wish to) do this, let him order him to speak with another confessor concerning it and obey him;

3. if the case is certain, let him admonish concerning the obligation of denouncing, even under the penalty of excommunication imposed; from making which admonition, on account of the public good, no good faith in the penitent excuses (Holy Office, 20 September 1867, n. 3);

4. if the penitent promises to denounce, sometimes prudence will teach that absolution be granted only after denunciation has been made, and especially a) if the penitent has not yet brought to completion denunciation promised on another occasion; b) if indeed he promises but with rather great resistance, or if some difficulty in denouncing is foreseen; c) if immediately (morally) he can complete the denunciation. Yet if the promise is sincere and absolution cannot conveniently be deferred, he can immediately be absolved;

5. if the penitent does not wish to denounce, let him inquire whether there is a grave excusing cause; and if it is present, the penitent can be absolved provided that he promises that he will denounce if the cause ceases or urges less (Holy Office, 21 February 1630, 20 May 1842, and 20 February 1867, n. 5);

6. if there is no truly excusing reason, let him persuade the penitent, in the best way he can, to denounce. For persuading him efficaciously to this, let him oppose to the vain excuses of the penitent the gravity of sacrilege in the priest soliciting, the necessity in every way in so grave a matter of obeying the laws of the Church, and the penalty of excommunication to be incurred; and let him show that there is no danger of infamy because the penitent is not bound to manifest consent, and the confessor himself can be delegated to receive the denunciation, and the one soliciting who is denounced is customarily called into judgment only after three denunciations;

7. if nevertheless the penitent altogether does not wish, let him dismiss him - as indisposed - without absolution, and cause him to return to him at another time, meanwhile recurring to the Ordinary, or to the Sacred Penitentiary or the Holy Office, that he may obtain instructions, or even dispensation. For from the Sacred Penitentiary it is sometimes obtained that the penitent be dispensed from the obligation of denouncing; or, the name of the soliciting priest having been indicated, that he can hide his own;

8. let him attend whether the penitent who consented to the solicitation was also the accomplice of the priest in a base sin, and perhaps was absolved by him; in which case account would have to be taken of the confessions which were invalid, as was set forth above in Q. 1.

X. Document: Letters of denunciation. Since it can happen to any confessor that he is delegated by the Ordinary for receiving from a penitent the denunciation of a soliciting priest, let it please us here to append the mode of receiving denunciations to be transmitted without the intervention of a notary, according to the Instruction of the Holy Office, 20 July 1890.

"From the mandate of the Most Illustrious and Most Reverend Bishop Ordinary N.N., given on the day... there personally appeared, having been called, on the day... before me the undersigned, standing in (he will note the place where it is gathered for receiving the act), for this act specially delegated by the Most Illustrious and Most Reverend N., N.N., unmarried (or married), living in this city N.N., in the parish N.N., daughter (or wife) of N.N., of her age..., of civil condition (or agricultural, or assigned to domestic service), to whom, the oath of telling the truth having been offered, which she furnished by touching the Holy Gospels of God, was

"Interrogated. Whether she knows or imagines the cause of the calling and of the present examination?

"Resp. ...

"Interrogated. For how many years has she been accustomed to approach the Sacrament of Penance?

"Resp. ...

"Interrogated. Whether always before one and the same Confessor she has received the Sacrament of Penance, or before several Priests; moreover whether in one and the same or in several churches?

"Resp. ...

"Interrogated. Whether from each Priest to whom she confessed she received holy admonitions and opportune precepts which would edify the examined woman and keep her away from evil, and insofar as etc.?

"Resp. ...

"To be noted. If the response was affirmative, that is, if she says that she was always directed well, then she is interrogated in the following mode:

"Interrogated. Whether she knows or remembers having ever said or heard that some Confessor did not bear himself so holily and honorably toward penitents; whether murmurs, or contemptible words against this Confessor were uttered: for example, that the examined woman herself heard similar things from one or several penitents and one year ago, or four or three months ago?

"To be noted. If after this interrogation and observation the examined woman continues to deny, let the act be closed in the customary form, which stands at the foot of this instruction.

"But, if she has opened anything concerning some Confessor according to those things concerning which she is questioned, she will be further interrogated as follows:

"Interrogated. That she set forth the name, surname, office, age of the Confessor, and the place or seat of confession; whether he is a secular or regular presbyter, and insofar as etc.

"Resp. ...

"Interrogated. That she set forth in order, sincerely and clearly, all those things less honorable which in sacramental confession or before or after or on the occasion of confession she heard from the aforesaid Confessor: or whether something was dishonorably done by the same with her by nods, touches, or work, and insofar as etc.

"To be noted: in this place the judge will carefully see that the base conversations, seductions, invitations of meeting in some place for an evil end, and all other things which constitute the crime of solicitation, be reported in the same words which the Confessor used, the vernacular language being employed, in which the responses will diligently and according to the truth be written out; let him give courage to the examined woman, if he notices that by excessive fear or shame she is impeded from making the truth manifest, persuading her that all things are to be pressed under inviolable secrecy. Finally he will inquire the time from which the solicitations began, how long they endured, how often repeated, by what words and acts redolent of an evil end they were expressed. He

will diligently beware of inquiring into the consent of the examined woman herself to the solicitation, and of any interrogation which betrays a desire of knowing her sins.

"Interrogated. Whether she knows or has heard it said that the aforesaid Confessor solicited other penitents to base things; and insofar as she should name them (and here he will order the name, surname, and at least clearer indications by which the other solicited persons can be detected).

"To be noted: If perhaps other solicited persons are brought in, it will belong to the judge himself prudently to call them and to examine each singly according to the form set forth above.

"Resp. ...

"Interrogated. Concerning the reputation of the aforesaid Confessor both before herself and before others?

"Resp. ...

"Interrogated. Whether she has deposed the aforesaid things from love of justice and truth, or rather from some affection of enmity or hatred, and insofar as etc.

"Resp. ...

"Which things having been had and accepted, she was dismissed, sworn concerning preserving silence, again by touching the Holy Gospels of God, and, her examination having been read back to her, in confirmation of the premises she subscribed herself (if she was illiterate, let it be said: and since she did not know how to write, she made the sign of the Cross).

"(Signature of the person examined.)

"These things were done by me N.N., specially delegated as above by the Most Illustrious and Most Reverend Prelate N.N."

Then he transmits the entire act directly to the proper Ordinary delegating him (safely, namely, lest perhaps it be lost), together with the instruction and letters received, retaining absolutely nothing with himself.

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