Summa of Moral Theology

Adapted for the use of schools

by

H. Noldin, S.J.

Professor of Sacred Theology in the University of Innsbruck.

I.

On the Principles of Moral Theology.

With the approval of the Bishop of Brixen and of the superiors of the Order.

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Introduction

Into Moral Theology[1]

First Question

On The Nature Of Moral Theology

1. Definition. 1. Moral theology can be defined: the science of human activity, insofar as it is directed to the ultimate supernatural end.

a. The material object of moral theology is human acts, that is, the whole free human activity; for moral theology undertakes to direct this activity to the end of human life. The formal object is the human act in order to the ultimate supernatural end; for moral theology considers human acts not under just any respect, but insofar as they are ordered to the ultimate end of human life, or insofar as by them man tends to the end of eternal life.

b. It belongs to moral theology to teach in what way human actions ought to be arranged, so that through them man may attain his ultimate end. But a twofold ultimate end of man can be considered: the natural, which befits man insofar as he is a creature of God, and such as it would have been if God had left man in the order of nature; and the supernatural, which befits man insofar as he is a son of God, and which in the present supernatural order is proposed to us as to be attained. Which actions bring man to the natural end can be known by the natural light of reason, and this is taught by moral philosophy; but which actions befit the supernatural end can be known only from divine revelation, and this is taught by moral theology. Nevertheless the natural and supernatural end, or order, do not exclude each other, but the supernatural supposes the natural and elevates it to a greater dignity.

2. The proposed definition is to be proved: for the definition of any science ought to set forth its proper object, so that it may be distinguished from every other science. But the proposed definition sets forth the proper object of moral theology, and indeed in such a way that moral theology is easily distinguished from ethics, which is occupied with the same object: for ethics orders human actions to the ultimate natural end, whereas moral theology orders the same actions to the ultimate supernatural end.

2. Other definitions. Moral theology can be defined in two other ways:

a. The science of the laws and means by which human actions are ordered to the ultimate supernatural end.

In order that man may come to the supernatural end of eternal life, God has given precepts which must be observed, and has instituted means which must be employed. Hence, in order to direct human actions to their ultimate end, norms to be observed from the will of God and means to be employed from the same will must be proposed. Since, therefore, the task of moral theology consists in this, that it direct human actions to the ultimate end, moral theology must teach both the laws given by God and the means instituted by God.

b. The science of the virtues which man must exercise in order to come to the ultimate supernatural end.

Notes

1. Bouquillon, *Theologia moralis fundamentalis*, 3rd ed. (Bruges: Beyaert, 1903). Lehmkuhl, *Theologia moralis*, 10th ed. (Freiburg: Herder, 1902). Muller, *Theologia Moralis*, 2nd ed. (Vienna: Meyer, 1894). Schwane, *Allgemeine Moraltheologie* (Freiburg: Herder, 1885). Simar, *Lehrbuch der Moraltheologie* (Freiburg: Herder, 1893). Pruner, "Moraltheologie" (*Kirchenlexikon*, 2nd ed.). Gopfert, *Moraltheologie*, 6th ed. (Paderborn: Schoningh, 1905). Kraunitzky, *Moraltheologische Einleitung*, 2nd ed. (Breslau: Aderholz, 1898). Schindler, *Lehrbuch der Moraltheologie* (Vienna: Opitz, 1897).

Every moral action of man is in the genus of some virtue; for by any human action by which a norm is observed or a means is employed, through which man is directed to the ultimate end, some virtue is exercised. Therefore the proper task of moral theology can also be set forth in this way: that it teaches the virtues which man, according to the will of God, must exercise in order to attain his ultimate end. Hence moral theology can truly be called the doctrine concerning Christian virtues; and because the complex of all virtues is signified by the name of justice, moral theology is rightly called the doctrine concerning Christian justice - *die Lehre von der christlichen Gerechtigkeit.*

Note. It can be asked whether moral theology is properly a doctrine concerning virtues, or rather a doctrine concerning duties. Both can be truly and rightly affirmed: for the proper task of moral theology is so to direct man that he may obtain the end of eternal life. Now man can be directed to this end in two ways: either by deducing from Christian revelation and declaring the virtues which must be exercised for obtaining the ultimate end; or by collecting and explaining the norms or precepts which, according to the will of God, must be observed for obtaining the ultimate end. The former was done by St. Thomas in the second part of the second part of the *Summa Theologica*; the latter was accomplished by St. Alphonsus in moral theology. The former is more suited to theory and speculation, the latter to the practice of the confessional and to popular instruction. Nevertheless moral theology does not set forth the doctrine of the virtues absolutely and perfectly, but it teaches the virtues only insofar as they are prescribed and insofar as their exercise is necessary for obtaining eternal life or for avoiding sin. The doctrine of the virtues, complete in every respect up to the highest perfection, belongs to Ascetic Theology.

3. Practical theology. Moral theology is a theological science, and indeed a practical one.

a. It belongs to the nature of moral science that it set forth truths pertaining to morals not in any manner whatever, but in such a way that it demonstrates them from principles or sources, shows the connection by which they cohere both with each other and also with the ultimate end, confirms one from another, and by reasoning from them deduces new truths; this is what moral theology, if it deserves to be marked by this name, must accomplish.

b. In order that it may be called a theological science in the strict sense, it must not only treat of God, but must also be known from divine revelation. But moral theology treats of God insofar as He is the ultimate supernatural end to be attained by man, and insofar as He is the lawgiver and institutor of the means of salvation; and this is known chiefly from divine revelation.

c. A practical science is one which does not intend mere knowledge of truth, but rather operation. But moral theology is wholly concerned with directing human actions, since from its task it teaches which precepts are to be observed and which virtues are to be exercised for obtaining the end of eternal life.

4. On the progress of moral science. Although the moral truths to be proposed in moral theology always remain unchanged in themselves, nevertheless moral theology itself, insofar as it is a theological science, can and must make continual progress. For, in the first place, the conditions of human life are continually changed and developed; hence moral truths must be applied to new conditions of life, so that human life may be in every respect consonant with moral norms. Moreover the sciences, both sacred and profane, daily increase and are perfected; indeed new sciences repeatedly arise. But the advances of these sciences and their discoveries are also of use to moral theology and perfect it. Finally, in the course of time, different adversaries arise and assail moral truths with new weapons. But by the fact that their attacks are rejected and their difficulties solved, moral truths themselves shine with greater clarity and are established with more perfect certitude.

5. The relation of moral theology to related sciences. a. To ethics. Ethics agrees with moral theology in many things; indeed the latter partly contains the former in itself. For since the supernatural end does

not exclude the natural end, but rather supposes and contains it, what is evil with respect to the natural end will necessarily also be evil with respect to the supernatural end, although what is good with respect to the natural end cannot yet be good with respect to the supernatural end unless it is elevated to the supernatural order.

Nevertheless ethics and moral theology differ in several respects:

a. By reason of the means of knowledge: for the means of knowing for ethics is natural reason; but the primary means of knowing for moral theology is divine revelation, while the secondary means is reason enlightened by faith.

b. By reason of the object: for moral theology adds to ethical truths many truths drawn from divine revelation, especially those which refer to supernatural life and to the theological virtues.

c. By reason of the end: for ethics directs man to natural perfection and the natural end; but moral theology directs him to supernatural perfection and the supernatural end.

d. By reason of the means: for moral theology teaches man the supernatural helps, and especially the sacraments instituted by God, so that by their aid he may be able to come to the end of eternal life. Likewise it supplies supernatural motives of acting - fear, hope, charity - and finally shows supernatural examples - the life of Christ and of the saints - so that the faithful may attain their end in an easier and more perfect way, as is shown by the highest Christian perfection which the saints of the Church have attained.

e. To dogmatic theology.

f. The older theologians did not distinguish dogmatic theology from moral theology, but brought together all revealed truths under the name of speculative theology into one body of doctrine.

g. Afterwards, however, they separated moral theology from dogmatic theology and treated it separately, so that they assigned to moral theology the truths which pertain to directing morals, and to dogmatic theology those truths which do not proximately refer to morals. They called the latter theoretical theology, and the former practical theology.

From this it is clear that many moral truths are drawn from divine revelation and, as dogmas, pertain to the object of faith, such as the truths concerning the exercise of the theological virtues. Indeed there are several truths about which discourse can be undertaken with equal right both in dogmatic theology and in moral theology, such as truths concerning the sacraments, justification, merit, the end of man, the virtues, sins, and so forth.

c. Dogmatic theology, with regard to truths which pertain to faith alone and not to morals, is the foundation of moral theology, so that one ought to support and illuminate the other. And indeed the moral actions of man themselves are understood more accurately and more perfectly from dogmatic truths concerning justice and original sin, creation, redemption, and the grace of the Redeemer. Moreover, there are many other dogmatic truths which shed much light on moral truths.

d. To pastoral theology. Pastoral theology is the doctrine concerning the care of souls. Therefore it teaches pastors how they ought to exercise the care of souls according to the example of Christ the Lord, who is the prince of pastors,[2] namely through the exercise of the threefold office: of teacher, priest, and king, or pastor. Moral theology, among all theological disciplines, is most closely related to pastoral theology. For

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Notes

2. 1 Pet. 5:4.

moral theology treats of the obligations which are incumbent upon all men, so that by their observance they may come to the end of eternal life; but pastoral theology treats of the duties which are incumbent specifically upon pastors, so that they may rightly exercise the care of souls and by its exercise lead the faithful committed to them to the end of eternal life.

e. To juridical sciences. Ecclesiastical law directs the external activity of ecclesiastical society and orders the relation of individual faithful to that same society; it more accurately determines and perfects the law, both natural and positive divine. Since a true legislative power has been granted to the Church by God, her laws have force in the forum of conscience and, according to the will of God, must be observed, so that we may obtain the end of eternal life. Therefore moral theology must frequently also attend to the dispositions of ecclesiastical law. Civil law rules the external activity of civil society and determines the external relation of citizens both among themselves and to society itself; it explains and perfects the social law of nature. Since civil authority also is furnished with the power of making laws that bind in conscience, its laws too must be observed according to the will of God. Of these laws, those pertain especially to moral theology by which rights are established and determined.

Among the philosophical and juridical sciences in our time the social and economic sciences are diligently cultivated; their investigations must be attended to in moral theology, so that by their aid false or obsolete notions and opinions may be corrected and moral theology itself may be fittingly perfected.

Note 1. Theologians, with Clement of Alexandria leading the way,[3] reduce the relation between Christian ethics and ancient ethics, and the perfection of the former, to these three heads. Christian ethics: a. contains all moral truths, and these fittingly connected; b. supplies greater certitude, drawn both from evident internal reasons and from the highest authority of Christ; c. confers force and virtue, by which even the most difficult and most perfect moral precepts may be expressed in the life of the faithful.[4]

Note 2. The relation between Catholic and Protestant ethics is determined by these five heads. Catholic ethics: a. is governed by the infallible magisterium of the Church; on the contrary, Protestant ethics, which lacks such a magisterium, necessarily falls into subjectivism and error; b. its source is not Scripture alone, but besides Scripture it also acknowledges ecclesiastical tradition; c. it teaches that liberty is necessary for the moral life, and that neither sin nor grace removes it; d. it teaches that the justification of sinners consists in internal conversion and sanctification through divine grace, not in the subjective apprehension of the justice by which Christ is just; e. we obtain justification through the sacraments received in reality or in desire, which the Church alone instituted by Christ administers.

From these points two things are made manifest. The first is that the difference between Catholic and Protestant ethics must be called entirely essential; the second is that the reason for the difference must be taken from the dogmatic truths which are rejected by Protestants.[5]

6. Method. Moral theology, by reason of its task, proposes norms and laws by which the moral and Christian life of man must be directed. Now the method of moral theology is the mode and form which is observed in proposing these laws, or in treating moral theology. A threefold method is distinguished: positive, scholastic, and casuistic.

Notes

3. *Stromata* 1, 20.
4. Cf. Mausbach, *Christentum und Weltmoral* (Munster: Aschendorff, 1897), pp. 1-35.
5. Cf. Mausbach, *Die katholische Moral* (Cologne: Bachem, 1901), p. 70 ff.

a. The positive method is that by which moral truths, drawn from the proper sources of this science and proved from them, are proposed in systematic order. Therefore the positive method supplies a simple knowledge of moral truths from their sources.

b. The scholastic or speculative method is that by which moral truths taken from their proper sources are explained more accurately, confirmed from theological and philosophical principles, vindicated from attacks, the connection by which they cohere with one another and with the ultimate end is investigated, and finally conclusions are deduced from them. Therefore the scholastic method supplies a deeper and more scientific knowledge of the same truths.

c. The casuistic method is that by which, systematic order being neglected, moral truths are applied to particular cases, and these the rarer cases of human life, and practical questions, especially the more difficult ones, are resolved from moral principles, so that in individual cases it may be known what is lawful and what unlawful, what is grave sin and what light sin.

d. Others, passing over the positive method as being joined with the scholastic method by an inseparable bond, distinguish this threefold way of treating moral theology: scholastic, casuistic, and mystical. The mystical method is that by which moral truths are treated in such a way that they arouse and direct one to pursue virtue, and that perfect virtue. Therefore the mystical method sets forth the individual virtues and their diverse grades of perfection, and from moral truths deduces reasons and motives by which man may be moved and determined to pursue Christian perfection. Since there exists a special theological discipline, namely ascetic theology, which treats of virtues in this way, the mystical method is not a way of treating moral theology.

e. Moral theologians who chiefly follow the casuistic method are called casuists. Some of them, with the exposition of principles almost entirely neglected, devote themselves almost exclusively to solving cases, especially the more difficult and intricate ones (Bucceroni, Genicot); others, however, after a more or less accurate and scientific exposition of principles has been set forth, give their effort to discussing cases (Elbel, Lehmkuhl).

7. The method of recent authors. Recent authors of moral theology do not follow only one method in preference to the others, but most of them fittingly join all three. Therefore, although in the different parts of moral theology, according as the matter itself requires, one method prevails over the others, nevertheless generally there is discerned a method composed and mixed from these three.

And rightly indeed the casuistic method is joined also with the positive-scholastic method.

For where moral theology is proposed to future confessors, the mere exposition of moral principles is not sufficient, but the resolution of diverse cases and questions drawn from practical life is altogether necessary. For the application of principles to practical questions, especially those entangled by diverse circumstances, is not without difficulty for beginners; and this difficulty cannot be overcome except by long and varied exercises.

Moreover, the solution of many practical questions is taken not so much from certain principles as from the prudent judgment and estimation of experts. But such a prudent estimation is not acquired except by the manifold consideration and study of cases which authors discuss and resolve.

Hence it happens that in moral theology, especially in questions whose solution depends upon prudent estimation, not only is much deference given to the authority of those theologians who excel the rest in prudent judgment, but also the opinion of several authors is usually cited, because the conforming judgment of several in questions of this sort offers a very clear testimony of truth.

8. Division. In order that moral theology may suit the practical end which we chiefly intend, it can fittingly be divided into three parts. The first is concerning the foundations of moral theology, or concerning the first and general principles of this science. The second is concerning precepts, which sets forth the norms drawn from Christian revelation which man, according to the will of God, must observe in order to attain the ultimate end of eternal life. The third is concerning the sacraments, which are so many means or helps of salvation instituted by God, so that man by their use may come to eternal life. God commands the use of these means by positive law, and the Church determines it by her decrees.

This division does not differ from that by which moral theology is commonly divided into two parts, of which one is called general or fundamental, the other special. The former sets forth the general principles of morals, namely those properties which must belong to all human actions so that they may be apt for the ultimate end. The latter teaches what man in particular must do or omit, namely both the obligations which, according to the will of God, man must fulfill, and the means which he must employ in order to obtain eternal life. For this reason special moral theology comprises those two parts which we mentioned above: concerning precepts and concerning the sacraments.

Second Question

On The Sources Of Moral Theology[6]

The source of moral theology is taken in a twofold sense: that from which moral truths are first known, a source; and that in which known moral truths are contained, theological places.

9. Sources. The supreme sources of moral theology, from which moral truths are known, are divine revelation and human reason, both natural and theological, that is, enlightened by faith.

a. Moral theology embraces supernatural truths manifested to us through divine revelation: for since the end to which this science must direct man is supernatural, it must contain within itself truths of the supernatural order; and indeed we must know these truths from divine revelation.

b. In order to obtain the end of human life, it is necessary that man also observe the laws of the natural order: for the supernatural end does not exclude the natural end, but supposes and perfects it. Therefore the laws of the law of nature, manifested to us through reason, likewise belong to the object of moral theology. Moreover reason declares and illustrates moral truths divinely revealed, and by reasoning deduces new truths from them.

c. Which moral truths have been manifested to us either through revelation or through reason, we learn from the infallible magisterium of the Church. For this magisterium was instituted by God and endowed with the prerogative of infallibility so that, with supreme and infallible authority, it might propose and declare to us truths, both supernatural and natural, pertaining to the moral order. Therefore by some authors the magisterium of the Church is called the formal or directive principle of moral theology, just as of dogmatic theology.

10. The places of moral theology. Now those documents must be exhibited in order in which moral truths, both supernatural and natural, are found deposited.

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6. Melchior Cano, *De locis theologicis* VIII, 4. From the time when moral theology, among the theological sciences, began to exhibit a discipline standing by itself and distinct from dogmatic theology, treatment also began concerning the sources or places of moral theology. For although the sources of moral and dogmatic theology are almost the same, nevertheless moral theology has some proper to itself. Francis Zacharia, S.J., first published a special treatise concerning the places of moral theology, whom others then followed in this matter. Cf. the dissertation prefixed as prolegomena to Alphonsus de Liguori's moral theology, concerning the origins, places, and excellence of casuistic theology; Zacharia composed this dissertation at the request of St. Alphonsus himself, and the holy Doctor had it placed before the third edition of his work.

1. Sacred Scripture, both of the Old and of the New Testament.

a. Sacred Scripture of the New Testament is the primary place of moral theology, insofar as it contains not only moral precepts and counsels brought forth from the mouth of the divine Savior Himself, but also exhibits to us the most perfect example of Christian life in the most holy life of Christ the Lord.

b. Sacred Scripture of the Old Testament comprises precepts both moral and ceremonial and judicial. The ceremonial and judicial precepts, deprived of the force of binding, have ceased; but the moral precepts, confirmed by Christ and raised to greater perfection, retain binding force in the New Testament.

Note. The moral doctrine of the Old Testament is not absolutely, but nevertheless relatively, perfect; and this indeed in a twofold sense: both because it is more perfect than the moral doctrine of the other peoples of antiquity, and because it contains the perfection of the New Testament as it were in its root. For Christ the Lord did not come to destroy the law, but to fulfill it.[7] By the most wise counsel of divine providence it was brought about that divine revelation was gradually developed from imperfect beginnings to the perfection due to it. Moreover morality had to be accommodated to the character and capacity of the Israelite people, to whom the utterances of God were entrusted.[8] Therefore to a people not yet capable of a more perfect morality, precepts are at first proposed from authority without internal motives, which are added later; likewise at the beginning the same people are drawn to the keeping of the law more with a view to reward than with a view to virtue. But it can by no means be conceded that the Old Testament contains anything opposed to uprightness. What they reproach in the Old Testament, namely that the actions and precepts of God - killing the innocent, taking away what belongs to another, hating enemies, and the like - are vicious, and that persons inspired by God teach and perpetrate things which are vicious, rests upon passages of Sacred Scripture wrongly understood. Besides, the sayings and deeds of the Old Testament must be measured not according to the perfect norms of the New Testament, but according to the intellectual and moral culture of the Israelite people.

2. Councils, both general and particular - whether national, provincial, or diocesan - by canons which pertain to morals, partly declare and define moral precepts divinely given, and partly establish new precepts for the salvation of the faithful.

It must be noted that most laws given by the Church are disciplinary laws, which direct the external morals of the faithful and therefore are variable. For external morals, just as the circumstances of things, are changed day by day; hence it happens that disciplinary laws also are various according to the character of times and places: for what is useful at this time and place becomes useless at another time and place, indeed sometimes even harmful.[9]

3. Decrees of the supreme pontiffs, by which in diverse ways - either through constitutions, or encyclicals, or through responses of the congregations - either false moral doctrines are condemned, or moral precepts of divine or ecclesiastical law are declared, or it is expressly established what must be held and what must be done concerning determinate matters.[10]

From condemned propositions, directly and immediately the proscribed error is known; but indirectly and mediately, at the same time, the truth defined by the Church is also known. For by this very fact, that

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7. Matt. 5:17.

8. Rom. 3:2.

9. Cf. Benedict XIV, *De synodo* l. 5, c. 3, n. 7.

10. A collection of these decrees was made by Jan. Bucceroni, *Enchiridion morale complectens selectas decisiones sanctae sedis et s. r. congregationum*^3 (Rome: Typographia iuvenum opificum, 1908).

the error is rejected, the contradictorily opposite proposition is established as true; and since condemned propositions are infallibly false, it is rightly inferred that the opposite propositions are infallibly true.[11] Of condemned propositions which pertain to moral matter, these are the chief:

a. The 28 propositions condemned by Alexander VII on September 24, 1665, as scandalous and dangerous in practice.

b. The 17 propositions condemned by the same Alexander VII on March 18, 1666, as scandalous.

c. The 66 propositions condemned by Innocent XI on March 2, 1679, at least as scandalous and pernicious in practice.

d. The 31 propositions condemned by Alexander VIII on December 7, 1690, as rash, injurious, ill-sounding, savoring of heresy, and so forth.

e. The 5 propositions concerning the duel condemned by Benedict XIV on November 10, 1752, by the constitution *Detestabilem*, as false, scandalous, and pernicious.[12]

4. The works of the holy Fathers. The holy Fathers of the Church are to be considered not only as witnesses of tradition, but also as teachers of truths pertaining to morals. Therefore it must be distinguished whether they propose ecclesiastical doctrine or their own. If they agree in proposing ecclesiastical doctrine, their opinion is to be held as absolutely certain, for the Church cannot fail from the truth. But if they propose a truth concerning which nothing has been defined by the Church, whether they agree or do not agree, the arguments by which they confirm it are to be considered and weighed; and regarding their authority, the rules to be established concerning the authority of theologians are valid.

5. The works of theologians, especially of those whom the Church greatly esteems, and indeed the Church attributes singular authority to St. Thomas and St. Alphonsus. Hence, when people seek decisions in moral matters, the Church sometimes responds: "Let approved authors be consulted."

Concerning the authority of theologians, these points from Fr. Zacharia must be held:

a. "If in some question all casuists agree with one another, saying that something is lawful, it is close to heresy to depart from their opinion.

b. From the common opinion of almost all casuist authors, arguments are taken as probable to such a degree that, unless a plainly grave and by no one observed reason or authority - but a clear and manifest one - stands in the way, it is rash to oppose them.

c. The testimony of even many casuist theologians, if other learned men contend against them, has no more force for producing belief than either their own reason or a weightier authority will have approved.

d. A single author, if he is above all exception and brings forward a reason which others have not considered or have not sufficiently solved, while he himself conveniently solves the reasons of others, although he teaches against the common opinion, will be able to render an opinion probable."[13]

6. The usage and practice of the Church: for the moral doctrines and laws which the Church proposes are found expressed in the morals and examples of the faithful. Therefore the usage of the Church fittingly

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11. Cf. Dominicus Viva, *Theses damnatae*, etc., proemial question.

12. Commentaries on the condemned propositions were chiefly written by: Dominicus Viva, *Damnatae theses ad theologicam trutinam revocatae*; Ioannes de Cardenas, *Crisis theologica* (on the propositions condemned by Innocent XI); Ioannes Reuter, *Theologia moralis*, Part I, *Analysis theologiae moralis reprobatae*; Didacus Duarte, *Brevis expositio propositionum damnatarum a sede apostolica.*

13. Cf. Zacharia, *Dissertatio prolegomena*, pr. 2, c. 5.

serves to prove and confirm moral truths, especially those which refer to the sacraments. Therefore monuments which testify to the ancient usage of the Church are deservedly counted among the sources of moral theology.

Third Question

On The Principles Of Moral Theology

11. What they are. 1. There can be speech concerning the principles of moral theology in a threefold sense, since the following are called principles of moral theology:

a. Divine revelation and human reason, both natural and especially supernatural reason enlightened by faith; for the means of knowledge by which we acquire some science are called its principles.

b. The places of moral theology; for the documents from which the truths of some science are drawn are likewise called its principles.

c. Certain moral truths; for truths from which others are deduced by reasoning are customarily called principles.[14]

2. If by the name of principle certain moral truths are understood, two kinds of principles must be distinguished, general and particular. General principles are those fundamental truths which exhibit the conditions and qualities that must belong to all human acts so that they may be apt for the end, and which therefore pervade and govern the whole of moral theology. Particular principles are the individual moral truths taken from their proper sources, from which truths, as from a root, other truths are deduced by reasoning. For just as revealed truths, which constitute the object of dogmatic theology, are called its principles, so particular moral truths must be called the principles of moral theology. Here the discussion is about general principles; particular principles constitute the chief object of special moral theology.

General principles are: human acts must be proportioned to the ultimate end; they must be morally good, supernatural, meritorious; they must be conformable to the dictate of conscience and to divine law, and the like. Particular principles are: truths revealed by God must be believed; God must be loved above all things; the needy neighbor must be helped; it is not lawful to commit adultery; it is not lawful to steal; and the like.

12. Division of general moral theology concerning principles. In order that moral theology may hand down the supreme principles or conditions and properties which must belong to all human acts so that they may be apt for obtaining the ultimate end, it must first teach what is the ultimate end to which man has been destined by God, and to which he must tend by his acts. Moreover, it must teach how human acts themselves ought to be arranged, so that they may be apt for the end. In order that human acts may be apt for the end, they must be conformable to law and to the dictate of conscience, their norm. Acts conformable to the moral norm are virtues; acts not conformable to it are sins. Hence virtues and sins constitute the two supreme genera of all moral actions. Therefore fundamental moral theology must treat in order concerning these five things: a. concerning the ultimate end of man; b. concerning human acts; c. concerning law; d. concerning conscience; e. concerning virtues and sins.

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14. Cf. Kleutgen, *Institutiones theologicae* (Ratisbon: Pustet, 1881), p. 27 ff.

Book First

On The Ultimate End Of Man

Since moral theology teaches man the way by which he can come to his end, it first treats of the ultimate end of man, both so that he may know the end toward which he must tend by his acts, and so that the foundation and supreme principle of moral theology may be clear: for all things depend upon and are governed by the end. Nevertheless, the ultimate end is to be treated in such a way that those things which are set forth at length in moral philosophy are briefly recalled here, and then those things are added which are proper to moral theology.

First Question

On The Ultimate End Itself[15]

13. What it is. 1. Every rational agent acts for the sake of an end. An end is that for the sake of which something is done, or that toward which someone tends. End is distinguished in many ways; it will suffice here to explain the end of the work and the end of the worker. The end of the work is that good toward which a thing or action tends by its nature: a clock toward indicating time, almsgiving toward relieving the poor. The end of the worker is that good which the agent intends or strives to obtain through his action; for example, almsgiving toward making satisfaction for sins. The end of the worker is the cause which moves the worker to acting.

The end of the worker can be the same as the end of the work, and it can be different from the end of the work. If an artisan builds a house, the end of the work, or of the house, is that it serve for dwelling; the end of the worker can be the same, namely that he construct dwellings, but it can also be another: that he make a profit, that he acquire provisions for himself.

2. If we refer these things to God and to the things created by Him, and ask about the end of the Creator, or worker, and also about the end of creation, or work, it is clear first that there can be no discourse about a motive cause of creation, since God can be moved to acting by no good, neither external nor internal, but only about the reason why God willed that creatures should exist. Then it is certain that even God, acting ad extra, intends some good which He strives to obtain through His works or through creatures.

The end and the motive of an action differ from each other. For the motive is that good which moves the agent to the action; but the end is called both that good to the obtaining of which the action is ordered by its nature, and that good which the agent intends to obtain by his action. This good moves the agent to placing the action. Therefore only the end in this latter sense is the motive of the action, but not the end taken in the former sense, unless the agent is moved by that good to placing the action. Thus the internal end of eating is the preservation of life. In him who eats for the sake of pleasure, pleasure is the motive of eating; in him who eats in order to preserve life, the end is at the same time the motive of eating.

14. 1. The reason which moved God to create man, or the world, is the divine goodness or the infinite perfection of God. Therefore love and the highest esteem of the divine perfection is the reason for which God from eternity wills that created things should exist in time, and that man should exist.

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15. Cf. Kleutgen, *Theologie der Vorzeit*^2 (Munster: Theissing, 1872), vol. 1, n. 427 ff.; vol. 2, chief part 4: "Von der ubernaturlichen Gemeinschaft mit Gott"; chief part 5: "Vom naturlichen und ubernaturlichen Ziel und Ende des Menschen"; vol. 5, chief part 3: "Von der praktischen Theologie." Bouquillon, *Theologia moralis fundamentalis*^3, bk. 1, *De ultimo fine*; bk. 2, *De mediis ad finem*. Schwane, *Allgemeine Moraltheologie* (Freiburg: Herder, 1885), § 13. Th. Meyer, *Institutiones iuris naturalis*^4 (Freiburg: Herder, 1907), I, n. 35 ff. V. Cathrein, *Moralphilosophie*^4 (Freiburg: Herder, 1904), p. 79 ff.

The reason for which God wills something is goodness, just as the reason for which He understands something is truth. But it cannot be a goodness distinct from God and placed outside God; otherwise God would not be most perfect and sufficient unto Himself. Therefore it is the divine goodness itself. Hence Sacred Scripture says: "The Lord has made all things for Himself,"[16] namely by gratuitous goodness,[17] and St. Augustine says: "Because God is good, we are."[18]

From the fact that man was created for the sake of divine goodness or the infinite divine perfection, two things necessarily follow: that man is a participation or participated likeness of the divine goodness, just as, analogically, an effect is a participation of the cause from which it flows; and that man, since he is a likeness and image, is a manifestation and representation of the divine goodness.

2. The good for the obtaining of which man was created by God is twofold: the external glory of God and the beatitude of man. The former is called the external end of man; the latter, the internal end of man.

a. The external glory of God. God creates man, as He creates the whole world, not in order to obtain some good for Himself, but in order to communicate His good to man, and in order that man may manifest it and acknowledge it with praise. But the external glory of God consists in the manifestation of the divine good and in knowledge of it with praise.

b. Glory is twofold, internal and external. Internal glory is the perfection and excellence on account of which someone is worthy to be known and praised; external glory is an external work on account of which someone merits admiration and praise.

Internal glory is either objective, namely the perfection and excellence itself, which constitutes the object of knowledge and the motive of praise, or formal, which is the knowledge of that excellence itself and the praise, love, and joy which follow from this knowledge. External glory likewise is either objective, namely the external work itself, which constitutes the object of knowledge and the reason for praise and admiration, or formal, which is the knowledge of the work and the praise, love, and admiration which follow from it.

b. Therefore the definition by which glory is usually defined, "clear knowledge with praise," that is, knowledge concerning someone's excellence with acknowledgment and praise of the same, this definition, I say, sets forth formal external glory, which in the proper sense is called glory.

c. Objective external glory of God is the universal ultimate end of all created things and properly absolute, both because all things are so ordered to it that its attainment is necessary, and because it is not ordered to another end. Subjective external glory of God is the proper end of man, as a rational creature.

d. Since the nature of creatures is diverse, the glory which they were created to exhibit is also diverse: irrational creatures, which are only a certain trace of God,[19] glorify God objectively by their mere existence, since they manifest God and His attributes; but man, who is the image and likeness of God,[20] can know, praise, and love the excellence of God, and therefore by his existence he objectively glorifies God, and by admiration of God's works he formally glorifies Him.

e. The beatitude of man. Since man was made for the glory of God, he was created to know and love God; but the beatitude of man consists in the knowledge and love of God; therefore the ultimate end of man

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16. Prov. 16:4.
17. St. Bernard, Sermon 3 on Pentecost, n. 4.
18. *De doctrina christiana* l. 1, n. 32.
19. Job 11:7.
20. Gen. 1:26-27.

is the glory of God and at the same time the beatitude of man. Each end is acquired by the same acts of knowledge and love.

Beatitude is distinguished as twofold: objective or external, which is the good in whose possession man becomes blessed; and subjective or internal, which is the attainment and possession of that good. Moral philosophy demonstrates at length that the objective beatitude of man is nothing other than God, the highest good, since there is no other good which can quiet the appetite of man, and that subjective beatitude consists in the knowledge and love of God, since by these acts man is intimately joined with the highest good and enjoys it.[21]

Note. What the ultimate end of man is, is here shown from the end which God had and had to have in creation; moral philosophy deduces the same from the very nature of man.

15. The external glory of God is the primary end of man; perfect beatitude is the secondary end of man.

a. Whatever God wills, He wills for the sake of His goodness. Therefore He wills the beatitude of man only for the sake of His goodness, namely so that this goodness may be communicated and manifested, or for the sake of His external glory. Therefore He wills His external glory primarily, and the beatitude of man secondarily. b. Since the love of God is ordered, He wills individual goods according to their dignity. But the glory of God, since it is a divine good, excels the beatitude of man in dignity, which is the good of a creature.

The Hermesianists thought that this order of ends had to be inverted, namely that God principally intends the beatitude of man, and His own glory secondarily, lest God, if He ultimately referred all things to His own glory, should have to be called desirous of His own advantage and ambitious. But: a. the external glory of God, which is the primary end of creatures, is not some advantage or internal good of God, since such a good cannot accrue to God, as being most perfect. b. He is called ambitious who seeks glory not due to him, or glory due to him in an undue manner; but God seeks and intends glory most due to Himself and in a due manner, namely from love of His infinite perfection and goodness. Therefore God wills and intends only that which right order requires.[22]

16. The beatitude to which man is destined in the present order consists in the intuitive vision of God and in the highest love and joy which result from it.

a. Vision. "Beloved, now we are sons of God; and it has not yet appeared what we shall be: we know that, when He appears, we shall be like Him, because we shall see Him as He is."[23] By these words the Apostle teaches that our state in eternity will be far different from that which we now have: for then we shall be like God in glory and beatitude; and the cause of this wonderful transformation is the intuitive vision of God. "For we know in part, and we prophesy in part. But when that which is perfect has come, that which is in part shall be done away. Now we see through a mirror in an enigma: but then face to face. Now I know in part; but then I shall know as I also am known."[24] From these words we learn that the knowledge of God which we enjoy in this life is far inferior to the knowledge which we shall enjoy in eternity: for the knowledge of this life, whether natural through reason or supernatural through faith, is mediated knowledge of God; but the knowledge of the future life is immediate vision and intuition of God. Benedict XII declares: "By apostolic authority we define that the blessed enjoy the divine essence,

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21. Cf. Cathrein I^4, p. 81 f., 96 ff.; Meyer I, n. 59 ff.
22. Cf. Kleutgen, *Theologie der Vorzeit* I, n. 428 ff.
23. 1 John 3:2.
24. 1 Cor. 13:9-12.

and also that from such vision and fruition the souls of those who have already departed are truly blessed and have eternal life and rest."[25]

b. Love. From the intuitive vision by which the human intellect is intimately joined with the divine essence, there arises in the will, by natural necessity, love of the highest good immediately known. The Apostle signifies this highest charity, by which man is borne toward God, in these words: "Now there remain faith, hope, charity, these three; but the greatest of these is charity."[26] For he says charity is greater than faith and hope because it is also to remain in eternity.

c. Joy. Speaking of eternal beatitude, Sacred Scripture says: "Well done, good and faithful servant … enter into the joy of thy Lord."[27] "Your heart shall rejoice, and your joy no one shall take from you."[28] And indeed, since through the love of the highest good present every appetite is satisfied and quieted, and since man at the same time knows that the possession of the highest good cannot cease, there necessarily follows from this that highest joy by which Sacred Scripture designates eternal beatitude.

d. The perfect beatitude of man consists in those acts by which he perfectly possesses and enjoys the highest good. But by the intuitive vision of God and by the love which necessarily follows from it, man possesses the highest good in the most perfect way and enjoys it. Therefore Benedict XII says: The blessed "enjoy the divine essence, and from such vision and fruition the souls of those who have already departed are truly blessed."

17. It is supernatural. The beatitude to which man is destined in the present order is truly supernatural, that is, it exceeds all the powers and all the demands of created nature, and is a participation in the divine life itself.

The beatitude which is promised to us in heaven can be known only by Him who searches the deep things of the Godhead; but such beatitude surpasses both the powers and the demands of created nature, and therefore is supernatural in the strict sense.[29] The beatitude of the Son of God is altogether supernatural to created nature; but the beatitude which awaits us in eternity is a participation in the beatitude of the Son of God Himself: for He will grant us to sit with Him on His throne, just as He Himself sits on the throne of His Father;[30] He will dispose the kingdom for us, just as the Father has disposed it for Him; He will grant that we eat and drink at His table in His kingdom.[31] The beatitude which awaits us in eternity consists in the intuitive vision of God, together with the love which necessarily results from it. But this is the beatitude of God Himself, and consequently is altogether supernatural. The sonship by which man is constituted an adoptive son of God is plainly supernatural; therefore the beatitude which corresponds in due proportion to adoptive sonship is also supernatural. But the beatitude which we await in eternity is the beatitude of the sons of God.[32] Although man can produce ethically good works by the powers of nature, nevertheless

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25. Constitution *Benedictus Deus*, January 29, 1336.

26. 1 Cor. 13:13.

27. Matt. 25:21.

28. John 16:22.

29. "Eye has not seen, nor ear heard, nor has it entered into the heart of man, what things God has prepared for those who love Him; but God has revealed them to us through His Spirit: for the Spirit searches all things, even the deep things of God." 1 Cor. 2:9-10.

30. "He who has overcome, I will give to sit with Me on My throne; just as I also overcame and sat with My Father on His throne." Apoc. 3:21.

31. "And I dispose to you, as My Father has disposed to Me, a kingdom, that you may eat and drink at My table in My kingdom." Luke 22:29 f.

32. "For whoever are led by the Spirit of God, they are sons of God. For you have not received the spirit of servitude again in fear, but you have received the spirit of adoption of sons, in which we cry: Abba, Father. For the Spirit Himself gives testimony to our spirit that we are sons of God. But if sons, also heirs: heirs indeed of God, and coheirs of Christ." Rom. 8:14-17. Cf. Gal. 4:1 ff.

he cannot perform, without the help of grace, any work that is apt for the ultimate end to which we have been destined by God. But if grace alone renders us apt for works proportioned to the ultimate end, our ultimate end is supernatural.

Second Question

On The Means To The Ultimate End

18. What they are. In order that man may be able to attain the end to which he is destined, God willed him to be furnished with suitable means and powers. These are of two kinds, natural means and supernatural means; and both the natural and the supernatural are some external, others internal.

1. The external natural means are: a. created things existing besides man, which supply him with the necessities of life; b. the diverse forms of societies, the family and civil society. The internal natural means with which the soul is furnished are especially the intellect and the will, by which it can know and love its highest good.

The philosophical disciplines treat of all these things; supposing their doctrines, in this place we treat only of the liberty of the will, concerning which several points must be noted which are of the greatest importance in moral theology.

2. The external supernatural means which Christ the Lord instituted for this end are the Church, sacrifice, the sacraments, and the like. The internal supernatural means with which the soul is furnished, so that it may be able to tend to the supernatural end, are: a. sanctifying grace, which inheres in the substance of the soul and elevates man to a supernatural nature and life proportioned to the supernatural end to which he is destined; b. infused habits, which inhere in the powers of the soul, namely in the intellect and appetite, and furnish man with the forces and powers by which he can exercise works proportioned to the supernatural end; c. actual graces, by which God concurs with individual supernatural actions of man, in that He preveniently assists, accompanies, and perfects them by His help.

In order that man may tend by his moral acts to the ultimate end, the powers by which moral acts are elicited must be furnished with dispositions and qualities stable in themselves, by which they are rendered apt for eliciting acts consonant with the end; therefore God has placed habits in the powers, and these supernatural habits. Further, in order that the powers furnished with habits may be able to act supernaturally, they also need actual grace, by which they are excited to acts. Finally, in order that their acts may be meritorious of eternal life, the soul must be adorned with sanctifying grace. In these are contained all the internal means which are necessary to man so that he may be able to live a moral life consonant with the ultimate end.

Dogmatic theology treats of grace, whether habitual or actual; but those things which are necessary to know about infused habits must be set forth in this place. Now infused habits are of two kinds, supernatural virtues and gifts of the Holy Spirit, concerning which we must now treat.

First Article

On The Liberty Of The Will[33]

Since day by day the number increases of those who not only theoretically attack the liberty of the will, but also infer practical consequences from its denial and contend that crimes committed cannot be imputed to

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33. Meyer, *Institutiones iuris naturalis* (Freiburg: Herder, 1906), I, n. 100 ff. Cathrein, *Moralphilosophie*^4 (Freiburg: Herder, 1904), I, p. 30 ff. Mach, *Die Willensfreiheit des Menschen* (Paderborn: Schoningh, 1887). Gutberlet, *Die Willensfreiheit und ihre Gegner*^2 (Fulda: Actiendruckerei, 1907). A. Beck, *Die menschliche Willensfreiheit* (Munich: Volksschriftenverlag, 1906). Encyclical of Leo XIII, *Libertas* (June 20, 1888).

criminals, and that for this reason they are by no means worthy of punishment, necessity demands that the existence of liberty be demonstrated and vindicated from the attacks of adversaries.

1. The Liberty Of The Will Is Asserted

19. On the different meanings. 1. Liberty in general signifies immunity from a bond; and since the bonds which can constrain us are various, the term liberty is also used in various senses.

a. Liberty from sin, which in this life is immunity from sin whereby we can not sin, and is called the liberty of grace; in the other life it is immunity from sin whereby we cannot sin, and is called the liberty of glory.

b. In this life the possibility, and through grace the facility, of performing moral good is available to us, although diverse difficulties stand in the way. In the other life there cease the difficulties and impediments which here sometimes render the choice of moral good difficult even for those who are in the state of grace.

c. This liberty of grace, which is sometimes called moral liberty, can and must be continually developed and perfected, to such a degree that man, already in this life, may gradually come to the liberty of the sons of God and may no longer be hindered by difficulties in choosing the good. For sometimes already here on earth it happens that the will, strengthened by the grace of God, yields to no temptations, but, the allurements of the senses having been rejected, without any trouble chooses the good of virtue; and to this the words of the Lord promise: "the truth shall make you free," namely from the determining influence of the passions.

d. Liberty from obligation, or from law, which is also called moral liberty, is immunity from the moral obligation of doing that which is commanded by a superior power.

It is clear that man is not endowed with this liberty: he has physical liberty of acting against the law, but he does not have moral liberty. Moral liberty is also called liberty of choosing between good and evil.

c. Liberty from coercion, or from external necessity, is immunity from force brought in from outside against the inclination of the will.

It is clear: a. that coercion can be brought to bear both upon one unwilling to act, as when someone is dragged unwillingly to prison, and upon one willing to act, as when exit is prohibited to someone shut up in prison; b. that liberty from coercion is rather liberty of acting than liberty of willing; c. that the will is immune from coercion, since a coerced act of the will is impossible.

d. Liberty from internal necessity is immunity from an internal force which would determine the will to acting or to acting in this way. This liberty is proper to the human will.

Internal necessity, therefore, would be a determination innate to the will itself toward willing or toward willing in this way. A determination of this kind is present in the human will with respect to good in general, which it must will, so that it cannot will evil as such, and with respect to happiness, which each one necessarily wills, so that he cannot will to be unhappy.

2. By reason of the object which is chosen, liberty is called liberty of contradiction, or of exercise, if the will can choose between acting and not acting; liberty of contrariety, if the will can choose a thing and its opposite, as to love and to turn away, good and evil; liberty of specification, if the will can choose between things diverse in species, this or that, to study or to walk.

a. Liberty of contrariety in the moral order, that is, liberty of choosing between good and evil, does not belong to the essence of liberty, but is a defect proper to human liberty in the state of the way.

b. Only liberty of contradiction is required and suffices for the will to be able to be called truly free, or mistress of its acts; nevertheless in man as wayfarer the other species are also found.

20. In what it consists. 1. The liberty of the human will consists in that property and perfection of it by which, once all things required for acting have been posited, the will is not determined to acting or to acting in this way, but can and must determine itself to this. Therefore a twofold element is required for the notion of liberty, one negative and one positive: a. the absence of internal necessity; b. one's own determination to acting.

a. The liberty of the human will is called liberty of indifference, because once all things required for acting have been posited, the will remains indifferent, that is, it is not determined to one thing, namely to acting, but can act or not act, can do this or that. It is also called liberty of election, for it belongs to its nature that the will can choose between one thing and another. Indifference is opposed to determination to one thing. The indifference which belongs to the human will and essentially constitutes its liberty is active indifference, by which the will itself can determine itself to opposites or diverse things. It is distinguished from passive indifference, which consists in this, that something can be determined from without to opposites or diverse things.

b. The doctrine of those who defend liberty of the will is today called indeterminism; on the contrary, the theory of those who deny liberty is called determinism. But the doctrine concerning liberty is less aptly called indeterminism, both because the liberty of the will does not consist in a merely negative element, namely in the negation of determination or internal necessity to acting or to acting in this way, and because liberty does not exclude every determination of the will, but only necessity. That is, it is not denied that conditions preceding a free act exercise an influence upon the will, which influence can be called a determination of the will; nevertheless it does not exclude free choice.

c. Those things are called required for acting which must precede, or in fact do precede, a free act or free choice: some good proposed by the intellect together with motives for choosing or rejecting it, the consideration of these, the power of willing, the inclinations of the will, and the disposition of the soul, whether habitual or actual.

d. Today determinists of every kind chiefly deny liberty of indifference, affirming that our will is determined to one thing, or to acting and to acting in this way.[34] Most philosophers, except the Scholastics, are addicted to determinism. It is known that Luther denied human liberty and substituted the servile will for the free will of the Scholastics. Protestant theologians, having abandoned this doctrine of Luther, had until now defended liberty of the will; now, however, those Protestant theologians who adhere to monism return to Luther's servile will.

e. Liberty does not exclude an antecedent inclination of the will toward the proposed object, or diverse goods, but only internal necessity for willing or not willing the proposed good. For if some good is proposed to the will, the will naturally and necessarily is inclined toward it, but is not necessarily drawn to willing it; for the will determines itself to willing and pursuing it. The same must be said respectively of evil proposed to the will.

2. A free act is not an act elicited arbitrarily and without a cause, but an act produced by the will after the motives of acting have been considered.

Notes

34. Cf. A. Seitz, *Willensfreiheit und Determinismus* (Cologne: Bachem). Cathrein, loc. cit., p. 30 ff.

a. Since determinists with one voice affirm that in our theory of liberty a free act is an effect without a cause, and therefore that indeterminism offends against the principle of causality, it is asked what the cause of a free act is. There are those who say that the cause of a free act is twofold: one objective, which is constituted by the good and the motives provoking to the act; the other subjective, which is constituted by the very power of freely willing. For, when the good and the motives for choosing it have been proposed, the will is not necessitated to choosing, but is furnished by nature with a force by which it itself can and must determine itself to choosing, so that the act may come to be. Others refer the objective element rather to the prerequisite conditions, and call the will, furnished with an innate force for producing the act, the cause of free choice. Therefore it has a cause, but one that acts not necessarily, but freely.

b. From the force and power in the will of determining itself to an act, there must be distinguished the virtue and energy of choosing the good, especially the moral good, although the choice appears arduous and impediments and difficulties stand in the way. The will is strengthened and helped both by exercise and by divine grace, so that choices may be prudent and consonant with reason, even if they are difficult for corrupt nature.

c. Pedagogy and ascetic theology treat of the means of strengthening and increasing the energy of the will. These consist especially in hardening and exercising the body, in strenuous labor whether bodily or spiritual, in good habits acquired through continual mortification of the passions, and finally in divine grace obtained by prayer and the use of the sacraments.

21. That it exists. Liberty from internal necessity, or liberty of indifference, belongs to the human will.

1. Theological arguments. a. There are many testimonies of Scripture by which the liberty of the human will is formally asserted.

"I call heaven and earth to witness today, that I have proposed to you life and death, blessing and curse; choose therefore life."[35] "He added His commandments and precepts; if thou wilt keep the commandments, they shall preserve thee … Before man are life and death, good and evil; what pleases him shall be given to him."[36] "Blessed is the man … who could have transgressed and did not transgress, could have done evil and did not do it."[37]

Likewise there are many testimonies by which the liberty of the human will is virtually asserted.

Here belong all those testimonies by which counsels are given to man, precepts are proposed, and by which man is affirmed to be worthy of praise and reward, blame and punishment, on account of his works.

b. Since liberty is the foundation of moral imputation, the Church at all times, against heretics denying it, upholds and defends the liberty of the human will.[38] Therefore those who deny liberty are considered heretics.

2. Philosophical arguments. a. The will is the power by which man can desire every good. Therefore, if some particular good is exhibited to it, it can desire that good because it is good; but it can also not desire it, or positively reject it, because, since it is a particular good, a defect is joined with it. Therefore the

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35. Deut. 30:19.
36. Ecclus. 15:15-16, 18.
37. Ecclus. 31:10.
38. Cf. Council of Trent, sess. 6, can. 5. Vatican Council, sess. 3, c. 3, *De fide.*

will, to which a particular good is exhibited, is indifferent; hence if it embraces that good, this happens because the will determines itself to embracing it.

a. The defect which is joined with a particular good consists in this, that it either brings some inconvenience, or impedes another good, or at least is too slight to be able to fill the breadth of the power or the desire for beatitude.

b. From these things it is clear that choice must be preceded by knowledge by which either we know the diverse respects of the proposed good, good and evil, advantage and disadvantage, or we know and compare several goods at once. Without this preceding knowledge no choice could have place.

c. One's own conscience manifests to us with inescapable certitude that in very many of our actions we are not led by internal necessity, but that we ourselves determine ourselves to acting or to acting in this way, to such a degree that we can also not act or act otherwise. But this testimony of conscience is evidently true.[39]

Some determinists deny the testimony of conscience itself; others say that it is an illusion. Cathrein refutes them briefly, p. 35 ff.; Gutberlet at length, p. 31 ff.

c. Liberty is also demonstrated by penal or criminal law, which among all nations not only visits crimes with punishments, but also accurately distinguishes between purpose, negligence (*Fahrlassigkeit*), and fault; indeed it also contains an entire system of punishments, which are heavier or lighter according to the gravity of the fault and the evil action. But all these things would be empty if crimes were nothing but signs of disease and not of true fault.

2. The Liberty Of The Will Is Vindicated

Three diverse sciences recently cultivated attack the liberty of the will: moral statistics, criminal anthropology, and psychopathology. Each tries in its own way to show that man in all his actions is governed and determined by necessary laws and impulses just as irrational and material beings are, and therefore that committed crimes cannot be morally imputed to him.

22. On moral statistics. Moral statistics collects moral facts, especially criminal facts, in great number, and investigates their causes, both internal and external. Now, when statistical lists are considered, it appears that the same phenomena, namely crimes, under the same conditions constantly return in almost the same number. Therefore, just as in the physical order, so also in the moral order, there must exist a stable law by which these facts are governed and determined. Hence they conclude against liberty in this way: since from the same causes, especially from the same passions, the same crimes are constantly perpetrated, these must be attributed not to free will, but to passions and other circumstances determining one to the act, and therefore cannot be morally imputed to man. For facts which, according to a stable law, constantly happen in the same way and number cannot proceed from a free will. The conclusion is then extended to all acts of the will, and its liberty is simply denied. Concerning these matters the following must be noted.

a. A free action is not a merely arbitrary action, independent of every norm and law; on the contrary, even the will in its choices observes certain norms, both physical and moral. Moreover, there are several conditions, both external and internal, especially moral character, education, the example of others, and the like, which influence human choices and determine them more or less. For ordinarily man follows

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39. For arguments from the universal consent of the human race and from the consequences which would follow if liberty were denied, consult the cited authors.

in his actions his own inclinations and customs, yet not under compulsion but freely. Therefore it is no wonder that men who are found in the same conditions act in the same way.

b. In order that anything could be gathered from moral statistics against liberty of the will, it would at least have to be established that a determinate passion in the same circumstances impels a great number of men to perpetrating the same crime, and that no man troubled by such a passion has overcome the temptation. But from moral statistics this is not established, nor can it be established. Besides, not even in this way would the inescapable and necessitating influence of the passions upon the will be proved, since men placed in the same circumstances freely determine themselves to the same action; thus, when winter approaches, all freely put on thicker garments. Finally, it is useful to note that statistics considers only external phenomena, and these criminal or indifferent, and their constancy; but it does not explore internal facts and external virtues. Therefore it can pronounce nothing about their origin, whether necessary or free.

c. The stability and constancy which is discerned in the perpetration of crimes from moral statistics is explained from the existence and influence of the same motives upon the human will. For it is established that men placed in the same external circumstances and subject to the same passions and temptations generally commit the same offenses. Nevertheless it cannot be denied that many others, troubled by the same passions, overcome the temptation, which statistics cannot report. Indeed this too must be affirmed, that most of those who yield to temptation, at least aided by the supernatural powers of grace, could have overcome the temptation and were conscious of this power in themselves.

From moral statistics two things are gathered: a. that in his choices man has great dependence upon the habitual disposition of the will and upon external conditions; b. since now very many are swept away to perpetrating the same crimes, that in our time certain passions, on account of social circumstances, rage more vehemently, and that there are very many men who, as languishing in faith and in religious life, and deprived of both natural and supernatural fortitude, are easily overcome by temptations.[40]

23. On criminal anthropology. 1. The theory is set forth. a. This science, first cultivated by Cesare Lombroso, professor at Turin, was afterwards variously changed and developed by his disciples. The account of criminal anthropology is this. Crimes in the human race are manifest facts; therefore their causes must be investigated. Both Lombroso himself and his disciples are addicted to materialism and Darwinian evolutionism. Therefore, in investigating the cause of crimes, some explain the atavistic theory and consider the delinquent as a man who has remained behind in the progress of evolution - an infant not yet developed, a savage man. Others, setting forth the pathological theory, consider the delinquent as a man sick in soul, indeed lacking the use of reason - morally insane, epileptic. Therefore, just as according to the former, crimes are necessary phenomena of an abnormal state of the body, so according to the latter, crimes are necessary phenomena of an abnormal habit of soul. Man therefore does not become a delinquent by free will, but is born a delinquent.

b. They investigate the abnormal marks and qualities which are found in delinquents, and these bodily, biological, and psychological. Delinquents, so they say, have the greatest conformity both in qualities of body and in habits of soul with epileptics and those laboring under moral dementia; therefore they are morally insane. And from these marks they construct, as it were, a universal form of the delinquent man, a *Verbrechertypus*. Indeed they affirm that a peculiar form corresponds to the individual kinds of crimes; thus thieves and murderers each display their own form. The form congenital to delinquents,

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40. Cf. Gutberlet, loc. cit., chap. 3: "Die Moralstatistik." Lehmkuhl, "Der Selbstmord und die Misshandlung der Statistik" (*Stimmen aus M. L.* XX, II, p. 345 ff.). Huber, loc. cit., "Moralstatistik," p. 181 ff.

according to them, is transmitted to descendants by heredity, so that from a thief a thief is born, from a murderer a murderer.

2. The theory is refuted. If the things which are affirmed were true, at most it would follow that men abnormal in body and sick in mind lack liberty; but it is not demonstrated that healthy men are lacking it. In particular these things must be noted.

a. The theory itself is founded upon inadequate experiments, arbitrary hypotheses, many exaggerations, and false explanations of facts.

b. If delinquents were infants not yet developed or savage men, all infants likewise and all savage men ought to be delinquents.

c. The theory is founded upon the Darwinian hypothesis of evolution, which in relation to men is false. The delinquent is not a man not yet developed, but a man who, by his own fault, has fallen away from the moral perfection which others have attained and which he himself also could and ought to have attained.

d. It can be conceded that there are delinquents who are not of sound mind, and in like manner it can be conceded that in the concrete it is sometimes difficult to determine whether a man is of sound mind or of a somewhat disturbed mind. Nevertheless in most cases we certainly know that delinquents are sane. Therefore it is equally false that all delinquents are insane and that all insane persons are delinquents.

24. On psychopathology. a. Psychopathology, or psychiatry, is the science which considers the abnormal life of the soul, so that from this it may draw rules concerning the education of children, the imputation of crimes, and the care of those sick in soul. This science itself brings great usefulness to pedagogues, judges in criminal cases, and moralists. Nevertheless there are some who draw arguments from the same science against liberty of the will. For they consider the way of acting of men laboring under diverse diseases of the soul - insanity, dementia, paranoia, epilepsy, hysteria - who, since they lack liberty in their actions, lead them to infer this general principle, that man is not furnished with liberty.

b. But: a. from the fact that those sick in soul, or psychopathics, appear to be lacking liberty in acting, it does not follow that those sound in mind are also lacking liberty, unless someone wishes to affirm that there is no man perfectly sound in mind, but that all are more or less insane. b. It cannot be conceded that psychopathics are altogether lacking liberty: for just as disease of soul itself has diverse grades, so also liberty, from the influence of the same disease, is in some lessened more or less, and in others entirely extinguished. Besides, discussion will return to this matter below, where the impediments of the human act are treated.

3. On Those Things Which Influence Free Choice

25. Here we consider free moral activity, by which the will chooses between good and evil. The exercise of liberty is perfect if the will determines itself to an act fully from itself, without any other influence besides that which the nature of the will requires; this happens when the intellect adequately knows the object, and the will, according to the norm of reason, moves itself promptly to willing or rejecting it. Now there are many things, whether in man himself or outside man, which exercise an influence upon his free activity or upon his choice, and determine it more or less. And these indeed diminish the liberty of the will and the imputability of the action, yet they do not remove them.

26. On the relation of the knowledge of the intellect to the free act. a. The intellect must exhibit the thing to be desired in such a way that we know both its merits, namely perfection, goodness, usefulness, and its demerits, namely imperfection, detriment, inconvenience, which it has for us. This knowledge is the more perfect, the more accurately the moments of each side are apprehended. By these are supplied

the reasons and motives which direct us in making a choice. Hence the more adequately the merits and demerits of a thing are exhibited, the more easily a choice can be made which is according to reason. But if more the merits than the demerits of the proposed thing are known, or conversely more the demerits than the merits, the choice will indeed be free, but less according to reason. Choice becomes impossible if only one motive is known.

b. From these things it is understood that all those things exercise a determining influence upon the free choices of man which impede the merits and demerits of desirable things, especially moral things, from being adequately known. Although they do not remove the physical liberty of choice, nevertheless they bring it about that choices are imprudent, irrational, and morally evil. Moments of this sort are especially education and the social and political circumstances of the times in which we live.[41] Since in many men a defective and inadequate knowledge of things and actions, on account of these circumstances, is more or less involuntary and inculpable, even morally evil actions which proceed from it cannot be imputed to them according to their whole malice.

27. On the relation of the inclination of the will to the free act. a. When the object has been sufficiently proposed, there necessarily arises in the will an inclination, or aversion, which is sometimes slight, but sometimes more vehement. These inclinations, although inveterate and vehement, do not introduce necessity, but the will retains the power of resisting them; this the experience of all those teaches who, after a life long passed in sins, have returned to the path of virtue. Nevertheless they draw the will so that, by a free determination, it wills that to which it is already vehemently inclined; and therefore they render morally good choice difficult, and the more difficult the more intense the opposite inclination is. Vicious affections render free choice impossible only when, in a particular case, having suddenly arisen, they so cloud or impede the mind that it can no longer weigh contrary motives.

b. From these things it is understood that everything exercises an influence upon moral choices which brings it about that, on the one hand, bad inclinations and vices arise and grow strong in the appetite, and on the other hand, the energy of the will in repressing bad inclinations grows weak and is debilitated. Of this kind are heredity, age, temperament, habit, nourishment, temperature of the air, and so forth.[42]

Second Article

On Supernatural Virtues[43]

28. Whether they exist. Supernatural virtues are habits infused by God, by which man can connaturally exercise supernatural acts. That virtues of this sort are infused by God is demonstrated by theological reason and is established from the Council of Trent.

a. It is required that nature, elevated to the supernatural state, be able connaturally to produce acts by which it tends to the supernatural end. But for this it is required that not only the external and transient principle, actual grace, but also the internal and permanent principle, namely power, be supernatural; and this is supplied by infused habits. Therefore God has adorned man with the habits of supernatural virtues.

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41. Cf. Huber, *Die Hemmnisse der Willensfreiheit* (Munster: Schoningh, 1904), p. 112 ff., 152 ff.

42. Cf. Huber, p. 102 ff., 130 ff.

43. St. Thomas I-II, q. 62-67. Suarez, *De gratia* l. 6, c. 4. Mazella, *De virtutibus infusis*^2 (Rome: Forzani, 1894). Pesch, *Praelectiones dogmaticae* (Freiburg: Herder, 1898), VIII, I. Tepe, *Institutiones theologiae moralis generalis* (Paris: Lethielleux, 1898), *De virtutibus* II, p. 147 ff. Kirschkamp, *Der Geist des Katholizismus in der Lehre vom Glauben und von der Liebe* (Paderborn: Schoningh, 1895).

Therefore, what in the order of nature are the powers of the soul, intellect and will, in the supernatural order are infused habits, namely the proximate principle of supernatural life; just as sanctifying grace, from which infused habits proceed, must be called the remote principle of supernatural life.

b. If it is asked only in general whether there are infused virtues, it must be answered that from revelation it is certain that supernatural virtues are infused into the soul: for from the Council of Trent we know that in justification itself, together with the remission of sins, man receives all these gifts infused at once through Jesus Christ, to whom he is joined: faith, hope, and charity.[44] Infused virtues are some theological virtues, others moral virtues.

These virtues are called theological, or divine, by reason of divine origin, because they are known only by divine revelation and are not acquired unless they are infused into us by God; by reason of essence, because they are supernatural in themselves; but especially by reason of the formal object, which is some divine perfection. On the contrary, the formal object of the other virtues is some created good. Yet the material object of the theological virtues, namely the true which we believe and the good which we hope for and love, at least the principal and primary object, is God Himself.

29. On the theological virtues. 1. The theological virtues are those whose motive, or formal object, is God or some divine perfection.

2. There are three theological virtues, namely faith, hope, and charity; and these indeed are required and suffice for us to come to the ultimate end.

a. St. Paul, writing concerning the theological virtues, says: "Now there remain faith, hope, charity, these three; but the greatest of these is charity."[45] He is speaking of a genus of virtues distinct from all other virtues. Therefore the Council of Trent declares: "In justification itself, together with the remission of sins, man receives all these infused at once through Jesus Christ, to whom he is joined: faith, hope, charity."[46]

b. Since we are destined to the supernatural end, God willed to render us capable of tending toward Him by proportioned acts, namely acts intrinsically supernatural and connatural to us. For this it was necessary that the habits of the theological virtues be infused into us. For in order that we may be able to tend to God, our supernatural end, it is necessary that we know Him supernaturally, that we be borne toward Him by a supernatural desire, and finally that we be supernaturally conformed to Him. But the first is had through faith, the second through hope, the third through theological charity, and therefore through the infused habits of the theological virtues (Ecclus. 2:8 ff.).

3. Several say that it is certain by faith from the cited place of the Council of Trent that the theological virtues are infused into us by God. They are infused all together at the same time with sanctifying grace, but they are not all lost together.

4. As often as sanctifying grace is increased, together with it the theological virtues also are increased with the remaining virtues: for so great is the connection between grace and the virtues that they are infused, preserved, and increased with it. But sanctifying grace is increased by reception of the sacraments and by good works.[47]

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44. Sess. 6, c. 7.
45. 1 Cor. 13:13.
46. Council of Trent, sess. 6, c. 7.
47. Council of Trent, sess. 6, can. 24.

5. Although the theological virtues are all infused together with sanctifying grace and flow from it, nevertheless they are not all lost with it, but perish through acts opposed to them.

Charity, together with sanctifying grace, is lost through any mortal sin whatever; but faith and hope are lost only through mortal sin directly opposed to these virtues. For faith and hope precede charity by nature, dispose to it, and lead to it; for which reason, when charity has been lost, its prior dispositions are not lost, but remain in the sinner so that they may help him in recovering charity. Through the mortal sin of despair, hope is lost together with charity and sanctifying grace, but not faith, which is a prior disposition to hope and the foundation of all supernatural virtues. Finally, through the mortal sin of heresy, faith is lost together with sanctifying grace and all infused virtues.

30. On moral virtues. Moral virtues are those whose formal object is the uprightness of actions.

a. Since it is not certain by faith that moral virtues also are infused into us by God, there are theologians, the Scotists, who deny this; nevertheless their doctrine is rejected by others as erroneous. And indeed if it is established that the theological virtues are infused, this cannot be denied concerning the moral virtues. For if God infuses the theological virtues so that their acts may be exercised connaturally through internal principles, for the same reason He must also infuse the moral virtues. Therefore the Roman Catechism teaches: "To this grace there is added the most noble company of all virtues, which are divinely infused into the soul together with grace."[48]

b. It is not established how many infused moral virtues there are. It seems one must say that the four cardinal virtues are infused, but no more. For since the remaining moral virtues are reduced to the cardinal virtues as their integral or subjective parts, the habits of the latter suffice also for eliciting the acts of the former.

31. What the virtues effect. Infused habits, according to the common and truer opinion of theologians, give the very power, but not also the facility, of eliciting supernatural acts, because they indeed incline to their acts, but do not remove their impediments.

a. From these things the chief difference which exists between infused and acquired virtues is already clear: a. infused virtues give the very faculty, but not also the facility, of operating supernaturally. For when they are infused, they do not remove the impediments of operating which arise from concupiscence and from bad habits. Facility of operating is acquired through exercise of the infused habit. Acquired virtues, however, do not bestow the power but the facility of operating: for the power of operating is already present by nature; but since they are acquired by repeated acts and not without struggle, by this very fact they lessen or even entirely remove the difficulties of operating which arise from concupiscence or from a depraved custom. b. Infused virtues are infused with sanctifying grace in an instant of time, are increased by their acts not effectively but meritoriously, and are destroyed by mortal sin with sanctifying grace in an instant of time. Acquired virtues, however, are acquired not by one act but by repeated acts; by the same acts they are effectively increased, and by non-use or contrary acts they are gradually lessened and finally disappear.

b. Hence we sometimes see sinners, for example the impure, excel in some virtue, for example in justice; for not all acquired virtues are destroyed through mortal sin. On the contrary, we see just men having to fight against diverse and very vehement inclinations to evil: for infused virtues do not remove natural depraved habits, which are gradually weakened by contrary acts.

Notes

48. On baptism, n. 51.

Third Article

On The Gifts Of The Holy Spirit[49]

32. Whether there are gifts and how many. Besides the theological and moral virtues infused by God, seven gifts of the Holy Spirit are conferred upon the just man. The gifts are commonly defined as certain qualities by which the soul is disposed to works of the virtues, and especially to the more sublime and extraordinary works of the Christian life. Therefore the gifts are habits which, like the virtues, permanently inhere in the powers of the soul.

a. The holy Fathers and theologians confirm this doctrine by several arguments:

b. The gifts of the Holy Spirit in the just man are a participation in the gifts of Christ. Concerning the Messiah it is said in Sacred Scripture: "And the spirit of the Lord shall rest upon Him, the spirit of wisdom and of understanding, the spirit of counsel and of fortitude, the spirit of knowledge and of piety; and the spirit of the fear of the Lord shall fill Him."[50] These words are also applied by the holy Fathers of the Church to the just man, since God has predestined him to become conformed to the image of His Son.[51] Moreover, the gifts of the head overflow also into the living members of the mystical body, such as just men are. b. By the communication of the gifts, the promise made by Christ to His disciples is fulfilled: "You shall know Him, the Spirit of truth, because He shall remain with you and shall be in you."[52] c. Holy Church testifies to the communication of the gifts, in that in the liturgy of the feast of Pentecost she gives thanks to God for the gifts of the Holy Spirit and implores them more abundantly for the faithful.

c. The Holy Spirit is accustomed to move the just man by supernatural illuminations and inspirations not only to the ordinary virtues of the Christian life, but sometimes also, by divine instinct, to inspire and stir him to more perfect and more sublime works. Therefore the gifts of the Holy Spirit are granted to him and render him apt promptly to obey not only the ordinary but also the extraordinary motions of the Holy Spirit. Therefore the gifts of the Holy Spirit are an internal supernatural principle by which even the more sublime and extraordinary works of the Christian life are connaturally done.

Others are of this opinion: that the gifts of the Holy Spirit, which are the complement of the infused virtues, refer only to the more sublime and heroic acts of the virtues, while on the contrary infused virtues refer to ordinary Christian life and dispose the just man promptly and perfectly to obey the motions of the Holy Spirit by which he is stirred to exercise the infused virtues.

c. Seven gifts of the Holy Spirit are numbered: the gift of wisdom, understanding, counsel, fortitude, knowledge, piety, and fear of the Lord. For since these gifts are conferred for perfecting the virtues, and since there are seven principal virtues, it was fitting that seven gifts also should be infused. Hence the Holy Spirit, to whom these gifts are attributed as to their author by appropriation, is called by the Church "sevenfold in His gift," and He is asked to give to His faithful the sacred sevenfold gift.

Notes

49. St. Thomas I-II, q. 68. Suarez, *De gratia* l. 2, c. 17 f.; l. 6, c. 10. Weiss, *De septem donis Spiritus Sancti* (Vienna, 1895). Bodewig, *Die Gaben des hl. Geistes* (*Zeitschrift fur kath. Theol.*, 1882, 1883). Gopfert, *Moraltheologie*^3 I, n. 262 f. Meschler, *Die Gabe des hl. Pfingstfestes*^3 (Freiburg: Herder, 1900), chap. 7-14. Tepe, loc. cit., p. 275 ff.

50. Isa. 11:2-3.

51. Rom. 8:29.

52. John 14:17.

53. I-II, q. 68, a. 2.

Therefore the gifts are infused into all the just, which St. Thomas signifies in these words: "The Holy Spirit is not in men without His gifts."[53] From their names it appears that four pertain to the cognitive power: understanding, knowledge, wisdom, counsel; but three to the will: fear, piety, fortitude.

d. Although the gifts agree with the virtues in the nature of habit, nevertheless they differ from the virtues in two ways: a. by reason of the impelling cause: for to acts of virtues man is stirred both by his own reason, whether natural or supernatural, and also by the Holy Spirit, and by the habits of the virtues he is disposed to obey promptly; but to the more sublime works he is moved by the Holy Spirit alone, and by the habits of the gifts he is disposed promptly to obey this inspiration. b. By reason of the object or acts to which they dispose: for the virtues dispose man to works which are done according to the common order of Christian life; but the gifts dispose man also to works which exceed the common order of virtue.

33. The nature of the gifts. Concerning the nature of the individual gifts theologians do not agree; nevertheless, from their more probable doctrine, these things seem to have to be said.

1. The gift of understanding disposes man, by divine inspiration, to perceive revealed truths, whether practical or theoretical, more clearly and profoundly, both as to their meaning and as to their connection. With this knowledge is joined an aptitude and facility for understanding the meaning of Sacred Scripture.
2. The gift of knowledge, with faith in revealed truths supposed, disposes man to judge rightly concerning the Christian religion, insofar as under the influence of the Holy Spirit, though from natural reasons, he understands that these truths are manifestly credible, especially consonant with sound reason, and that Christian virtue is of such excellence that it must be preferred to all earthly goods.
3. The gift of wisdom, likewise with faith supposed, disposes man to judge rightly concerning the truths of the Christian religion, insofar as not from natural reasons, but from supernatural and divine reasons, namely insofar as they are from God, the supreme principle and end, he contemplates their beauty and delights in them.
4. The gift of counsel disposes man, from the motion of the Holy Spirit, to choose the means which are apt for progressing in the way of perfection. But because the Holy Spirit chooses things higher than human prudence does, it happens that He impels the just man to those things which appear foolish to men, and which are more to be admired than indiscriminately imitated.[54]
5. The gift of fortitude disposes man to overcome extraordinary difficulties which stand in the way of the exercise of virtues. The gift of fortitude differs in two ways from the virtue of fortitude, which inclines to overcoming the same difficulties: a. the motive of the virtue is natural uprightness, which is discerned in overcoming difficulties; the motive of the gift is confidence in the motion and assistance of the Holy Spirit. b. The virtue regards the measure of the powers of nature; the gift exceeds the powers of nature and dares those things which appear rash to natural reason.[55]
6. The gift of fear disposes man to follow the motion of the Holy Spirit for exhibiting reverence to God: for fear is understood as reverential toward the divine majesty, to which Christ the Lord also exhibited reverence, and before which, as Sacred Scripture testifies, the angels fall upon their faces.[56]

Notes

54. Cf. Judg. 11:30; 16:29; 1 Macc. 6:46.
55. Cf. 1 Kings 17:32 ff.; 2 Macc. 6:18 ff.
56. Cf. Apoc. 7:11.

7. The gift of piety disposes man to follow the Holy Spirit moving him to honor God as our Father.[57] Just as piety in the natural order refers to parents, so in the supernatural order it refers to God, our Father in a higher sense; therefore piety disposes to whatever acts by which, from a special motion of the Holy Spirit, we exhibit reverence to God as our Father and to all others, such as the saints, the Church, and neighbors, insofar as they are referred to God as Father.

Although the gifts differ from the virtues, nevertheless to individual gifts there corresponds a special virtue, which the gift surpasses in dignity and excellence: a. the gift of understanding corresponds to faith; b. the gift of knowledge likewise corresponds to faith; c. the gift of fear corresponds to hope; d. the gift of wisdom corresponds to charity; e. the gift of counsel corresponds to prudence; f. the gift of fortitude corresponds to the virtue of fortitude; g. the gift of piety corresponds to the virtue of justice.

34. The supreme principle. The ultimate supernatural end, or the destination of man to beatitude, which consists in the vision and love of God, is the supreme principle of moral theology. For from this truth are determined and understood all things which have been instituted by God and are to be performed by men for the sanctification of men. And indeed, in order that Christian life may be proportioned to the end of eternal beatitude, sanctifying grace is infused, by which man is elevated to the supernatural order, is constituted just, holy, an adoptive son of God, and by which he receives the principle of supernatural life, such as is worthy of a son of God and heir of eternal beatitude. Together with sanctifying grace the theological virtues are infused, by which the powers of the soul, intellect and will, are supernaturally perfected and rendered apt for exercising virtues altogether supernatural as to object and proportioned to eternal life. The moral virtues indeed do not differ from natural virtues as to object; nevertheless, through infused habits and through the influence which supernatural charity exercises upon their acts, they are elevated to supernatural perfection, such as is fitting to the dignity of a son of God destined to the beatific vision. To beget, nourish, perfect, preserve, and, if it has been lost, to repair again this supernatural life, Christ the Lord instituted the sacraments, or so many sources and supports of supernatural life. Finally, to the same end He added to all these things the precepts of the theological virtues and the precepts which refer to the sacraments, which indeed are precepts of the supernatural order.

Third Question

On The Moral Order

First Article

On The Moral Order Itself

35. What it is. The moral order consists in the essential relations by which man is referred to God, to himself, and to other creatures. These relations demand of man several and diverse operations, by which, according to the will of God, he must strive toward his end. For this reason the moral order also consists in the operations by which man tends to his end. Finally, there is added the order of means to the end, by which God helps man so that he may come to his end. Therefore the moral order, considered completely, comprises the ultimate end, God, in whose possession man obtains perfect happiness; the relations by which man is referred to God, to himself, and to others; the operations which are consonant with the essential relations of man; and finally the means which, by divine institution, serve for obtaining the end. Therefore the moral order instituted by God is the way by which we tend to the end, and the means by whose observance

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57. Rom. 8:15.

we attain our end; whence St. Augustine teaches: "Order is that which, if you hold it in life, will lead you to God."[58]

a. Since order in general is the relation of one thing to another, in order to constitute the moral order one must first consider the relations by which man is referred to another. Now there are three relations of this kind founded in human nature itself: the religious relation, the individual relation, and the social relation. For man is referred to God, his first principle and ultimate end; he is referred to himself, since he is furnished with several and diverse inclinations and powers, which by their nature are so arranged that the lower are referred to the higher and, conversely, the higher to the lower; finally man is referred to other creatures, whether rational or irrational. For man, as part of the universe, is on the one hand ordered by his nature to forming society with other men, and on the other hand is furnished with the right of using material things insofar as this is required for attaining his end. It is clear that the moral order by its nature is a final order, since the whole nature of man with all its relations is ordered to God, the ultimate end: the religious relation immediately, but the individual and social relation mediately. From this, namely, is understood the dignity and excellence of rational nature, which alone has an immediate relation to God; on the contrary, irrational creatures are referred immediately to man and mediately through man to God.[59]

b. Since man by nature is referred to God as creature to Creator, as servant to Lord, order requires that man acknowledge his Creator and Lord, revere Him, serve Him, and love Him. Since the body is related to the soul as instrument to the principal agent, order requires that the lower powers be subjected to and serve the higher, and that the higher direct the lower. Therefore St. Gregory the Great calls reason the mistress of a large household.[60] Finally, since man is referred to other men as to companions and fellow-servants, participants of the same nature and destined to the same end, order requires that he love others as himself and observe justice in social life.

36. The natural and supernatural order. Order depends upon the end for the obtaining of which it was instituted, and must be consonant with it as to nature. Since there is a twofold ultimate end, there is also a twofold moral order: the natural, which is founded in human nature and corresponds to its capacity, powers, and demand; and the supernatural, which is instituted by the free will of God and transcends the capacity, powers, and demand of human nature. It is established that in the present order of providence man, through sanctifying grace, is constituted an adoptive son of God and heir of eternal and supernatural happiness: "When the fullness of time came, God sent His Son, that we might receive the adoption of sons."[61] "As many as received Him, He gave them power to become sons of God."[62]

a. Therefore in this order man is referred to God as son to father; the body, which is a member of Christ and temple of the Holy Spirit,[63] is referred to the soul as a sacred instrument to a sacred principal cause; and man is referred to other men as a brother of Christ and heir of eternal life to brothers in Christ and heirs of the same divine life. These relations are indeed altogether different from the relations which constitute the natural order. The supernatural order demands other and nobler operations, all of which Christ comprehended in the two precepts concerning the charity of God and neighbor.[64] By observing

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58. *De ordine* l. 1, c. 9, n. 27.
59. Cf. St. Thomas II-II, q. 2, a. 3.
60. *Moralia in Job* l. 1, c. 30, n. 42.
61. Gal. 4:4-5.
62. John 1:12.
63. 1 Cor. 6:15, 19.
64. Matt. 22:37 ff.

these, man obtains the supernatural beatitude of eternal life. Finally, the means of this order also are supernatural (n. 33).

b. The natural order is instituted by the very fact of creation. But it pleased the supremely good God in creation itself to elevate man above nature to a higher order, plainly supernatural. The supernatural order is instituted by the very fact of adoption, or of the elevation of human nature to the state of adoptive sonship.

Second Article

On The Obligation Of Tending To The Ultimate End

37. On the obligation itself. The primary and principal moral duty which is incumbent upon man living in this life is the obligation of tending to the ultimate end and of attaining it by the means ordained by God.

1. Man has been destined by God to the end of eternal life; but in this destination there is manifestly contained the will of God, by which man is obligated to attain the end through the means ordained by Him.

This argument can be set forth in this way: God constituted Himself the ultimate end of man; but by the very fact that He constituted Himself the ultimate end, He imposed upon man the obligation of tending to the ultimate end.

2. Man by a natural weight is borne toward his perfection and beatitude, which he cannot attain except in God, the supernatural end. But in a rational being the tendencies of nature are governed by law and moral obligation. Therefore he is bound by moral obligation to strive toward the end of eternal life by freely choosing the end and those things which have been ordained by God for attaining the end. The same obligation is also imposed upon man by the express words of Sacred Scripture: "Be you therefore perfect, as also your heavenly Father is perfect";[65] "with fear and trembling work out your salvation."[66]

3. The relation of the present life to eternal life, according to Sacred Scripture, is the state of the way to the terminus, the state of tendency toward perfect beatitude: for the present way is exhibited as a time of combat, labor, and probation; eternal life as crown, wages, and reward.[67] Therefore, according to the will of God, we must freely strive toward the ultimate end through the means ordained by God.[68] Whoever has not done this will fall away from the end of beatitude and will be condemned to eternal punishment: "And these shall go into eternal punishment; but the just into eternal life."[69]

38. What this obligation involves. In order that man may come to the end of eternal life:

1. He is bound by faith to acknowledge God, the supernatural end, and to constitute Him the end of his moral life. Hence he ought to be so disposed that he wills to love nothing, to desire nothing, which simply impedes the ultimate end and is simply opposed to attaining it, of which sort is mortal sin.

a. Since venial sin is not simply opposed to the attainment of the ultimate end, the will and intention of committing venial sin is not against the prescribed obligation of tending to the ultimate end. Venial sin

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65. Matt. 5:48.
66. Phil. 2:12.
67. Matt. 5:12; 16:27; 19:17, 29; 25:9, 30, 46; 1 Cor. 9:24; 2 Tim. 4:8; Jas. 1:12; 3:4.
68. Matt. 19:17.
69. Matt. 25:46. Cf. Matt. 7:19; John 5:29.

is indeed an action through which man does not tend to his end, but it does not remove the end and the attainment of it.

b. From these things it is gathered that the first and fundamental precept of the whole moral life is this: that man adhere to God by faith, hope to attain Him as his supreme good, and order himself and all that is his to God, his ultimate end. And since ordering to God in this order of salvation is done through the charity of God, it is understood why an act of divine charity is necessary and prescribed at the beginning of the spiritual life.

2. He is bound to acquire for himself the state of grace and of divine sonship through the sacrament of baptism: for the kingdom of heaven is promised only to the sons of God, just as only sons have a right to the inheritance of the father: "Unless one has been reborn of water and the Holy Spirit, he cannot enter into the kingdom of God."[70] "But if sons, then heirs."[71]

3. He is bound to lead a life worthy of a son of God through the supernatural observance of the commandments of God, so that through good works he may merit for himself the reward of eternal life: "If thou wilt enter into life, keep the commandments."[72] "He who does the will of My Father who is in heaven, he shall enter into the kingdom of heaven."[73]

4. If he has deserted the ultimate end and lost the state of grace through mortal sin, he is bound to return to the end of his life and to recover the lost state of grace through penance. For in the state of mortal sin an efficacious tendency to the ultimate end is impossible. Moreover, for one existing in the state of mortal sin, since his will, turned away from God, adheres to earthly things, because of lack of strength it is too arduous to overcome the difficulties which occur in observing the precepts for a long time, unless he withdraws his will from sins and efficaciously sets God before created things.[74]

Discussion will return elsewhere concerning the difficulty which is found in assigning the time within which this obligation must be fulfilled.[75]

39. To what extent the world is to be fled. The Christian religion, which constitutes the ultimate end of man not in the goods of this life but in the goods of another life, and obligates him, earthly things being put after, to strive toward supernatural and eternal goods, is therefore gravely blamed, as though by directing man to supernatural and future things it turns him away from the goods of this life, teaches him to despise them, and to neglect temporal prosperity and progress.

a. It rightly and deservedly teaches that man attains his end not in this life, but only in the other, since in this life man cannot obtain either the moral perfection fitting to human nature or the happiness which he naturally desires. For progress, even the greatest, whether material or intellectual, cannot raise man either to moral perfection or to happiness.

b. It teaches that the world is to be contemned and fled insofar as worldly cares impede the tendency toward eternal goods and bring true human happiness into danger. Hence is understood the frequent admonition of Sacred Scripture and of the holy Fathers, not of loving but rather of abandoning the world, namely insofar as it brings the danger of losing more excellent goods. But it is wholly false that

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70. John 3:5.
71. Rom. 8:17.
72. Matt. 19:17.
73. Matt. 7:21.
74. Cf. St. Thomas I-II, q. 109, a. 8; II-II, q. 14, a. 2. Lugo, *De poenitentia*, disp. 7, n. 234 ff.
75. Cf. *De sacramentis*^3, n. 217.

the Christian religion impedes temporal progress or renders man unfit to collaborate in perfecting and promoting temporal life and its culture. For it requires only this: that in the works by which he tries to promote temporal prosperity, he observe the norms of morality and not neglect Christian duties. With this condition posited, Christians are admonished to apply themselves seriously and diligently to temporal and worldly labors.[76]

c. Nor from the fact that the Christian religion teaches that virginity is to be preferred in itself to marriage, and the religious state to the secular state, does it despise or condemn marriage or the secular state, but it prefers the greater and better good to the lesser good. Nevertheless, when the character of human nature is considered, it is not to be feared that so great a multitude of men will abandon the world that material prosperity and progress will ever be neglected.[77] Indeed the Christian religion effectively increases and promotes in every way the true culture both of the individual man and of society, in that it cultivates individual and social virtues in individuals, protects and perfects the family and the state, and commends and promotes that progress to which alone true and solid stability belongs.

Book Second

On Acts Apt For The End

Man must tend to the ultimate supernatural end by his acts: for eternal beatitude is repaid to us as wages and reward of labor. Now, in order that our acts may be apt for meriting the ultimate supernatural end, they must be human, morally good, supernatural, and meritorious: for the end cannot be obtained except by acts which are proportioned to the end; but only these acts are proportioned to the ultimate supernatural end. Therefore we must treat in order of human acts, of moral, supernatural, and meritorious acts.

First Question

On Human Acts[78]

First Article

On The Nature Of Human Acts

40. Definition. Human acts in the broadest sense are called all those which are done by man, and they are rightly divided into acts of man and acts strictly and properly human.

If human acts taken in the broadest sense are compared with the acts of brutes, there are found acts which are common to man with brutes, for man is a rational animal, and acts which are proper to man, for man is a rational animal. And indeed acts of four kinds can be distinguished: a. some are common to man with brutes both as to substance and as to the mode of operating, such as seeing, hearing, walking; b. others are proper to man as to substance, but common with brutes as to the mode of operating, such as spiritual acts, understanding and willing, which, like acts of brutes, happen necessarily or indeliberately; c. others

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76. Cf. 1 Thess. 4:10 f.

77. On this matter the following discuss aptly: Schneider, *Die gottliche Weltordnung* (Paderborn: Schoningh, 1900): "Weltflucht und Kulturscheu," p. 528 ff. Mausbach, *Die katholische Moral*^2 (Cologne: Bachem, 1901): "Kulturarbeit und Weltflucht," p. 113 ff. H. Pesch, *Die soziale Befahigung der Kirche*^2 (Freiburg: Herder, 1897); Kneib, *Die Jenseitsmoral* (Freiburg: Herder, 1906).

78. St. Thomas I-II, q. 6-21. St. Alphonsus, l. 5, n. 144. Sporer-Bierbaum, *Theologia moralis decalogalis* (Paderborn: Typographia Bonifaciana, 1897), tr. 1, c. 2. Ballerini-Palmieri, *Opus theologicum morale*^2 (Prato: Giachetti, 1880), tr. 1. Lehmkuhl, n. 1-40. Bouquillon, n. 318-408. G. Walsch, *Tractatus de actibus humanis*^2 (Dublin: Gill, 1891). F. Frins, *De actibus humanis* (Freiburg: Herder, 1897). Tepe, *De actibus humanis*, n. 1-107. Pesch III, n. 536 ff. Bucceroni, *Commentarii de actibus humanis*^2 (Rome: Typographia iuvenum opificum, 1906).

are common to man with brutes as to substance, but proper as to the mode of operating, such as sensitive acts, seeing, hearing, walking, which are done deliberately; d. finally, others are proper to man both as to substance and as to the mode of operating, such as spiritual acts, understanding and willing, which are done deliberately.

1. Those are called acts of man which are common to man with brutes, because they do not depend upon the free will, such as acts of sensing, acts of thinking, and acts of willing which are done indeliberately.

To acts of man belong: a. acts which are done by man when he does not actually have the use of reason, as are infants, the drunk, the sleeping, and the delirious; b. acts which are done by man actually having the use of reason indeed, but not using reason, such as acts of the intellect, will, imagination, and motions of the sensitive appetite which precede advertence of the mind.

2. Those are called human acts which are proper to man, because they depend upon free will, of which therefore man is master; and they are usually defined: acts which proceed from a deliberate will, that is, which are done with advertence of the mind and with the free consent of the will, such as free acts both of understanding and willing, and also of sensing.

a. That these alone are strictly and properly human is clear: for acts are called truly and properly human which are done by man insofar as he is man and differs from irrational creatures, or those which are proper to man as to the mode of operating, whether as to substance they are proper to man or common with brutes. But only acts which proceed from a deliberate will are of this kind: for the necessary acts of intellect and will are indeed truly proper to man and can be called human as to the substance of the action, but they are not proper to him and cannot be called human as to the mode of action, because that proper mode of operating does not belong to them, namely to act with dominion over the act.

b. The reason why only acts which are done freely are called properly human and proper to man, insofar as man is a rational being, although there are also other acts proper to man, namely spiritual acts, is this: Since in moral doctrine it is asked which acts are proper to man, and in morals not the essence of acts but the operation is attended to, the essential difference between man and irrational beings is rightly taken not from the essence of the acts, but from the mode of operating. But the mode of operating proper to man, insofar as man is a rational being, is to operate freely or with dominion over the act.

41. Division of human acts. 1. Some human acts are elicited, others commanded. Those are called elicited which proceed from the will and are completed in it, such as acts of love, hatred, desire. Those are called commanded which, from the command of the will, are exercised by another power, whether internal, as an act of thinking, or external, as an act of walking.

a. Nothing prevents acts which proceed immediately not from the will but from another power from also being called elicited. Thus acts of thinking with respect to the intellect, acts of seeing and hearing with respect to the senses, can be called elicited. But since in moral matters only free acts are attended to, only acts of the will are usually called elicited.

b. The command of the will is called the act of the will by which the will moves the powers subject to itself to an act, or causes them to cease from an act. Thus the will can bring it about that the intellect think about some matter or cease to think about it, and likewise that the members of the body be moved or cease from motion.

c. The will exercises command over the intellect, the external senses, the sensitive appetite, and the motor power, insofar as this pertains to animal life. The operations of these powers, by force of this command, are and are called voluntary, free as to exercise, namely insofar as their exercise depends upon free

will.[79] Every commanded act is physically composed of a twofold act; morally, however, it is and is called one act.

d. The will can command not only the acts of other powers, but also its own acts, for example it can command itself to elicit acts of love of God. Therefore there are elicited acts of the will which are at the same time commanded.

e. Acts are also called elicited by reason of the internal motive, and commanded by reason of the external motive on account of which they are exercised. Thus prayer, which is an elicited act of religion, can be an act commanded by penance, if it is done for redeeming sins. From these things it is understood what theologians mean when they teach that one virtue commands the acts of other virtues, namely if someone, from the motive, for example, of charity, gives alms to the poor; charity is said to command the act of mercy.

2. Some acts are internal, others external, others mixed. Internal acts are called those which are completed by the merely internal powers of the soul, such as an act of thinking. External acts are called those which are completed by the will through the external organs of the body, such as an act of walking or seeing. Mixed acts are called those which are exercised by external and internal powers together, such as attentive vocal prayer, or devout adoration through genuflection.

According to another way of considering, acts elicited by the will are called internal, and acts commanded by the will are called external, since they are external to the will, whether they are then exercised by internal or external powers.

3. Acts are good, evil, indifferent. Good acts are called those which are conformable to right reason; evil acts, those which are repugnant to right reason; indifferent acts, those which are neither conformable nor repugnant to right reason. These become good or evil especially from the end for the sake of which they are done. A good or indifferent act is also called lawful, because it is prohibited by no law; but an evil act is called unlawful, because it is opposed to either divine or human law.

4. Some acts are natural, others supernatural. Natural acts are called those which are produced by the powers of nature alone; supernatural acts, those which are completed by the help of divine grace. Acts, both natural and supernatural, are called meritorious insofar as they are worthy that some retribution be repaid to them.

The difference between natural and supernatural acts is taken not from the object of the act, but from the eliciting principle: for in order that an act be supernatural, a supernatural principle is required and suffices; on the contrary, a supernatural object is neither required nor sufficient. Surely an act of the intellect placed with the help of grace concerning a natural truth is supernatural; but an act placed without the help of grace concerning a revealed truth is not supernatural.

5. Some acts are valid, others invalid. Valid acts are called those which possess all the requisites for producing their proper effect; invalid acts, those to which some condition necessary for this is lacking. Thus a vow is called valid which has the necessary conditions for inducing obligation. Valid acts are either rescindable or unrescindable, insofar as they can or cannot be rescinded, or deprived of their force, by human will, as vows and contracts can, but sacraments cannot.

Notes

79. On the command of the will over the other powers, cf. St. Thomas I-II, q. 17. Suarez, *De voluntario*, disp. 10. Cathrein, *Moralphilosophie*, p. 54 ff. Meyer, *Institutiones iuris naturalis*, p. 93 ff.

Second Article

On The Voluntary And The Involuntary

All human acts are voluntary. The voluntary and involuntary are treated so that the diverse modes may be known according to which the will tends into its object, or according to which acts proceed from the will, because this knowledge contributes much to determining the imputability of human acts and its grades.

42. What the voluntary is. The voluntary is called that which proceeds from the will, as an effect from its cause, with previous knowledge of the intellect. Therefore two things belong to the nature of the voluntary: a. that the act proceed from the will as from its cause; b. that it be placed with the knowledge of the intellect going before.

a. Something can proceed from the will positively, or through its positive influence, or negatively, or through omission of influence.

Something can proceed positively from the will in three ways: immediately, mediately, and effectively. The elicited acts themselves of the will proceed immediately; acts commanded by the will and elicited by other powers proceed mediately; the effects of these acts proceed effectively. Thus in the throwing of a stone by which a man is wounded, the intention of doing so proceeds immediately from the will, the throwing mediately, and the wound inflicted by the stone effectively.

Omissions and their effects are said to proceed negatively from the will. If someone does not extinguish a fire set to a house, the omission of extinguishing and the effect of the house burning are said to proceed negatively from the will.

Therefore four things are said to be voluntary to us: a. elicited acts of the will; b. acts commanded by the will; c. external effects of our actions; d. omissions and their effects.

b. The voluntary differs: a. from the willed: for that is called willed which is the object of the will, even if it does not depend upon the will; but only that object is called voluntary which depends upon the will; b. from the spontaneous, which proceeds from a power with sensitive knowledge; for which reason acts of the insane, of infants, and even of brutes can be called spontaneous, but cannot be called voluntary; c. from the free or from a human act: for the voluntary abstracts from whether the act proceeds from the will freely or necessarily, but a human act is a free act.

For him who kills his enemy, both the purpose of killing and the death of the enemy are voluntary; but for him who desires the death of one killed, but does not bring it about, the desire of death is voluntary, while the death is willed. The farmer's desire for rain is voluntary; the rain is willed. But for God the rain is willed and voluntary. Therefore everything voluntary is willed, but not conversely is everything willed voluntary.

43. On the divisions of the voluntary.[80] 1. The voluntary is necessary or free, according as the act of the will is so borne into the object that the will cannot abstain from it, or so that the will can, at its pleasure, place the act or not place it.

Therefore the voluntary and the free properly differ from each other in such a way that the free is a species of the voluntary. For the voluntary generically is an act which proceeds from the will with knowledge of the intellect. But an act of this sort can proceed either in such a way that man has dominion over it, or the power also of abstaining from it, which is the free; or in such a way that he does not have dominion over it,

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80. Ballerini-Palmieri I, n. 15-32. St. Thomas I-II, q. 6. Suarez, *De voluntario et involuntario*, disp. 10. Frins I, n. 77 ff.

which is the necessary. Nevertheless, in moral matters voluntary and free are used promiscuously, because in man as wayfarer there are no deliberate acts of the will which are plainly necessary.

2. The voluntary is perfect and imperfect by reason of advertence. The former is done with full advertence of the mind and therefore also with full consent of the will; the latter is done with half-full advertence of the mind and therefore also with imperfect consent of the will. The imperfect voluntary is found, for example, in acts of one half asleep, in acts which are done in great disturbance of soul.

The voluntary is not called imperfect because the will embraces the object reluctantly and only with some repugnance; this is the voluntary in a qualified sense, which belongs to the perfect voluntary. Rather it is called imperfect because the will does not fully determine itself to willing the object, for example sin. For the determination by which the will determines itself to willing the object, as to the grade of perfection, depends upon knowledge more or less unimpeded, to such a degree that without full or unimpeded knowledge there cannot be a full and perfect tendency of the will into the object, such as is required for a perfectly human act.

Therefore, for example, a man who, stirred by great anger, in a quarrel with his adversary breaks forth into blasphemies or says insults to him, does not sin gravely, because the blasphemies and insults are either first-first movements on account of the defect of advertence, or are light sins, because on account of the defect of full advertence they are not perfectly voluntary, unless perhaps the blasphemies, on account of a neglected habit of blaspheming, are grave sins.

3. The voluntary is voluntary simply and voluntary in a qualified sense. The former is that which is done with the full inclination of the will without any repugnance at all; the latter is that which is done with full inclination of the will indeed, but at the same time with some repugnance of it. For example, the martyr who offers himself to death wills death simply, that is, he would not wish not to die; and the martyr who is dragged to death wills death in a qualified sense, that is, he would wish not to die.

a. In this division two diverse acts are considered and compared with each other, one of which is done without repugnance, while the other is done with repugnance. Voluntary simply is also called pure voluntary, and voluntary in a qualified sense is called mixed voluntary, because in the same act of the will an inclination is joined with repugnance.

b. The mixed voluntary, or voluntary in a qualified sense, contains in the same act an inclination or consent of the will joined with some repugnance toward that very thing into which the consent is borne, for example the migration of one who is sent into exile. Therefore the mixed voluntary is usually called voluntary simply and involuntary in a qualified sense: voluntary simply, because the will in fact wills the thing and consents to it; involuntary in a qualified sense, because the will would choose the contrary if this were possible. For example, in one who hands over a purse to a robber, handing over the purse is voluntary simply, because he absolutely wills the handing over of the purse, but it is involuntary in a qualified sense, because he would not hand it over unless moved by fear. Likewise the unjust action of one who lends at usury is voluntary simply, because he wills it absolutely, but involuntary in a qualified sense, because he knows that it is unjust.

c. Those things which are done from fear, for example denial of the faith from fear of death, are voluntary simply and involuntary in a qualified sense. A mixed voluntary of this sort is relatively imperfect on the part of consent if it is compared with the pure voluntary, but not of itself on the part of knowledge; therefore the mixed voluntary of itself constitutes a perfectly human act.

4. The voluntary is express and tacit. The former is present when elicited consent is manifested outwardly by words or other signs, as if a superior by stated words or a nod grants or denies something. The latter is present when elicited consent is not manifested outwardly, but is only gathered to be present from

some fact or from the omission of a fact, as if a superior, knowing something to be done against the law, does not prohibit it; he is considered to consent tacitly or to give permission. Hence the axiom has prevailed: he who is silent seems to consent.

a. From tacit voluntary there must be distinguished presumed voluntary, which is had when in fact no act or consent of the will is present, but because of the fittingness of the matter it is supposed to be present; for if the matter were proposed, without doubt consent would in fact be present. For example, if someone says to a young man entering a tavern, from the presumed consent of the father: your father wishes you to return home. Sometimes even the tacit voluntary is called presumed, because its existence must be gathered or presumed from external signs and circumstances.

b. Concerning the saying, "he who is silent seems to consent," these things must be noted. Silence of itself signifies neither consent nor dissent; therefore in a particular case one or the other must be gathered from the circumstances. The following rules, however, are established so that the consent or dissent of one who is silent can be presumed from the circumstances according to prudent estimation:

c. One who is silent is considered to consent in favorable matters, namely where it concerns his favor and advantage, but not in odious matters, where it concerns his burden and prejudice. Hence one who is silent when another promises him something is considered to consent; but if someone asks that something be given to him by another and that other is silent, he is not considered to consent.

d. One who is silent is considered to consent even in odious matters if, not wishing to consent, he ought and could contradict; but he is not considered to consent if he is not bound to contradict or cannot. Now he is said not to be able when he cannot without harm or great inconvenience. One who takes a thing while the owner is present and not contradicting does not commit theft, because the owner is considered to consent, unless he is silent from fear or for another reason. And if a prince or superior knows that something is being done against order and does not contradict, he is considered to consent if he could easily contradict or impede it, but not if he could not easily impede it.

5. The voluntary is in itself and in another, or in the cause, which by others is called direct and indirect voluntary, by reason of the mode in which something is intended. The first is what the will immediately intends in itself; thus, for him who deliberately kills his enemy, the death of the enemy is voluntary in itself. The other is that which is not itself intended, but whose cause is intended, and which therefore is foreseen as going to follow from something which is intended in itself and immediately as from a cause; thus to one writing evil books, the sins of the readers, which he foresees but does not intend, are voluntary in the cause.[81]

a. In order that something be called voluntary in itself, it is not necessary that it be desired for its own sake or as an end, but it can also be desired for the sake of another thing or as a means. Thus for a shipmaster the throwing overboard of goods is voluntary in itself, although he does not will it for its own sake, but as a means for saving the life of those sailing.[82] Likewise not only the cause but also the effect together with the cause can be voluntary in itself, provided the will also wills this in itself, as in one who wills, together with medicine, also the effect of health.

b. Something can be voluntary in the cause in two ways: either because by a positive action the cause is posited from which the effect is foreseen as going to follow, and this indeed is called voluntary in a

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81. Others, who follow more exactly the way of speaking of St. Thomas, distinguish direct and indirect voluntary from voluntary in itself and in the cause, and define it so that it agrees with positive and negative voluntary. Cf. St. Thomas I-II, q. 6, a. 3; q. 77, a. 7.

82. Lehmkuhl I, n. 4.

positive cause; or because by omitting an action, the cause is not removed or not impeded, although it can be impeded, and this is called voluntary in a negative cause. Let the death of innocent men in a military commander who fires cannon into a fortress, and the burning of a house in one who does not extinguish a fire set by another, serve as examples.

c. Cause here in a broader sense signifies everything in which another thing is contained, whether as an effect in a cause, or as a part in a whole, or as connected with the other, so that the will cannot desire one without being considered to desire also the other.

d. Therefore the voluntary in the cause is generally an effect which is not intended but which follows apart from intention from a cause which is voluntary in itself and is intended.

6. The voluntary is actual, virtual, habitual, by reason of the influence which the act of the will exercises upon the work, or upon the effect. Since this voluntary agrees in reality with actual, virtual, and habitual intention, it is better to set forth this division under that respect. Intention is the act or tendency of the will toward some end to be obtained through apt means.

a. Actual intention is that which exists here and now, influences the work, and is adverted to reflexively when the work is placed. Thus one who here and now wills to confer baptism and in fact confers it has actual intention in conferring baptism.

It can be twofold: explicit, if the will intends what is apprehended clearly and distinctly, as if someone intends to confer the sacrament of baptism; or implicit, if that which the will intends is in some way contained in that which is explicitly known and intended, as if one baptizing intends to do what he saw the pastor doing. The former has actual explicit intention in conferring baptism; the latter actual implicit intention.

b. Virtual intention is that which, elicited previously, continues here and now, influences the work, but is not adverted to when the work is placed. Thus one who confers baptism which he had previously proposed to confer, but now, when he confers it, no longer thinks of this proposal, has virtual intention in conferring baptism.

The influence of virtual intention is discerned from this example. If someone goes walking after setting for himself the end of the walk, he does not think of the end at each step, but the intention of the end latently continues and brings it about that each step is suitably disposed to the end. This intention is called virtual from the force or virtue by which the act or intention of the will influences the action. What that force is which flows from an act of the will previously elicited into the action now to be placed, and brings it about that the action is virtually voluntary, is explained by authors in diverse ways;[83] but all agree in this rule to be assigned for practice, by whose aid it can be judged how long a previously elicited intention continues and influences the action: namely, a previously elicited intention influences the action as long as the agent, although he does not think about the intention, nevertheless, if asked what or why he is acting, without a new act of the will and without reflection, from the mere remembrance of the prior intention, immediately says: I am doing this, or, I am doing this for that.[84]

c. Habitual intention is that which, elicited previously, no longer exists nor influences when the work is placed. Thus one who elicited the intention of offering tomorrow's sacrifice of the Mass for a deceased

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83. On this matter Walsch n. 70 ff. and especially Frins I, n. 51-56 can be consulted.

84. Cf. Sporer-Bierbaum III, tr. 7, n. 107 ff.

friend, and thinking no more about this intention celebrates tomorrow, applies the Mass from habitual intention.

d. In order that an action proceed from intention as from its cause, the intention must be actual or virtual; habitual intention does not suffice, since this no longer perseveres when the action is placed, nor influences it.

e. Nothing prevents someone from having several intentions at once, or intending several objects at once, whether these are ordered to one another, as if someone wills medicine and through it health, or are not ordered to one another, as if someone undertakes a pious pilgrimage to venerate a saint and to visit a friend.

44. On the involuntary. The involuntary is called that which does not proceed from the will. And since two things are required for the voluntary, consent of the will and knowledge of the intellect, it can happen in two ways that some action is involuntary to the agent: either because he is forced by an external force against the inclination of the will to place the action, as if someone is violently dragged to the shrine of an idol; or because he places the action ignorantly, as if someone kills a man thinking him to be a beast.

a. The involuntary is distinguished into negatively or privatively involuntary and positively involuntary. The former is had when no act exists in the will toward some object; the latter is had when there exists in the will toward some object an act of aversion or unwillingness.

The privatively involuntary is also called the non-voluntary. There are some who distinguish between involuntary and non-voluntary: they call involuntary what someone does while ignorant, which he would not have done if he had known, and therefore against the will; they call non-voluntary what someone indeed does while ignorant, but which he would have done even if he had known, and therefore without the will. The former is done from error, the latter with error. Thus if someone, wishing to kill a beast, kills the goat of his enemy, whom he has long intended to harm, the killing of the goat is indeed not involuntary, but nevertheless non-voluntary.

b. There is perfect and imperfect involuntary. The former is had when the will fully and, as far as lies in it, efficaciously rejects something; the latter is had when the will rejects something weakly and remissly, only with some hesitation. A temptation against faith, charity, or chastity which is entirely rejected without hesitation is perfectly involuntary; but one which is rejected with some hesitation and negligence is imperfectly involuntary.

Third Article

On The Principles Of Human Acts

45. What they are. The principles of human acts are called those things which must concur for producing a human act in the individual. Now three things must concur for effecting a human act: the object, the intellect, and the will.

1. The object of a human act, which is some particular good, as a final cause allures and moves the will to acting and by its influence gives it a certain and determinate tendency, or affection. Therefore acts of the will have from the object that they are acts of such a species, that is, the object specifies the acts of the will.

2. On the part of the intellect there must be present: a. advertence to the act itself. For a human act must be in the power of the one operating, to such a degree that he can place it or not place it. But this is impossible unless, adverting to the act itself, he knows that he is going to place the act.

For this reason thoughts, imaginations, or appetitions which immediately upon the proposal of the object arise in the intellect, in the imagination, in the will, or in the sensitive appetite without any advertence of the mind cannot be human acts, and therefore neither good nor evil.

b. Advertence to the object and its qualities. Since the object of a human act must be freely willed and therefore previously known, the act is human insofar as its object is known.

In order that the act of one who, killing his father, commits parricide, be a human act, he must know that he is killing his father; it would be homicide if he thought he was killing a man; it would not even be homicide if he thought he was killing a beast.

c. Deliberation, by which we inquire whether some object represented by the intellect is to be embraced or rejected by the will.

Those are not human acts which are not determinate in the concrete and surrounded by various circumstances. Therefore the intellect, having considered all the circumstances, must judge whether the action is to be embraced or rejected. Moreover, the object which we desire rarely exhibits itself to us as a mere good or as a mere evil, but frequently as a good joined with a defect or evil, whether true or apparent. In this case deliberation is needed as to whether that is good or evil, lawful or unlawful, and therefore to be embraced or rejected by the will.

d. The dictate or practical judgment, by which we decide that something is good or evil, to be embraced or to be rejected.

e. The will cannot elicit a human act, whether of pursuit or aversion, unless a judgment has preceded concerning the suitability or unsuitability of the object, with which the act is concerned, with the nature of the agent; and specifically it cannot elicit a morally good act unless a judgment has preceded concerning the moral goodness or lawfulness of the object and act. But this judgment is called the practical dictate or judgment.

f. Frequently by a simple glance it is known that the thing proposed by the intellect is good and therefore to be embraced, or evil and therefore to be rejected; in which case deliberation and practical judgment are contained in a single act.

3. On the part of the will there is required: a. the exercise of liberty, in that the will determines itself to acting or to acting in this way.

Since a human act by its nature is a free act, it is clear that a human act cannot be done without the exercise and use of this perfection, namely liberty.

b. A free tendency into the object, insofar as it is proposed by the intellect.

After the will has determined itself to acting, it elicits in itself an act which by its nature is a vital and affective tendency by which it embraces the object and adheres to it, or is a vital aversion which rejects the proposed object.

46. On advertence. a. Advertence is defined as the act by which the mind attends to something. It is divided:

a. By reason of the act itself into full advertence, if nothing impedes the mind so that the act of adverting is perfect, as when someone perfectly awake, self-possessed, and not distracted adverts to things; and into half-full advertence, if something impedes the mind so that the act of adverting is not perfect, as when someone thinks about a matter while not yet fully awake, or not fully self-possessed, or distracted by other things.

b. By reason of the thing to which the mind adverts into distinct advertence, if the thing is apprehended clearly or certainly, and confused advertence, if the thing is apprehended obscurely or doubtfully. Thus one who steals a sacred thing, thinking that the theft of a sacred thing is sacrilege, distinctly adverts to sacrilege; one who steals a sacred thing, knowing only that the theft of a sacred thing is graver than simple theft, adverts confusedly to sacrilege. Likewise one who throws a tile from a roof into the street with the plan of killing an enemy passing by, adverts distinctly to the death of the enemy; and one who does the same suspecting indeed that a man perhaps passing by could be killed, but not knowing whether in fact someone is passing by and is killed, adverts confusedly to the death of a man.

c. According to the diverse advertence of the mind to an act, whether of the will or of other powers, threefold diverse acts, or as they are usually called, movements, are distinguished. There are: a. first-first acts or movements, which precede every advertence of the mind, for example movements of aversion, anger, revenge in the sensitive appetite or in the will; b. second-first acts or movements, which precede full and perfect advertence of the mind; c. second acts or movements, which are elicited with full and perfect advertence and knowledge.

Fourth Article

On The Impediments Of Human Acts

47. Since it depends upon the exercise of liberty that an act be human, it is necessary to know what things impede the exercise of liberty and therefore a perfectly human act. The impediments of human acts are of two kinds: some are actual, which actually and transiently lessen or remove the human, voluntary, and free act; others are habitual, which habitually and permanently lessen or remove the human, voluntary, and free act.

I. Actual Impediments

There are four things which actually and transiently impede the human act: ignorance, concupiscence, fear, and force. Because a human act must proceed from previous knowledge, ignorance impedes it; because it must proceed from the will as from an internal principle, violence impedes it; because it must proceed from a principle indifferent to acting and not acting, concupiscence and fear impede it.

1. On Ignorance

48. Notion. Ignorance is the lack of knowledge of some thing. Therefore ignorance denotes a habitual state of the mind.

a. Ignorance differs: a. from error, for error signifies an erroneous judgment or an assent not conformable to truth; therefore besides the lack of knowledge of some truth it involves a judgment contrary to truth, as if someone not only did not know that Christ is God and man, but judged Him to be a mere man; b. from inadvertence, which consists in this, that the mind does not attend to a matter, even though habitual knowledge of that matter is present.

b. Ignorance, which denotes a habitual state of the mind, is taken here insofar as it actually influences our action, namely for actual ignorance, to which inadvertence also pertains.

49. Division of ignorance. 1. By reason of the object, ignorance is divided into ignorance of law and ignorance of fact. The first is ignorance of the law, as if someone does not know that fasting must be observed on the vigil of Pentecost, or does not know that the reading of a heretical book is prohibited. The other is ignorance of a thing, either as to substance or as to some circumstance, as if someone does not know that today is the vigil of Pentecost, or that the book which he reads is heretical.

Some reduce ignorance of the penalty to ignorance of law, namely of the law decreeing the penalty for the offense; others to ignorance of fact, namely of the connection of the penalty with such an offense; finally others list it as a third species of ignorance.

2. By reason of the subject, or of the man ignorant, ignorance is divided into invincible and vincible. The first is that which cannot be put away, and is called physically invincible if it cannot be put away in any way, as if someone does not think at all about the matter or law, or about the obligation of investigating; and morally invincible if, with moral diligence applied, it cannot be put away. The other is that which can be put away by applying moral diligence, but is not put away.

a. That diligence is considered moral which prudent persons are accustomed to apply in matters of this sort. Moral diligence must be diverse according to the quality of the matter, person, and circumstances: for greater diligence is usually applied in a matter of grave moment, lesser in a matter of slight moment; likewise, other things being equal, a person to whom many means of finding the truth are available applies greater diligence, and a person to whom only few means are available applies lesser. How much diligence must be applied so that it can be called moral must be measured from the way prudent persons act in these diverse circumstances. Therefore moral diligence is not the greatest diligence which can be applied, but is that diligence which anyone, from prudent judgment here and now, in this matter and in these circumstances, can and must apply for dispelling ignorance. But no one is bound to greater than moral diligence, even if he could apply greater.

b. Invincible ignorance is involuntary and therefore inculpable. Vincible ignorance is voluntary at least in the cause, and is culpable if it concerns those things which must be known, but inculpable if it concerns those things which can lawfully be unknown.

c. In order that ignorance be vincible and culpable, it is required both that a thought, or at least suspicion, of ignorance and of the obligation of putting it away enter the mind, and that the occasion of inquiring be voluntarily passed over or not sufficiently used.

3. Vincible ignorance, according to the diverse way in which it is willed, is divided into affected and not affected. The former is had when someone deliberately wills ignorance, for example so that he may sin more freely, as if someone doubting whether today is a fast does not ask, although he could easily ask, lest perhaps he be bound to fast. The latter is had when someone omits due inquiry, not because he wills to be ignorant of the matter, but for another reason, for example because of negligence, shame, and so forth.

The former is willed in itself; the latter is willed not in itself but in the cause, that is, in the omission of due inquiry.

4. Ignorance not affected is subdivided into crass or supine, when no diligence or almost no diligence is applied to putting it away; and into simply vincible, when some diligence indeed is applied, but not sufficient.

5. Invincible ignorance is divided into antecedent and concomitant. It is called antecedent if the one operating is actually so disposed that he would not place the action if he knew what he is ignorant of. Thus the ignorance of a hunter who kills a friend whom he thinks to be a beast is antecedent, because he would not have done it if he had known it was his friend. It is called concomitant if the one operating is actually so disposed that he would place the action even if he knew what he here and now is ignorant of. Thus the ignorance of a hunter who kills an enemy sought for death, whom he thinks to be a beast, is concomitant, because he would have killed him even if he had known him to be his enemy.

The former precedes the consent of the will and is usually called the cause of the action, because the action would not be done if the ignorance were absent. The latter accompanies the consent of the will and is usually named a non-cause, because the action would be done even if the ignorance were absent. In the former case the action is done from ignorance; in the latter, with ignorance.

6. Ignorance in general is divided into antecedent and consequent. Antecedent ignorance is that which precedes voluntary negligence in investigating an obligation, as is ignorance of the fast in one who has not even thought about the fast. Consequent ignorance is that which follows voluntary negligence in investigating an obligation, as is ignorance of the fast in one who, thinking about the fast, does not put away the ignorance.

All antecedent ignorance is invincible and therefore involuntary and inculpable. But all consequent ignorance is vincible and therefore voluntary and culpable, either in itself or in the cause.

Note. Ignorance of those things which must always be known is called habitual ignorance. A physician, judge, advocate, confessor, or pastor labors under habitual ignorance when he does not know those things which he must know from his office. Those who labor under ignorance of this sort are said to be in a habitual state of sin. This is not to be understood as though they sin at every moment for as long as they labor under this ignorance, but as meaning that they sin as often as an occasion offers itself of learning those things whose knowledge is necessary to them, if they advertently neglect the opportune occasion.

50. The influence of ignorance on human acts. 1. Invincible ignorance, whether antecedent or concomitant, removes the voluntary: for what is done ignorantly is not voluntary in itself, because it is unknown, nor is it voluntary in the cause, because the ignorance is supposed invincible. And since both antecedent and concomitant ignorance are invincible, the latter removes the voluntary by equal reason.

a. Invincible ignorance, just as it removes the voluntary, also removes fault. Hence one who on Friday eats meat while invincibly ignorant that it is Friday, or that what he eats is meat, does not commit sin. One who strikes a man while invincibly ignorant that he is a priest is guilty of injustice, but not of sacrilege. Children and the uneducated who do shameful things whose malice they do not know do not sin.[85]

b. That disposition of soul by which one operating with concomitant ignorance would place the action even if he knew the matter cannot bring it about that the action is voluntary, but only brings it about that after the truth is known the action is pleasing. Therefore, in the example given above, the actual will of killing the enemy indeed brings it about that the hunter sins by internal affection, but not that he is guilty of actual homicide.

2. Vincible ignorance does not remove but lessens the voluntary, at least if it is not affected.

a. The reason for the first is that vincible ignorance is voluntary; therefore voluntary also is the action or omission which proceeds from this ignorance, and the effect which follows from the action or omission.

Because vincible ignorance does not remove the voluntary, neither does it remove fault: one who shoots at a beast while suspecting that it could be a man is guilty of homicide if in fact he kills a man.

b. The reason for the second is that something is less voluntary the less knowledge there is of it; but manifestly there is less knowledge in one who is ignorant of a thing, even vincibly, than in one who knows it.

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85. Therefore this proposition (2) was condemned by Alexander VII on December 7, 1690: "Although invincible ignorance of the law of nature may be granted, this in the state of fallen nature does not excuse the one operating from formal sin from it."

c. Therefore vincible ignorance also lessens fault: for something is imputed as fault insofar as it is voluntary. And since this ignorance has diverse grades of voluntariness, namely according as it is simply vincible, crass, or affected, so also the action which follows from this ignorance has diverse grades of fault.

d. The quantity of fault which is present in a sin committed from vincible ignorance is not taken from the action or omission which followed because of the ignorance, but from the negligence which was committed in dispelling the ignorance: for the action or omission is voluntary insofar as the cause of that ignorance is voluntary. Hence it can happen that great defects committed from ignorance by confessors in absolving penitents, by pastors in arranging marriages, or by physicians in treating the sick, are only light sins, when the negligence in fulfilling the obligation or in removing the ignorance was slight.

e. Ignorance is usually called crass when the negligence of investigating the truth is very great; and it is usually called simple or simply vincible when that negligence is not so great. Therefore crass ignorance is usually assessed as grave sin, while simple ignorance is assessed as light sin. There are authors, however, who say that not every simply vincible ignorance is a light sin, but that even simply vincible ignorance is either light or grave sin according to the greater or lesser negligence. Ignorance that is lightly culpable in a moral matter is usually equated with invincible ignorance.

Note. Because affected ignorance ordinarily arises from a great inclination to sin, it seems rather to increase than to lessen the voluntary. But an action which proceeds from affected ignorance is voluntary only in the cause; and what is voluntary in the cause is never as perfectly voluntary as that which is voluntary in itself and directly, because knowledge of the former is not as perfect as knowledge of the voluntary in itself.

2. On Concupiscence

51. Notion. Concupiscence in the broader sense, as it is taken here, is otherwise also called passion, and designates any act or movement of the sensitive appetite toward sensible good or evil apprehended through the imagination.

a. Concupiscence taken in the stricter sense is one of the passions, of which six are numbered in the concupiscible appetite: love, desire or concupiscence, joy, hatred, horror, and sadness; and five in the irascible appetite: hope, daring, despair, fear, and anger. Therefore concupiscence taken in the broader sense signifies the acts of all the passions, but taken in the stricter sense signifies the act of one passion only, namely desire.

b. Sometimes concupiscence in an altogether different sense signifies a depraved inclination of the appetite, lower and higher, arising from original sin, by which man is borne toward those things which are opposed to right reason.[86] Therefore this concupiscence differs in two ways from that concerning which we treat here: a. this one signifies a movement or act, but that one only an inclination or disposition; b. this one is concerned with sensible good or evil, but that one only with evil, yet both sensible and rational evil.

52. It is divided into antecedent and consequent. Antecedent concupiscence is that which precedes every consent of the will, yet draws and allures the will to consent. Consequent concupiscence is that which follows the consent of the will.

a. It can happen in three ways that concupiscence follows the consent of the will: either it is admitted after having arisen spontaneously, as if in one who meets an enemy, hatred spontaneously aroused is fostered by deliberate consent of the will; or it is deliberately stirred up, as if someone recalls in his mind

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86. Cf. Gal. 5:17; Rom. 7:23.

injuries inflicted upon him by an enemy in order that he may be stirred to revenge; or it overflows from a vehement free act of the will, as if affections of hatred or love freely admitted overflow into the sensitive appetite.

b. Therefore antecedent acts of the sensitive appetite are not voluntary and hence in themselves neither good nor evil. But consequent acts of the sensitive appetite are voluntary and therefore either good or evil; and those indeed which are deliberately stirred up or, once stirred up, are admitted, are voluntary in themselves, while those which overflow from the will into the sensitive appetite are voluntary in the cause.

53. The influence of concupiscence on human acts. 1. Antecedent concupiscence lessens the voluntary and sometimes entirely removes it.

a. The reason for the first: for the voluntary is less, the more reason is impeded in its deliberation and the more the will is inclined by an external influence toward one side. But movements of the sensitive appetite impede the deliberation of reason: for they turn it away from considering the proper motives of reason and weaken their force and efficacy; moreover, they allure the will to consent.

b. The reason for the second: sometimes passion is so vehement that it entirely disturbs the mind and wholly removes the use of reason, to such a degree that the moral malice of the object is no longer perceived. Now, if no deliberation of reason is present, there is likewise no voluntary, as is clear in those who because of love or anger are plainly insane. But if passion does not wholly remove the use of reason, it does not entirely remove liberty.

c. Passion which lessens the voluntary also lessens sin, and passion which removes the voluntary excuses altogether from sin. Yet passion which does not wholly remove the use of reason does not remove the voluntary, and therefore neither excuses from sin. Hence it happens that actions which proceed from sudden anger or from vehement sadness, according to the degree of advertence, are either altogether involuntary or at least cannot be imputed as perfectly human acts; and if evil, they are frequently either no sin or only a light sin. A determinate judgment in the concrete concerning the imputability of such an action must be committed to God.

d. Whether the consent of the will which adheres to movements of concupiscence is a perfectly or imperfectly human act does not depend upon the movement of concupiscence, that is, upon its greater or lesser vehemence, but upon the influence which it exercises upon the use of reason. For a movement of concupiscence cannot act directly upon the will and absolutely draw it to consent; on the contrary, the will can resist even more vehement movements of concupiscence and deny consent. But passions usually impede the use of reason more or less.

2. Consequent concupiscence which overflows from an act of the will neither increases nor lessens the voluntary, but is a sign of its intensity.

a. The reason for the first is that the act of the will is already perfect when the movement of the sensitive appetite arises.

b. The reason for the second is that only from an intense act of the will does a movement overflow into the sensitive appetite.

Consequent concupiscence which is deliberately stirred up by the will serves this purpose, that human operations may be performed with greater alacrity and with greater vigor and fervor; and since it itself is voluntary, it can add merit to good actions and demerit to sins.

3. On Fear

54. Notion. Fear is defined as a trembling of the mind on account of a future evil. Therefore it is an act of the appetite by which we flee from an imminent evil which we think we can conquer either in no way or only with difficulty.

a. Fear arises in the appetite from the representation of evil; and although the one fearing remains altogether self-possessed, nevertheless fear often moves him to willing something which otherwise he would not have willed. And thus fear must be considered in this place, namely insofar as it moves the will to choose something for avoiding a greater evil, which otherwise it would not have chosen, as if someone chooses amputation of a leg in order to avoid death.

b. The evil which causes fear can threaten either the one himself who fears, or those joined to him; for the evil which happens to those joined either by blood or by friendship is considered one's own.

c. He is said to operate from fear for whom fear is the cause of the operation; he is said to operate with fear for whom not fear but another thing is the cause of the operation. A sailor throws goods into the sea from fear; a martyr undergoes death with fear, which he naturally fears. In the former case fear is antecedently related to the operation; in the latter, only concomitantly. Here the discussion concerns operations which are done from fear.

55. Fear is divided: a. By reason of quantity into grave and light, according as the evil from which fear arises is grave or light.

In order that fear be called grave, two things are required: a. that a grave evil threaten, such as death, mutilation, long imprisonment, grave infamy, great loss of goods, and the like; b. that the evil can be averted only with difficulty. If a light evil threatens, or indeed a grave evil but one which can easily be averted, fear is called light.

Grave fear is either absolutely grave, if an evil truly grave in itself is feared; or relatively grave, if the evil is indeed light in itself but grave with respect to a determinate person who is fearful, such as children, the elderly, and women.

a. Relatively grave fear in moral matters is equated with absolutely grave fear, because it induces the same trembling of the mind and therefore exercises the same influence on the action.

b. Fear which falls upon a constant man signifies absolutely grave fear: for it arises from an evil which even a constant, strong, and courageous person deservedly dreads.

c. By reason of origin it is divided into fear inflicted from without and from within, according as it comes from an external or internal cause; thus fear of death from shipwreck is from without, fear of death from disease is from within.[87]

Fear from without is again divided into fear inflicted by a necessary cause, as by shipwreck, fire, or attack of wild beasts, or by a free cause, namely by man.

Fear inflicted by a free cause is again inflicted either justly or unjustly, according as the person causing the fear has the right of causing fear, as a prince or father who threatens punishment, or unjustly causes fear, as a robber threatening death unless money is given.

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87. Others, for example D'Annibale (I, n. 138), call fear from without if it is inflicted by another for extorting consent, and fear from within if the imminent evil itself brings fear, whether it comes from an internal cause, such as infirmity, or from an external cause, such as contagious disease, storm, shipwreck, the punishments of hell, and so forth. According to this distinction, fear indeed inflicted by another, but not for extorting consent, must be referred to fear from within.

c. Reverential fear must be added, which is had when someone fears lest he have those offended and indignant whom he ought to revere, such as parents and any superiors whatever, princes, prelates, bishops, and the like. It is referred to fear justly or unjustly inflicted, according as its cause is just or unjust.

Can reverential fear be grave? Fear arises from evil which someone thinks is threatening him. Therefore if grave evil can threaten from the offense of parents or superiors, reverential fear can be grave. But reverential fear is taken in two ways: a. in itself, insofar as it signifies the confusion and distress which an inferior suffers because of the offense and indignation of the superior alone; b. insofar as it also signifies other evils besides, such as long reproof, harsher treatment, deprivation of goods, and the like. Now if reverential fear is taken in this latter sense, without doubt it can be grave; but if it is taken in the former sense, it is considered light. Once this distinction has been made, authors can be reconciled, some of whom hold reverential fear to be grave, while others hold it light.

56. The influence of fear on human acts. 1. Fear which is so vehement that it disturbs the use of reason entirely removes the voluntary: for where deliberation of reason is lacking, there is perfect involuntary. Yet this happens in fear rarely and only accidentally: for ordinarily and of itself even grave fear does not remove deliberation of reason, which is required for a perfectly human act. Therefore with regard to fear, the following principle must especially be attended to.

2. An act placed from fear, however grave, of itself is voluntary simply and involuntary in a qualified sense. For fear of itself brings it about that the will deliberately chooses the action as a means for avoiding evil, but with some repugnance, as if someone from fear of shipwreck throws goods overboard. But an act of this sort is voluntary simply with an admixture of the involuntary.

a. Since fear ordinarily does not remove the voluntary, it does not excuse from sin, nor remove the merit of a good action, as if someone assists at Mass from fear of punishment. Yet because involuntary is mixed with the voluntary which proceeds from fear, fear lessens fault and merit, and indeed the more, the greater is the repugnance in placing the action. But in particular: a. if the matter is intrinsically evil, no fear excuses from sin, nor does it lessen fault so much that mortal sin becomes venial because of fear; b. if the matter is prohibited by positive law alone, grave fear can completely excuse from sin, unless fear is inflicted in hatred of the Church or of religion.

b. Because an act which is done from fear is voluntary simply and therefore simply human, of itself fear does not excuse from obligations contracted because of it unless a law or special reason stands in the way. For the voluntary which suffices for committing grave sin also suffices for contracting obligations. Therefore, of itself, a vow emitted from fear of death in the midst of shipwreck or in grave illness is valid.

3. Light fear is not attended to in the external forum: for it is supposed not to have had influence on the action. But in the internal forum it lessens the voluntary and therefore the gravity of sin according to the quantity of influence upon the will.

4. On Violence

57. Notion and division. 1. Violence, coercion, or force, considered passively, is defined as motion caused by an external principle while the will resists; considered actively, it is the force itself which is applied for causing motion in another.

Therefore two things are required for an act to be called violent or coerced: a. that it proceed from an external principle; b. that it be against the will resisting with all its powers. Therefore one who truly and perfectly suffers force, so that outwardly he cannot do otherwise, not only inwardly does not consent, nor

merely dissents, but also outwardly resists as much as he can by persuasion, prayers, threats, shouting, force, and so forth, and tries to repel the force brought against him.

2. It is clear that violence cannot fall upon elicited acts of the will, since it is a contradiction in terms for the will to be coerced to an act, that is, that in the will there be an inclination toward an object while the same will declines from the same object by resisting. Therefore not even God can coerce the will. But violence can fall upon acts which can be commanded by the will: for not only members of the body, but also internal powers, especially imagination and intellect, can be moved to acts by external force, for example through the influence of a good or evil angel, while the will resists.

3. Violence is divided into absolute violence and violence in a qualified sense. The former is had when he to whom it is brought resists as much as he can and therefore suffers altogether unwillingly. The latter is taken in a twofold sense: a. according to some, it is had when the one suffering can repel the force brought against him or at least diminish it, but does not; b. according to others, it is had when the one suffering cannot repel the force brought against him, but does not suffer it altogether unwillingly.

58. The influence of violence on human acts. 1. Absolute violence removes every voluntary: for an act caused by absolute violence is done with the will altogether resisting, and if it consented even minimally or omitted due resistance, the absolutely violent would already fail. Therefore violence removes sin, since there cannot be sin which is not voluntary.

One does not sin who, violently shut in, is forced to omit Mass on a feast day; who is forced to bend the knees or burn incense before idols; the virgin who is oppressed by force and resists according to her powers; one who suffers depraved suggestions.

2. Violence in a qualified sense does not remove but lessens the voluntary. For either resistance which could and ought to be applied is omitted, and then the violent action is indirectly voluntary in the omission of resistance, as if a woman who is oppressed does not repel an attacker whom she could repel; or the will does not entirely oppose, and then there is some consent of the will, as if a woman who is oppressed and cannot repel the attacker consents to depraved pleasure.

The resistance which must be opposed to violence, lest a violent or coerced action can be imputed as sin, is sometimes required of itself, namely when the violence is of such a kind that it can be overcome. Thus if someone suffers immodest touches, in order that they be violent and involuntary in the full sense, it is required not only that the will oppose, but also that the touches be repelled as far as possible; otherwise the one who suffers force is considered at least in some way to consent. Sometimes resistance is required accidentally, even if it is useless, namely when it is required for preventing scandal; thus martyrs who were compelled to offer incense to idols were bound to resist insofar as it was necessary to show that they suffered unwillingly. Or resistance is required when it is necessary for forestalling consent, which happens where force is brought against chastity; thus a woman oppressed is bound of itself to resist, even by shouting and by the powers of the body, as much as she can. But if this positive resistance is useless or too difficult, indeed dangerous, she is excused from applying it, provided she can avoid consent.

II. Habitual Impediments

Habitual impediments are of two kinds: habits, both good and evil, inhering in the will; and illnesses of the soul, which impede man from being able fully to use his spiritual faculties.

1. On Habits

59. Notions. A habit is defined as a constant inclination, added to a faculty, for producing similar acts. To the power in which it exists, a habit confers that the power can operate easily and promptly.

a. Here the discussion concerns moral habits, and these acquired, which exist in the will and incline it to moral acts, whether good, virtues, or evil, vices.

b. Man by nature is not endowed with habits, neither good nor evil, but only with certain dispositions to habits, which are called inchoate habits and come from natural temperament or by heredity from parents. Habits themselves are acquired by repetition of similar acts: for any act leaves in the power from which it proceeds a certain determination or inclination toward producing similar acts; then, through the repetition of the same acts, a habit is generated in the power. Ordinarily several acts are required for generating a habit, unless they are very intense.

c. After he has acquired the use of reason, man begins to acquire habits for himself. For if he resists the passions which draw toward sensible things, by this very fact the forces of the will against the passions are gradually increased; there is formed in the will a certain disposition of eliciting similar acts against the passions, which inclines the will to the good, lessens the appetite of passion, and subjects it to the will; indeed, as experience testifies, the very organs of the body take on a disposition consonant with virtue. If on the contrary he indulges the passions, the forces of the will for overcoming the passions are lessened, inclination into the object of the passion is increased, and the very organs of the body take on a disposition consonant with vice, to such a degree that man is finally subjected to the vice. Nevertheless there remains in the will the power of freely determining itself against the impulses of passion, however much increased by the habits of vices, provided that sufficient use of reason has remained.

d. The more frequently similar acts are repeated, the greater in the power becomes the inclination and facility toward similar acts. An intense habit and one already long rooted in the power is called custom, which sometimes impels to similar acts with such force that it can scarcely be commanded: custom is a second nature. This especially holds concerning depraved custom.

e. Depraved customs are of two kinds: some which do not affect the organic powers, imagination and the sensitive appetite, nor impede the spiritual powers in their functions, such as the custom of blaspheming, lying, stealing; others which alter the organic powers, and sometimes indeed so vehemently that the activities of the spiritual powers are impeded thereby, such as the custom of lust and drunkenness.

f. By reason of origin there is distinguished natural or involuntary custom, which is contracted without advertence to its moral effects; and moral or voluntary custom, which is contracted and retained with knowledge of the moral effect.

60. The influence of habits on human acts. 1. A habit, whether good or evil, in the acts upon which it influences, increases the character of the voluntary and of merit or demerit; but it lessens the character of the free.

The reason for the first is that the act proceeds from a will which is more fixed in the object and more inclined to the object than a will lacking the habit. The reason for the second is that the free, or the indifference of the will, is less the more the intellect considers one side and the will is inclined into the same; but habit brings it about that the part which is consonant with the habit is exhibited more vividly to the intellect and that the will inclines more toward the same.

2. On custom. a. Depraved custom which does not infect the activity of the mind and will indeed lessens liberty, but does not exclude a perfectly human act and grave fault. Sometimes it exercises such force upon the will that it can be overcome only with difficulty; nevertheless it is not such that the will, at least aided by the help of grace, cannot command it.

It must altogether be held that any depraved custom whatever can, by applying apt remedies, be corrected over time, unless the spiritual faculties are thereby disturbed in their activities.

b. Depraved custom which impedes the functions of the mind and will lessens liberty in such a way that man is incapable of a perfect act and grave fault, and indeed the more so, the more the activity of intellect and will is disturbed.

In order that the imputability of offenses which are committed from depraved custom, especially against chastity, can be judged, it must be noted that sinful acts, the more frequently they are committed, increase the appetite the more, to such a degree that a most vehement impulse drives one to sin; that the same acts weaken the energy of the will; and that the intellect, recalling sensible goods, is impeded from sufficiently weighing the motives which would draw it back from sin. These impediments of liberty are greater in those who have contracted the depraved habit almost from infancy, and greater still in those to whom an evil disposition has been transmitted by heredity from parents. Therefore, although they sin more or less deliberately, nevertheless they can be excused not indeed from all sin, but from so great a sin.

2. On Illnesses Of The Soul

61. Notions. 1. The recent medical discipline which is called psychiatry or psychopathology has illnesses of the soul as its object. From this discipline moral theology chiefly gathers that there are diverse affections of soul which exercise a more or less determining influence upon the moral life and lessen liberty, and which therefore deserve to be attended to in assessing the imputability of offenses.

a. In times past, an examination concerning the state of mind of those who had perpetrated a crime was rarely instituted, since full use of reason, and therefore perfect imputability of the crime, was not called into doubt unless the accused were found to be plainly insane. But in our time a diligent examination is instituted concerning the state of mind of those who are guilty of crime. And rightly indeed, since a crime cannot be imputed to an agent who is not fully self-possessed. Although it cannot be denied that in our time, since men suffer much more frequently from nerves, there are more evildoers than before who lack the perfect use of the spiritual faculties, nevertheless several physicians, in making a judgment from theories of psychiatry concerning the full deliberation of evildoers, exceed the measure. For they teach that from disease there is present in the will an internal necessity by which it is impelled with inescapable vehemence to perpetrating evils, or that the will at least labors under perfect abulia (*Willenslosigkeit*), to such a degree that, the movements of concupiscence having been rejected, it plainly cannot choose the good. They attribute this sick will to those who labor under neurasthenia, melancholia, hysteria, or moral dementia.

b. From inclination to evil and from abulia there must be distinguished weakness of the will in relation to good (*Willensschwache*, *sittliche Schwache*), which is naturally present in it in the state of fallen nature. There is indeed present in the will, even after the fall, a natural inclination to good, to which nevertheless the sensitive appetite, concupiscence, the tinder of sin, is opposed; this by its nature is borne also toward sensible goods which are opposed to uprightness. Now concupiscence, insofar as it is borne toward shameful sensible goods, renders the choice of the moral good difficult and constitutes the natural weakness of the will in the moral order; this weakness can be greatly increased by depraved habits.

2. Illness of the soul, psychopathy or *Seelenkrankheit*, is said to be present when the activities of mind and will are habitually badly affected. From psychological principles it cannot happen that the intellect and will in themselves labor under some disease, since they are merely spiritual powers, incapable of disease. In particular, the will cannot have any other sickness in itself than depraved habits, which indeed lessen free determination but do not remove it. Nevertheless, since the spiritual powers in their acts externally depend upon the senses, especially upon imagination, upon the sensitive appetite, and upon that part of the brain which serves the functions of these powers, if the sensitive powers are badly affected, then by overflow the intellect and will also are disturbed in their functions.

Since the will in its acts depends directly only upon knowledge, with the required knowledge shining beforehand, the will itself is always unimpeded and free. Hence it cannot happen that one lacks moral liberty who sufficiently apprehends the moral goodness and malice of his action.

62. The influence of illness of the soul on human acts. One must distinguish between men who labor under illness of soul and those who are indeed not truly sick, but nevertheless are affected by dispositions which, when certain circumstances are added, can degenerate into a perfect illness of soul.

1. For those sick in mind, as lacking the use of liberty, it is manifest that moral actions cannot be imputed. They are driven by an inescapable force and inclination to committing depraved actions, thefts, arsons, homicides, lust, in which, on account of illness of mind and defect of liberty, they are immune from sin.

If such persons come before a confessor: a. he should not openly signify to them that in those acts they are plainly immune from sin, both because this cannot be established with certainty in a particular case and lest they yield to the depraved inclination without any resistance at all and thus increase it; b. he should gently exhort them to resist depraved inclinations, for serious resistance can at least diminish the natural inclination.[88]

2. Those who are not truly sick do not fully lack the use of liberty, and therefore cannot be immune from the obligation of rendering an account of their moral acts. For although imputability is lessened according to the measure of impeded liberty, nevertheless offenses committed must be imputed to them as fault, and sometimes even as grave fault.

a. For making an equitable judgment concerning some offense committed, attention must be given to the actual and habitual disposition of the delinquent. The more perfect the advertence to the malice of the action is, and the more unimpeded the deliberation concerning the obligation of omitting the action and concerning the consequences which arise from the offense, the greater is the imputability of the offense. The more knowledge and deliberation are impeded and disturbed by an actual affection and impulse or by a habitual disposition, the less is the imputability of the offense. But to those whose advertence and deliberation are not impeded, evil actions are fully imputed, even if they committed the offense under the influence of some passion or impulse.

b. Therefore the opinion must be rejected both of those who teach that offenses are to be imputed to all in the same degree, and of those who, with recent psychiatry, affirm that offenses cannot be imputed to any of those who have an affected disposition of soul. The true opinion neither removes their imputability nor equates it with that of the healthy; since it is impossible to determine its grade in a particular case, it must be committed to the judgment of God.[89]

Note 1. Pastors of souls and confessors must know what illnesses of the soul are, by what signs they are recognized, whether moral actions are to be imputed to sick persons of this kind, and how the sick themselves are to be treated in the care of souls. Pastoral theology treats of these things. Cf. Krieg, *Die Wissenschaft der speziellen Seelenfuhrung* (Freiburg: Herder, 1904), p. 166 ff. Huber, *Die Hemmnisse der Willensfreiheit* (Munster: Schoningh, 1904), p. 210 ff. Bessmer, *Storungen im Seelenleben* (Freiburg: Herder, 1907). The same, *Grundlagen der Seelenstorungen* (Freiburg: Herder, 1906). Familler, *Pastoralpsychiatrie* (Freiburg: Herder, 1898). Romer, *Psychiatrie und Seelsorge* (Berlin: Reuther, 1849). Schloss, *Propadeutik der Psychiatrie* (Vienna: Kirsch, 1908).

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88. Cf. Genicot, *Casus conscientiae* I, p. 6 f.

89. Cf. Bessmer, *Grundlagen*, p. 181 ff.

Note 2. Although sins of the flesh are often the cause of illnesses of the soul, nevertheless it must also be noted that from illnesses of the soul, or of the brain and nerves, sins of the flesh, especially sexual perversities, not rarely arise. In this way it is explained why sometimes men who until now had lived piously and chastely suddenly give themselves to sins of the flesh and foul perversities. Their moral defects are to be attributed not to fault, but rather to a disease contracted through misfortune.

Second Question

On Moral Acts

First Article

On The Nature Of Moral Acts

63. Which acts are moral. 1. Moral is said first and properly of an action, and that a human one. Whatever besides this is called moral (moral order, moral law, moral virtue, etc.) is so called secondarily and improperly.

For moral is said from *mos*, custom; but *mos* properly signifies the same mode of acting often repeated in free agents. Therefore moral first and properly pertains to free actions; improperly, whatever is referred in some way to a moral action is called moral.

2. Those acts are called moral which are performed freely with knowledge of the morality of the object. Therefore a twofold condition is required in order that an act can be called moral:

a. That it be free: for a necessary act can be called neither moral nor properly human.

"The genus of morals," says St. Thomas, "begins where dominion of the will is first found."[90] And indeed a moral act by the consent of all makes a man worthy of praise or blame, reward or punishment; but only that which is done with liberty makes a man worthy of praise and reward or of blame and punishment.

b. That the moral quality of the object be apprehended and intended: for liberty alone does not suffice to constitute the morality of an act, but it is further required that the will tend toward an object which is apprehended by the intellect and represented to the will under a moral aspect; for there cannot be a moral act except from a tendency of the will toward a moral object, just as an act cannot be good or evil except from a good or evil object.

c. We distinguish the physical order, or order of nature, and the moral order, or order of reason. To the physical order belongs everything which conduces to developing, preserving, and perfecting nature, whether sensitive or spiritual, and which therefore brings delight or at least utility to the agent. But to the order of reason, or the moral order, belongs that which befits rational nature, which is fitting to its dignity. If one operating in some action apprehends and intends nothing other than the delight or advantage of nature, he does not exercise a moral action, even if the action should pertain to the spiritual order. For example, one who in the study of mathematics or music knows nothing except that it pleases or perfects a man, and intends only this delight or utility, does not exercise a moral action. In order that an action be moral, he must apprehend and will the moral quality of the object.

d. The object of a moral act can be a thing whose nature is so constituted that it befits a rational being to exercise an act either of love or of aversion concerning it, as God, who is to be loved by man; or it can be

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90. St. Thomas, II Sent., dist. 21, q. 3, a. 2.

an action which by its nature is of such a kind that it befits a rational being to place it or avoid it; thus it befits a rational being to speak the truth and to flee perjury.

e. Therefore not every human act is at the same time moral; but there are human acts which are not moral. And indeed not only do children act deliberately without their acts being moral, because they do not yet apprehend the notion of moral good and evil; but adults also sometimes deliberately exercise acts without any attention at all to their moral character, especially when they look at indifferent things, read, write, etc.[91] Moral authors are of different opinions in this matter. Some say that all human acts are moral, just as all moral acts are human.[92] Others, on the contrary, hold that there are human acts which, because of defect of advertence to the moral order, are not moral. The patrons of the former opinion must affirm that man, as often as he acts deliberately, also adverts at least confusedly to the moral order; but this seems contrary to experience.

Second Article

On The Norm Of Morality[93]

64. What it is. 1. Actions are called moral, and their objects are called moral. That by which something is and is called moral, in an abstract term, is called morality. Therefore a twofold morality is distinguished: one objective, which belongs to the object of the moral act, or to the act considered objectively; the other subjective, which belongs to the moral acts themselves.

2. Whether an action is moral, and specifically whether it is morally good or evil, depends on its object, so that the action is moral, and morally good or evil, because its object is moral and morally good or evil. Therefore the question is what that is by which the objects of moral actions are constituted moral and specifically morally good or evil. The objects of the will are constituted moral and morally good or evil by some norm, which is called the norm of morality; so that an action which is conformable to this norm is and is called morally good, but one which is difform from it, morally evil. Therefore the morality of moral objects consists in a certain relation to the norm of morality and can be defined: the relation of a moral object to the norm of morality. The norm of morality is twofold: one proximate, the other supreme and ultimate. Therefore the question is what the norm of morality is.

Morality is a generic notion and consists in that property of moral objects by which they have a relation to their norm. But this relation can be twofold, either of conformity or of difformity; therefore two supreme genera of moral objects are distinguished: the morally good and the morally evil.

65. The proximate norm. The proximate norm of morality is rational nature as such, elevated to the supernatural order, so that the good is that which is fitting to rational nature, and evil that which is unfitting to it.

The norm and measure according to which man must direct his actions is: a. human nature, indeed whole, not according to the superior part alone, but insofar as it is rational, that is, insofar as it is the nature of this species, diverse from brutes, human and rational. Hence in order that an action be morally good it is not

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91. Cf. Struggl, *Theologia moralis*, tract. 1, q. 1, n. 28. E. Muller, *Theologia moralis*, 3rd ed. (Vienna: Mayer, 1894), I, l. 1, § 97, n. 1.

92. Cf. St. Thomas, I-II, q. 1, a. 3. Lehmkuhl I, n. 28.

93. The question of morality and of the principle or norm of morality easily occupies the chief place in moral philosophy, from which it will be useful to take the principal notions for the plan of moral theology. Cf. Suarez, *De bonitate et malitia humanorum actuum*. Schiffini, *Philosophia moralis* (Augustae Taurinorum: Marietti, 1891), I, n. 57 ff., n. 133. Frins, "Zur Philosophie der Sittlichkeit," *Zeitschrift fur kath. Theologie* (1886), p. 577 ff. The same, *De actibus humanis* (Freiburg: Herder, 1904), II, p. 54 ff. Theod. Meyer, *Institutiones iuris naturalis*, 2nd ed. (Freiburg: Herder, 1906), I, n. 140 ff. W. Schneider, *Gottliche Weltordnung und religionslose Sittlichkeit* (Paderborn: Schoningh, 1900), chapters 6 and 7. V. Cathrein, *Moralphilosophie*, 4th ed. (Freiburg: Herder, 1904), I, p. 156 ff.

enough that it be fitting to a nature which is rational, but it is required that it be fitting to nature insofar as it is rational. For it can happen that something is fitting to the nature of man insofar as it is sensitive, which nevertheless is not fitting to it insofar as it is rational. b. Human nature considered not only in itself and according to itself, but in its relations, namely as it is part of the universe created by God (n. 24). c. Human nature as it really exists in the present order of providence, namely elevated to the dignity of divine sonship.

a. The norm according to which the actions of all beings are directed and measured is their nature, and their actions are judged according to this norm: those which are fitting to their nature are called good, those which are unfitting to their nature are called evil; there is no reason, with regard to man, to seek another norm and to judge his actions according to another norm.

b. In the moral order, that is called fitting to rational nature which befits rational nature, or which, when the dignity of rational nature has been considered, is fitting to be sought and loved or rejected (n. 62). Now if it is asked what in particular that is which befits rational nature and is fitting to its dignity, one must say: that which is consonant with its relations (n. 34).

c. The same norm is exhibited in other ways:

d. Some call the norm of morality the moral order, so that the good is that which is, and because it is, consonant with right order; evil is that which is, and because it is, difform from right order. For since human nature considered according to its relations is the norm of morality, and the relations by which human nature is referred to God, to itself, and to other created things constitute the moral order, it comes to the same thing whether human nature or the moral order is called the norm of morality.

e. Others call right reason the norm of morality, so that the good is that which is, and because it is, according to reason; evil is that which is, and because it is, against reason. For since the will in its actions follows the guidance of reason, the dictate of reason is the immediate and proximate norm of the will; but reason takes its judgments from objects, or from the objective order. Therefore the goodness of the will depends upon reason in the way in which it depends upon the object, or upon the moral order.

f. The norm of morality is also called the principle of morality, and this for a twofold reason: because it determines the morality of acts, or constitutes moral acts morally good or evil; and then because it is the criterion from which we know moral acts and acts morally good and evil. Therefore, from what has been explained above, morally good acts are those which are consonant with the nature of man created by God and elevated to the supernatural state according to relation to God, to himself, and to other creatures; but acts which are unfitting to man considered in this way are morally evil.

66. Divisions of morality. 1. By reason of the subject, morality is objective and subjective.

a. Objective morality is that condition of the object (of the moral act) on account of which it deserves that a rational being either embrace it by the will or turn away from it. A twofold objective morality is distinguished: internal, which belongs to the object from itself; and external, which belongs to the object from the precept of a superior.

b. Subjective morality is that condition of the act by which the agent deliberately embraces or turns away from an object which deserves that a rational being embrace it or turn away from it.

c. Subjective morality depends essentially upon objective morality and designates the mode in which a moral act is produced, namely that condition by which it is exercised freely and with knowledge of the moral quality of the object. By this morality a man is constituted morally good or evil.

d. Objective morality is also called material, insofar as it belongs to actions considered objectively in themselves, independently of the agent's apprehension; and subjective morality is also called formal,

insofar as it belongs to an action dependently upon the apprehension of the agent. Because the agent is fallible in his knowledge, it can happen that the same action is formally good and materially evil, and conversely it can happen that the same action is formally evil and materially good.

2. By reason of perfection, morality must be distinguished into incomplete and complete: actions obtain the former from mere fittingness with rational nature, the latter also from conformity with the divine will. For in the complete sense, that is called good and evil which is worthy of reward and punishment; but that is worthy of reward or punishment which is conformable to law or difform from it.

a. Once creation has been supposed, God wills, and indeed necessarily wills, that man observe the moral order. This act of the divine will is the eternal law, by which man is held to observe the moral order. Therefore one must say that good is that which is conformable to the divine will or to the eternal law, and that evil is that which is difform from the divine will or from the eternal law.

b. The principle of obligation must be distinguished from the norm of morality. Indeed, it is one thing to ask why a human act is morally good or evil, and another to ask why a human act is morally (positively or negatively) necessary, or to be placed or omitted from obligation. The norm of morality is the moral order constituted by God insofar as He is author of human nature; the principle of obligation is the eternal law, or God insofar as He is supreme legislator. Morality extends much more broadly than obligation: for although a morally evil action is also prohibited, nevertheless there are very many morally good actions which are not commanded. These things are aptly confirmed by the well-known definition of St. Augustine, according to which eternal law is the reason and will of God commanding that the natural (moral) order be preserved and forbidding that it be disturbed.

67. The supreme norm. The supreme norm of morality is the divine essence. The supreme norm of morality is the ultimate reason and foundation of the proximate norm; but the ultimate reason on account of which human nature is such, has this essence and these relations, and on account of which some actions are fitting to it and good, others unfitting to it and evil, is this: because the divine essence is imitable *ad extra* according to this mode. For the human essence, as created by God, is a finite image of the divine essence, which manifests itself *ad extra* through created things. Therefore what is good in the moral order is good for this reason, that it is fitting to the divine essence; and what is evil in the moral order is evil for this reason, that it is unfitting to the divine essence. Therefore Christ the Lord admonishes: "Be you therefore perfect, as your heavenly Father is perfect."[94]

68. There is no morality without God. Morality can be taken in a twofold sense, in a broader and imperfect sense, in which it signifies the moral order, that is, actions which are fitting to the moral order; and in a strict and perfect sense, in which it signifies the moral order, or actions fitting to the order and commanded by immutable law. In both senses it is true that, if abstraction is made from God, morality is not had.

a. Actions fitting to the moral order are moral principles, which are understood to be necessary and immutable; but the foundation of principles of this kind can be nothing except a necessary and immutable being, God, who, just as He is the source of all truth, so also is the source of all moral goodness. Therefore without God moral principles lack a foundation, and therefore they lose their absolute necessity and their immutability.

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94. Matt. 5:48.

b. All understand that law or moral obligation contains in itself the absolute necessity of the end and the equal necessity of the means; but only the supreme legislator, God, can constitute for rational beings an end to be obtained by absolute necessity and determine the means to be employed with equal necessity.[95]

Third Article

On The Sources Of Morality

69. On the sources themselves. 1. The sources, or also the principles, of morality are called those elements of human acts which constitute a moral action in the concrete as fitting to the moral order or discrepant from it: these elements are object, circumstances, and end. Therefore three sources of morality are numbered: object, circumstances, and end.

a. Namely, the morality of actions in general is taken from their fittingness or discrepancy with the moral order; but moral acts, both good and evil, are diverse. Now it is asked what constitutes actions as fitting to the moral order or discrepant from it; and since there are three things which constitute actions in the concrete as conformable or difform to the moral order - object, end, and circumstances - and no other element is found in the action, rightly and deservedly it is said that morality is derived into an action from a threefold source.

b. That the morality of actions is derived from this threefold source does not signify that morality in any given action is taken from these three things simultaneously, but that it is derived from one of these three: therefore in the concrete, according to the diversity of acts, it is taken now from one or another, now from all simultaneously.

2. In order that an act be good, all the principles on which morality depends must be conformable to rational nature; if even one is difform, the action becomes evil. Hence the axiom has prevailed: good from the whole cause, evil from any defect. Therefore, if an act from object, from end, and from circumstances is fitting to rational nature, it is good simply; but if either from object or from circumstances or from end it is unfitting to rational nature, it is evil simply.

Whether and when this principle, good from the whole cause, evil from any defect, must be restricted, will be said in its proper place; for it is asked whether an act good from its object always loses its whole goodness through an evil end or through an evil circumstance.

1. On The Object

70. Notion and principle. 1. The object of a moral act is called that about which the tendency of the will is proximately and primarily concerned.

a. That about which the tendency of the will is concerned is diverse according as the act of the will is merely elicited or elicited and at the same time commanded: a. some thing; thus God is the object of love of God, money the object of avarice for money; b. some external action, as in these acts: to will to bestow alms, to will to steal, to will to walk; c. some internal act, as in these acts: to will to love God, to will to believe.

b. It is said proximately and primarily because also the end and circumstances are that toward which the will tends, but not proximately and primarily.

Notes

95. Cf. Cathrein, *Religion und Moral* (Freiburg: Herder, 1900). Th. Meyer, *Die Grundsatze der Sittlichkeit und des Rechtes* (Freiburg: Herder, 1868).

c. To the object of an act pertain all those things which constitute its substance, considered not physically but morally; moreover, all those things constitute the substance of an act which are so essential and necessary to it that, if something is lacking or another thing is added, the act becomes diverse. Thus the object of theft is a thing of another taken while the owner is reasonably unwilling: for if the thing is not another's, or if it is not taken while the owner is unwilling, or not while he is reasonably unwilling, there is no theft.

d. The proximate object is the commanded act of the will itself (to steal, to believe), or the object of the elicited act (God, money); the remote object is that about which the commanded act is concerned (the thing of another in theft, revealed truth in an act of faith).

2. Human acts receive their first and essential morality from the object: for the object, just as in the physical order, so also in the moral order, gives species to acts per se and primarily, because powers are moved to act by the object per se and primarily.

Therefore it happens that the morality which belongs to an act from the object is conceived before every other which belongs to it from the end or from the circumstances. One who from love of God gives alms to relieve the misery of the poor exercises an act of mercy, and one who steals in order to become drunk places an act of theft, because the object, not the end, primarily constitutes the moral species of the act. Therefore the morality which acts receive from the object is called objective, essential, and substantial.

71. Division. 1. The object is called good if it is consonant with rational nature, as to adore God, to will to give alms; it is called evil if it is dissonant from it, as to blaspheme, to will to steal; it is called indifferent if neither obtains, as to eat, to walk, to write, which of itself is neither fitting nor unfitting to rational nature.

2. One object is internally and per se good or evil, another is per accidens and by reason of a precept good or evil. The former is from itself and by its nature conformable or difform to rational nature, as to love or to hate one's neighbor; the latter is not from itself and by its nature, but only by reason of a supervening law, good or evil, as to eat meats or to abstain from them.

Objects of the former kind are commanded because they are good, and prohibited because they are evil; but objects of the latter kind are good because they are commanded, and evil because they are prohibited.

3. Objects evil in themselves are of two kinds: some are evil absolutely and independently of any condition whatever, because of themselves they are so repugnant to rational nature that not even God Himself can change them, for example hatred of God, perjury; others are evil conditionally, that is, by reason of some condition which lies under the power of God because of the dominion which He exercises over created things; if God removes this condition, they cease to be evil and become licit, as to take another's thing, to kill a man, etc.

4. The material object is called that about which the act of the will is concerned, for example another's money which is desired, the taking of another's thing; the formal object is called the same material object insofar as it is attained freely by the agent with knowledge of its morality, for example the desire or taking of another's thing done with knowledge of moral malice.

2. On Circumstances

72. Notion and number. 1. Circumstances are conditions which are added to the substance of a moral act and affect it morally, as in theft the circumstance of a sacred place or of a sacred thing. Because circumstances are added to the moral act already constituted in its substance, they are called accidents of moral acts.

a. Only those conditions are customarily called circumstances of moral acts which are added to the moral substance of the act, or to the act already constituted in its moral species. Thus in the theft of a sacred thing, not the being another's, but only the being sacred, is called a circumstance of the act.

b. Those circumstances affect the object morally which contain some relation to rational nature or to the moral order.

2. Seven circumstances are customarily numbered, which are presented in this little verse:

Who, what, where, by what aids, why, how, when.

Who indicates the special quality of the person who acts, for example that he is a cleric, bound by vow or by marriage.

What denotes the quality or quantity of the object itself: whether a striking is grave or light, of a father or of a stranger; whether a thing taken by theft is great or small, sacred or profane.

Where signifies the aspect of place: whether it was sacred or profane, hidden or public, so that scandal could arise.

By what aids signifies the special character of the means which the agent employed, as to become drunk with money taken by theft, to wound with prohibited weapons.

Why indicates the end of the one operating, as to steal in order to become drunk. Although the end pertains to the circumstances, nevertheless because of its peculiar influence on morality it deserves a peculiar consideration.

How signifies the mode of the action, both interior, as to act intensely or remissly, advertently or inadvertently, in good or evil faith; and exterior, as to kill by poison or by the sword, to cut up limb by limb with cruelty.

When denotes the quantity and quality of time: whether something was done for a long time or briefly, in sacred time or non-sacred.

3. Not only objects are indifferent, but also many circumstances must be called indifferent, which do not influence the morality of an act nor confer any morality upon it, because they are neither fitting nor unfitting to rational nature, as to give alms with the right hand or the left, to steal on the second feria or the third.

73. Principles. 1. A human act receives morality also from circumstances, which determine the object in the concrete: for circumstances can bring it about both that an act is or is not fitting to rational nature, and that it is more or less fitting. Thus to refresh oneself temperately is fitting to rational nature, but to refresh oneself intemperately is unfitting to rational nature; to worship God fervently is more conformable to rational nature than to worship Him remissly; to kill a brother is more difform to rational nature than to kill a man.

2. Circumstances confer morality upon human acts in a fourfold way, in that:

a. an act indifferent from its object becomes good or evil from circumstances; thus to eat meats on a day of abstinence is evil, to refresh oneself temperately is good;

b. an act good from its object becomes evil from a circumstance; thus it is evil to pray against the precept of a superior;

c. an act good or evil from its object receives a new goodness or malice from circumstances; thus one who abstains from meats by vow places an act of temperance and religion, and one who steals a sacred thing places an act of injustice and irreligion;

d. an act good or evil from its object becomes more or less good or evil from circumstances; thus if a poor man gives alms, the act of mercy is greater, and if a priest sins, the malice of the sin, other things being equal, is greater.

It must be noted that those circumstances which confer the first moral species upon an action indifferent from its object are commonly referred to the object itself and are not distinguished from the object, so that an act is said to be objectively good or evil when, indifferent from its object, it is constituted good or evil from some circumstance; thus to eat meats on a fast day is customarily called an act evil from its object.

3. A gravely evil circumstance removes the whole goodness of the act, but a lightly evil circumstance accompanying an act (to attend remissly, to act precipitately, to pray tepidly, to give alms with distaste) does not remove the whole goodness of the act. The reason for the first is that an act which fully turns away from the ultimate end cannot conduce to the end. The reason for the second is that an act of this kind does not turn away from the ultimate end, and therefore the tendency of the will toward evil does not destroy the whole goodness of the act; and indeed, unless this were so, very few good acts would be found even in holy men.

With the circumstances of actions, which affect the actions themselves, there must not be confused actions, whether internal or external, which occur during an action but are in no way referred to the action itself, as a pious sigh or idle word while studying, an act of impatience or of prayer while working. Acts of this kind, whether they are good or evil, neither increase nor diminish the merit or demerit of the action, but have their own morality in themselves.

74. Division of circumstances. Circumstances are divided:

1. Into those changing species and those not changing species, according as they modify an action only within the same moral species, or make the moral species of the action diverse, or rather add another moral species to the action.

2. Circumstances not changing species are either aggravating or diminishing, according as they increase or diminish moral goodness or malice, as if someone performs acts which endure for a longer or shorter time, or if one committing a grave theft takes a greater or lesser sum. These circumstances increase or diminish the morality of the act either lightly or gravely, or notably.

We are indeed accustomed to speak of diminishing circumstances, but when the matter is considered more accurately, there are properly no diminishing circumstances. Thus if, with regard to an act of prayer, the circumstance of longer duration is lacking, nothing is taken away from the act, or the act is not diminished, but rather a greater perfection is not added to it. Likewise, if with regard to the evil act of theft the circumstance of a greater quantity is lacking, properly the objective malice of the act is not diminished, but a greater malice is not added.

3. Circumstances changing species change the theological species of the action if they bring it about that an action which from its object is a light sin becomes grave, and one which is a grave sin becomes light, for example because of smallness or greatness of matter; but other circumstances change the moral species if they confer upon the action a new species of goodness or malice besides that which it has from the object, as if someone steals a sacred thing.

3. On The End

75. Notion. 1. The end of a human act is that on account of which the agent operates. There is distinguished the end of the work and the end of the one operating, or the internal and external end.

a. The internal end, or end of the work, is called that into which the act per se and by its nature is ordered, as alms to relieving the misery of the poor. The end of the work, or internal end, is not distinguished from the work itself or from the object; therefore it does not confer upon the act a morality distinct from that which it has from the object. The external end, or end of the one operating, is that to which the act is ordered by the one operating, as alms to making satisfaction for sins. Now it can happen that only the internal end is intended by the one operating, or the internal end and at the same time some external end, or, with the internal end neglected, only some external end; as if someone bestows alms only to relieve another's misery, or also to draw another back from sin, or only to draw another back from sin.

b. The discussion here is only of the end of the one operating, because only that end can introduce into a human act a morality distinct from the object.

2. Ends indifferent in themselves must be admitted, which confer no morality upon acts, because they are neither conformable nor difform to rational nature, as to sing in order to make profit, to go into a field for the sake of relaxing the mind.

76. Division. The end of the one operating is divided in multiple ways:

a. Into proximate end and remote end: the proximate is that which is intended with no other intervening; the remote is that which is intended by means of another end. Thus if someone sings so that, after receiving a stipend, he may procure support for himself, the stipend is the proximate end, support the remote.

b. Into ultimate end and intermediate end: the ultimate is that which is intended for its own sake, in which therefore the agent rests without referring the act to a further end; the intermediate is that which is intended for a further end. Thus if someone composes books in order to acquire for himself money to be spent on the salvation of neighbor and on the glory of God, the glory of God is the ultimate end, while money and the salvation of neighbor are intermediate ends.

c. The ultimate end can be simply or absolutely ultimate, besides which there is no other to which the work is referred; and ultimate in a qualified sense, which is ultimate only in some order of things or in some series of actions. Thus knowledge is the ultimate end in a qualified sense in the order of studies; the glory of God is the simply ultimate end.

d. The ultimate end (in a qualified sense) is either positively or negatively ultimate, according as a further end is excluded, or indeed is not excluded, but neither is intended.

e. For one who studies only in order to acquire knowledge for himself, knowledge is the positively ultimate end, because he excludes a further end, for example the glory of God. For one who studies in order to acquire knowledge for himself and does not think about a further end, knowledge is the negatively ultimate end, because he neither intends nor excludes a further end, for example the glory of God.

f. The ultimate end can be excluded not only explicitly and formally, but also implicitly and virtually, namely by the fact that an action, as disordered and sinful, cannot be referred to the ultimate end. Thus one who eats intemperately for the sake of pleasure excludes (virtually) the ultimate end of the glory of God, even if he does not think about the ultimate end.

g. Into total end, which alone moves to the action, so that, if it were not present, the action would not be done; and partial end, which moves to the action together with another. A partial end can be so

constituted that it is equal with another, or equally principal, if each is sufficient to move to the act; or so that one is primary, which is first intended, and the other secondary, which is intended only with subordination to the primary and moves to the act. The former is called moving and alone would suffice for the action; the latter is called impelling and indeed influences the action, but alone would not suffice for the action.

For a priest who celebrates Mass only to worship God, the worship of God is the total end of the Mass. If he celebrates Mass both to worship God and to gain a stipend, the worship of God and the stipend are partial ends of the Mass. But if the priest is so disposed that he would celebrate even if he did not have the stipend, the worship of God is the primary end; if, with the stipend lacking, he would not celebrate, the stipend is the primary end of celebrating.

77. Principles. 1. A human act receives morality also from the end on account of which it is done: for the end to which an action is ordered by the one operating can bring it about that, by reason of this ordering, the action is conformable or difform to rational nature. Thus not only to give alms, but also to give in order to redeem sins, is conformable to rational nature; and not only to steal, but also to steal in order to become drunk, is difform to rational nature.

The end which confers the first moral species upon an act indifferent from its object is said to enter the object itself and to pertain to the object; thus to bestow money in order to relieve misery, to sing in order to praise God, are called actions good from their object; and to sing in order to create annoyance for another is called an action evil from its object.

2. It can happen in diverse ways that the end confers morality upon an action: for an act good, evil, or indifferent from its object can be referred by the agent to a good, evil, or indifferent end.

a. An act good from its object receives from a good end a new goodness, indeed as many species of goodness as there are diverse good ends which the agent intends. If someone, for example, bestows alms for the honor of God and to redeem sins, the action has a threefold goodness: of mercy from the object, and of religion and penance from the end.

b. If an act good from its object is ordered to an evil end, one must distinguish:

c. If the evil end is the total end, or the sole and adequate cause of the action, whether it is gravely or lightly evil, it corrupts the goodness of the act and renders the whole work either gravely or lightly evil; for example, to give alms to a poor man in order to turn him away from the faith, or to pray only for vainglory, is evil, because the will does not intend the good except under the aspect of evil, or as a means to an evil end, and therefore wills only evil.[96]

d. If the evil end is a partial end, or if the action is done on account of a good end and an evil end which is only lightly evil, whether it is primary or secondary, it does not vitiate the whole act, but the act is partly good and partly evil. For the will can will both at the same time, good and evil; but the tendency toward good is not destroyed by a lightly evil tendency, because the will is not turned away from the ultimate end by it, as if someone gives alms to relieve the poor and at the same time to catch the praise of men.

This partial end can relate itself to a good action in three ways: antecedently, so that it does not influence the action afterward to be placed, but rather is its occasion, as if someone from human respect approaches the sacred rite, at which he then assists with due intention; this occasional end does not vitiate the action.

Notes

96. Cf. Matt. 6:1, 5, 22, 23.

Concomitantly, so that together with another good end it is the cause of the action, as if someone plays the organ to praise God and for vainglory; this vitiates the action in part. Consequently, if, when an action has already been begun from a good end, an evil end is added, as if someone began to sing in order to worship God and then something of ostentation also creeps in; this end likewise vitiates the action in part.[97]

Authors explain in diverse ways how the will can will both at the same time. For some teach that the same act can be at once good and evil; others say that in the will there can be at the same time, concerning the same object, two acts, one good and the other evil.[98] Commonly, however, we are accustomed to consider acts of this kind as one act, even if composed of several.

c. If the evil end is a partial end and gravely evil, it vitiates the whole work and constitutes it evil, for example to extinguish a fire in order to help one's neighbor and at the same time to commit a grave theft; for it is impossible that an action be pleasing to God by which man is totally turned away from God.

d. An act good from its object does not become evil from an indifferent end to which it is ordered by the agent, whether the indifferent end is the partial reason of willing the good object or the total reason, as if someone sings in church either solely or also in order to earn money.

e. An act evil from its object cannot receive goodness from a good end, but is and remains evil: for if the object is evil, the good end does not prevent the will from really willing evil; but good is from the whole cause, evil from any defect. Hence that saying of the Apostle: let us not do evils that goods may come.[99] Nevertheless a good end diminishes the malice of the action, as if someone steals in order to do good, because the affection toward evil is less, since the will does not seek it except from love of some good.

From these things it is clear that he offends against the first principles of ethics who teaches that the end sanctifies the means, that is, that a good end constitutes an action good when it is evil from its object or from its circumstances. For although a good end can bring it about that an action indifferent from its object or circumstances is good, nevertheless it cannot bring it about that an action evil from its object or circumstances is good.[100]

e. An act evil from its object receives from an evil end a new malice, indeed as many malices as there are evil ends into which the action is ordered by the agent. If someone, for example, steals in order to become drunk, the action has a twofold malice, of injustice and of intemperance.

f. An act evil from its object is not changed by an indifferent end to which it is referred by the agent, but retains its malice.

g. An act indifferent from its object receives moral goodness from a good end to which it is ordered by the agent; for example, to sing in order to praise God is an act of religion.

h. An act indifferent from its object receives moral malice from an evil end to which it is ordered by the agent; for example, to sing in order to create annoyance for another is a sin against charity.

i. An act indifferent from its object, which is ordered by the agent to an indifferent end, for example to sing in order to earn money, remains indifferent in the abstract; whether also in the concrete will be said presently.

Notes

97. Cf. Ballerini-Palmieri I, n. 98.

98. Cf. Billuart, *De actibus humanis*, art. 4, n. 2.

99. Rom. 3:8.

100. Cf. Reichmann, *Der Zweck heiligt die Mittel* (Freiburg: Herder, 1903). Supplement to *Stimmen aus Maria-Laach* 68.

In the manner of a proverb it is said that the value and merit of our works do not depend on what is done, but on how it is done. In order that this may be rightly understood, it must be noted: a. If there is question of two works, of which one from its object is nobler and more perfect than the other, other things being equal, that is, if they are performed with equally perfect intention (from obedience, from charity), the work more perfect from its object is of greater merit, provided that the objective goodness is also intended by the agent. b. Of two works equal from the object, that is of greater merit which is performed with a more perfect intention (end of the one operating), whether as to substance or as to intensity. c. It can happen that a work less perfect from its object (indifferent) has greater merit than a work more perfect in itself, if the end of the one operating is more perfect in one than in the other, whether as to essence or as to intensity.

Fourth Article

On The Morality Of The External Act

a. External acts here are not called only the acts which are performed by external organs, but all acts of other powers which are commanded by the will. Now concerning these acts two things are asked: a. whether they have a morality of their own distinct from the morality of the internal act; and b. whether they increase the goodness or malice of the internal act, whether, for example, theft or the bestowal of alms adds anything to the morality of the internal act of the will by which someone efficaciously wills to steal or to give alms.

b. The Scotists solve this question in one way, who attribute to external acts a proper morality in themselves, but the Thomists in another, who deny proper morality to the same acts. The theologians of other schools, by almost common consent, accede to the Thomists.[101]

78. External acts do not have their own morality. 1. External acts do not have a goodness or malice of their own distinct from the morality of the internal act. For only those acts are properly called moral which are free in themselves; for liberty is the foundation and condition of morality. Therefore, because external acts are not free in themselves, they cannot be moral in themselves. Nevertheless they are and are called morally good or evil from the goodness or malice of the internal act by which they are commanded; for they are moral insofar as they are free, and they are free insofar as they are commanded by a free will; therefore they are moral by a denomination taken from the elicited acts of the will.

Therefore, because external acts participate their goodness or malice from the internal act, there is one moral goodness or malice of both acts. The external act perfects and completes the morality of the internal act by which it is commanded; therefore the internal and external act constitute one act in number, morally good or evil, completed and consummated in its species.

2. From these things it now follows that the external act per se, or other things being equal, does not superadd a special goodness or malice to the internal act; for the whole goodness or malice of the external act is had from the internal act; therefore it cannot add anything to the internal act. Hence also the omission of the external act per se detracts nothing from the morality of the internal act: for if the will, perfectly disposed for execution, does not place the external act only because it cannot place it, the omission of the external act is involuntary with respect to the will; but what is involuntary cannot detract anything from morality.

a. Therefore a serious and efficacious will of doing something, when the deed itself is not completed for this reason, that it cannot be completed, is praised in Sacred Scripture equally as if it had been done.[102]

Notes

101. Cf. Suarez, *De bonitate et malitia actuum humanorum*, disp. 10. Frins II, n. 332 ff.

Therefore those err greatly who think that they have committed less sin because they did not complete it in deed, provided that they had the efficacious purpose of the will of completing the sin when opportunity was given.[103]

b. But if it is affirmed that a good will and the desire of executing something are pleasing to God per se equally as if the thing had been done in deed, this does not hold: a. of an inefficacious desire, for example of executing whatever missionaries carry out in the whole world. The merit of a desire of this kind depends upon the disposition of the one who elicits it. Nor does it hold: b. of the desire, even efficacious, of those external actions to which by the institution of God a peculiar efficacy belongs, such as the sacraments or martyrdom. But it holds only of the truly efficacious will of exercising some external act which nevertheless, because of an external impediment, has not in fact been done per accidens.

3. Nevertheless it is not denied that an external act per accidens increases the goodness or malice (and therefore also the merit or demerit) of the internal act, and this in three ways: namely insofar as the external work brings it about that the internal act of the will becomes more intense and more lasting, or that it is repeated more often, or insofar as through the external act there is added good or evil example, edification or scandal of the neighbor.

That external acts are of the highest importance in moral matters is clear from those arguments by which the Scotists try to demonstrate that morality belongs to external acts per se, distinct from internal acts; namely: a. external acts are the object of precept; thus evil desires and evil acts are prohibited by distinct precepts in the Decalogue; but diversity of precepts is a sign of diverse malice. b. Not only in the sacraments, but also in indulgences and in martyrdom, the efficacy which these acts have from the work worked is annexed to external acts. c. In confession not only internal acts, but also external acts must be declared.

To a. Diversity of precepts would be a sign of diverse malice if, with the external act, the internal act also were not prohibited simultaneously; but by the sixth and seventh precept the external act is prohibited together with the internal. Then in the ninth and tenth precept the internal act is again prohibited, lest the uneducated think that the internal evil act is not evil unless external execution is added.

To b. We must confess external acts from the will of Christ instituting the sacrament of penance, because we are commanded to confess not only the formal malices of sins, but the sins themselves. But sins are not completely declared unless the external act also is accused, when external execution is added to the internal purpose.

Fifth Article

On The Imputability Of Moral Acts

79. The nature of imputability. a. The imputability of moral acts necessarily follows from their nature. For imputability is that property of a moral act by force of which it can and must be attributed to man as to its proper author and master; but moral acts, since they proceed from a deliberate will, belong to man as to author and master.

Ordinarily, however, imputability is predicated of the man himself as author of moral actions, and signifies that condition of man by which he himself can and must be considered as author of his actions.

b. Imputation is the judgment by which acts and their effects are attributed to man as to their proper author and master.

Notes

102. Gen. 22:16.

103. Matt. 5:28.

c. The foundation and root of imputability is the free will, through which man is constituted author and master of his acts. And therefore the grade of imputability depends upon the greater or lesser influence of the free will in producing moral acts.

Since moral acts are either good or evil, and their goodness or malice is attributed to man as author, they are imputed to him, insofar as they are good, unto praise and merit; but insofar as they are evil, unto blame or fault and punishment. Therefore moral acts, by reason of imputability, are either praiseworthy and meritorious or culpable and worthy of punishment.

80. Conditions of imputability in general. 1. In order that a moral act can be imputed fully to man (especially as grave sin), there is required: a. perfect knowledge on the part of the act; b. knowledge, at least confused, of the morality of the act; for if he does not apprehend the morality of the act, the physical action, but not the moral action, is to be imputed to the agent.

a. Knowledge of the intellect is perfect if no impediment stands in the way of its natural activity, such as is present in one who has full use of reason or is fully self-possessed. The more the intellect is impeded in its activity, the more the imputability of the action is lessened.

b. With regard to the morality of the act, knowledge can be concerned: a. with the morality of the act in general (good or evil); b. with the morality of the act in species (theft or sacrilegious theft); c. with the gravity of the evil act (grave or light sin).

c. For the full imputation of an act, confused knowledge of its morality suffices.

2. In order that a moral act can be imputed fully to man, perfect consent of the will is required, so that the act is perfectly human.

The perfection of consent depends not so much upon adhesion of the will as upon knowledge of the intellect, so that consent is perfect if knowledge is perfect, and imperfect if knowledge is imperfect. Therefore acts placed from fear are indeed less voluntary, insofar as they contain repugnance and therefore a lesser adhesion of the will; nevertheless they are perfectly human acts, placed with perfect consent of the will, provided that knowledge of the intellect has not been impeded because of fear.

81. On the imputability of an act morally good and evil. In order that a good act can be imputed to the agent, the moral goodness itself must be sought and intended; in order that an evil act can be imputed to the agent, it is not necessary that the moral malice be intended.

a. Both good and evil can be voluntary in itself or voluntary in the cause; concerning both, that is, concerning good and evil voluntary in itself, and concerning good and evil voluntary in the cause, the principle holds: To one giving alms, the moral goodness of the action is not imputed unless he intends it; to one striking an enemy, the moral malice of the action is imputed even if he does not intend it. To one writing a good book for the sake of making profit, the good effects from it, even if foreseen, are not imputed unless he intends them; but to one writing a depraved book for the sake of making profit, the foreseen evil effects are imputed even if he does not intend them.

b. The reason for the first is that the will must intend the good; for the will cannot be and be called good except from the goodness of the object which it intends. The reason for the second is that the will must not intend but avoid evil: for since the object of the will cannot be evil, the will is and is called evil from the malice which is joined with the object that is intended and which we must avoid.

82. On the imputability of an evil effect voluntary in the cause. Here there is question only of an evil effect, not likewise of the imputability of a good effect, because good, in order to be imputed to us, must be intended in itself, and therefore good voluntary only in the cause is never imputed. But evil voluntary

only in the cause can be imputed to us (n. 80). Therefore it is asked whether every evil effect is imputed to us already for this reason, that it follows from a cause freely placed by us, or whether other conditions are further required for this.

1. In order that an evil effect which alone follows from an action (indifferent in itself) be imputed, it suffices that it was foreseen confusedly. For since the effect is contained in the cause, the will which wills the cause necessarily wills also the effect which alone is contained in it.

Although this principle is implicitly contained in the following one, nevertheless it is better to state it explicitly. Example: drunkenness, which alone follows from drinking, must be imputed to the drinker, provided that he knew the drink as intoxicating.

2. In order that an evil effect which follows together with a good one from a good or indifferent action be imputed to the agent, the three following conditions must be present simultaneously:

a. That the agent foresaw the effect at least confusedly: for what has in no way been foreknown is not voluntary; what is in no way voluntary cannot be imputed to the agent.

Therefore drunkenness following from moderate drinking of wine, whose intoxicating force was unknown, is not imputable as sin, because it was not foreseen. Nevertheless brawls, blasphemies, obscene words, and things of this kind which are committed in drunkenness must be imputed as sin to him who is accustomed to commit these things in drunkenness, because on account of the custom of doing things of this kind in this state they have been sufficiently foreseen. But to him who was not accustomed to commit these things in drunkenness, they are not imputed if they happen by chance, because they have not been foreseen.

b. That he could have impeded the effect, that is, that the agent could have either not placed the cause or removed it once placed; for what does not depend upon his will cannot be imputed to the agent, since the foundation of imputation, liberty, is lacking.

c. The agent is rightly judged able to impede an evil effect which follows together with a good one from the same cause if there exists another means for obtaining the good effect with which the evil effect is not joined.

d. Hence a priest is not guilty of sacrilege who gives Holy Communion to a sinner, which he cannot deny because of the sacramental seal; nor is the omission of Mass imputable to him who must care for the sick.

e. That he ought to have impeded the effect, that is, that the agent is held either not to place the cause or to remove it once placed, lest the evil effect follow. For if he is not held to abstain from the cause, the agent uses his own right and, with regard to the evil effect, has himself only permissively.

To him who, in attacking a city, fires an instrument of war in such a way that besides the fighting enemies several innocent persons are killed at the same time, the death of the innocent is not imputed. To a physician are not imputed the depraved movements which he suffers in carrying out care of the sick.

83. When the cause of an evil effect is licit. Now it is asked when we are no longer held to abstain from an action, although it is foreseen that an evil effect will follow from it. The conditions under which it is licit to place a cause from which an evil effect follows are contained in this principle:

It is licit to place a cause from which a twofold effect follows, one good and the other evil, if the cause itself is in itself good or at least indifferent, if the good effect follows at least as immediately as the evil, if a proportionately grave reason is present, and if the end of the agent is honorable. Therefore four conditions are required in order that it be licit to place a cause from which an evil effect is known to be going to follow:

a. That the cause which is placed be good or at least indifferent: for if it were evil, the placing of the cause itself would already in itself, independently of every effect, have to be imputed as sin, for example in one who makes himself drunk while foreseeing that homicide will arise from it.

If, however, the cause were evil not precisely because of that effect about to follow, the malice of the cause would be imputed, but not the malice of the effect. Thus to one who harms his health while foreseeing that it will happen that he cannot fast, the omission of the fast is not imputed, because he is not held to preserve his health for the reason that he may be able to fast.

b. That the good effect follow from the cause at least as immediately as the evil, and not by means of the evil effect: for if from the cause there immediately follows an evil effect and from this only then a good one, evil would be done so that good may follow, which is never licit: for evils are not to be done that goods may come.[104]

c. If two effects follow from a cause, it can happen that they proceed from the cause equally immediately, because the cause by its nature is determined to produce both, as if a surgeon, by amputating an arm, causes health and pain for the sick man; or it can happen that the effects do not proceed from the cause equally immediately, because the cause is not determined by nature to produce both, as if someone paints an image for the sake of making profit, by the sight of which another is incited to sin. In each case the agent can intend one without intending the other.

d. Hence a girl pregnant from a crime sins gravely if she procures an abortion in order to avoid infamy; for she employs an evil means to obtain a good end. A physician licitly gives medicine to heal a pregnant woman, even if he foresees that an abortion will follow; but he acts illicitly if the remedy directly and immediately tends to expelling the fetus and only then, from this expulsion, to healing the disease.

e. That the evil effect which is foreseen to follow be not intended nor approved, but merely permitted: for even an action honest in itself becomes evil if the agent, in performing it, intends a depraved end.

Therefore two things from this side must be guarded against when a cause is placed from which an evil effect is foreseen to follow: first, lest the effect be intended when the cause is placed; and then, lest it be approved or pleasing when it actually follows. For example, if someone, using his own right, digs a pit into which he foresees his neighbor will fall, he sins both if he intends the neighbor's evil and if he rejoices in it once it has followed.

d. That there be present a proportionately grave reason for placing the cause and permitting the evil effect: for when a sufficient cause is added, the law ceases by force of which the evil effect was to be avoided; but when this law ceases, the evil effect can licitly be permitted, as if someone kills an attacker in order to preserve himself.

84. A proportionately grave reason. Therefore, in order to obtain a good effect, it is sometimes licit to permit evil, if there is present a proportionately grave excusing reason. The proportion must be present between the good effect, or between the cause on account of which the action is placed, and the evil effect.

In order that it can be judged whether there is present a proportionately grave excusing reason, attention must be given to these circumstances:

a. The greater the evil which is foreseen to follow from the cause placed, the greater the excusing reason must be.

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104. Cf. Rom. 3:8.

Thus it is not licit to kill an aggressor in order to preserve goods of lesser value, but it is licit in order to preserve goods of greater moment or life itself.

b. A greater excusing reason is required if, by omitting the action, the agent can impede the evil effect, than if the evil is nevertheless going to follow from elsewhere.

Thus a greater reason is required so that an innkeeper can provide meats to guests on a fast day if no one else will be found who will give them, than if another is present who will give them when he refuses.

c. The closer the cause concurs toward effecting the evil, the greater reason is required.

A proximate cause is distinguished, which produces the effect in such a way that between it and the effect no other middle cause intervenes; and a remote cause, which does not produce the effect unless several other middle causes intervene. A cause is called nearer or more remote according as fewer or more other causes intervene. Therefore a greater excusing reason is required in one who concurs proximately, a lesser in one who concurs remotely, toward another's sin, for example drunkenness. From this reason it can happen that a good lesser in itself compensates a greater evil, namely when the good follows proximately, but the evil only remotely, from the same action.

d. The more certainly the evil effect is foreseen to follow, the greater excusing reason is required; therefore a lesser reason suffices if the evil will follow only more or less probably.

e. A greater reason is required in those who are held from office to impede evil than in those who are held by no office to impede it.

Thus a greater reason is required so that an innkeeper can provide meats to his son on a fast day than so that he may licitly do this toward strangers, because from the office of piety he is held to impede the sins of his son. Those are said chiefly to be held from office to impeding sin who by force of contract, and therefore from justice, must impede it, such as guards and pastors.

85. When an evil effect voluntary in the cause is imputed. 1. One who knowingly places or does not remove the cause of an evil effect (the same must be said of omission of a commanded action) does not commit sin when the evil effect follows, but when he voluntarily places or does not remove the cause: for sin consists not in the existence of the evil effect, but only in the internal act of the will. Therefore, although the evil effect does not in fact follow, nevertheless the sin has already been committed.

a. Hence one who, while drinking, adverts that he will become drunk by further drink, and besides this knows by experience that in drunkenness he is accustomed to quarrel and to blaspheme, at the very instant at which, foreseeing the evil effects, he decides to drink, commits the sin of drunkenness, quarrel, and blasphemy willed in the cause. One who on a feast day in the morning gives himself to sleep, foreseeing altogether that Mass will be omitted from this, then sins against the precept of the Church when, foreseeing the omission, he gives himself to sleep. One who has decided not to hear Mass sins by this purpose, even if afterward, his will changed, he hears it. The same must be said of one who gives poison to another; namely, he does not sin when the death of the other follows, but when he places the cause of death.

b. Therefore the gravity of a sin voluntary in the cause is not to be taken from the gravity of the effect or from the gravity of the precept violated, but from the malice of the internal act of the will. But if the act of the will which seeks the cause with foresight of the evil effect is a venial sin, even the violation of a grave precept will be only venial.

2. An evil effect voluntary in the cause, which completes an internal sin externally, has the character of sin from the malice of the internal sin. Hence if he who placed the cause has retracted his will before the

evil effect followed, this effect does not have the character of sin, but only has the character of an effect of sin.

To him who, foreseeing that he will commit homicide in drunkenness, makes himself drunk and kills a man, death is imputed as sin. But if before the death of the other he retracted his depraved will, the death is not imputed to him as sin, but only as an effect of sin. The same must be said of one who gives poison to another but before that one dies has confessed the sin; namely, after death has later followed, he is not held to confess again the sin of homicide; nevertheless he must repair the damage inflicted by the homicide.

86. On the imputability of sin committed from a depraved habit. If someone has contracted a custom, for example of swearing, the individual acts committed from this custom are imputable as sin if the one swearing adverts to the act and its malice. But if he swears inadvertently, one must distinguish: as long as the custom is voluntary, the acts are imputed as sin; if the custom is involuntary, the acts are not imputed as sin. For the contracted custom is the cause of the individual acts; therefore if it is voluntary, the individual acts are voluntary in the cause. But custom is voluntary both if the one swearing, adverting to the custom to be contracted by repeated acts, nevertheless does not amend himself, and if, adverting to a custom already contracted, he tries by no remedy to put it away. It is involuntary if, whether contracted advertently or inadvertently, he retracts it by penance and proposes to put it away.

a. Therefore one who from a depraved custom which he is studying to amend swears or blasphemes inadvertently does not sin, because the individual acts are voluntary neither in themselves nor in the cause. But one who from a depraved custom which he neglects to root out swears or blasphemes inadvertently commits sin, because the individual acts are voluntary, not indeed in themselves, but in the cause. Nevertheless he does not commit as many sins as the oaths or blasphemies he says, but one, and that he commits when, adverting to the contracted custom and to the obligation of rooting it out, he neglects amendment. Therefore if someone does not advert to the individual sins which are committed from a depraved custom, there is no reason for the confessor to be solicitous about their number, since the sin consists only in the neglected amendment of the depraved custom.

b. From these things is gathered what sort of sin is negligence in taking away a depraved custom of this kind, which is the cause of sins. Namely, if the sins committed from custom are grave, the negligence is grave, because the obligation of rooting it out is grave; but if the sins are light, the negligence is light, because the obligation of taking it away is light; but finally, if some care is applied for amending the custom, yet not serious and sufficient care, light negligence likewise is committed.

Third Question

On Acts Morally Good[105]

87. Which they are. In order that a human act be morally good, a twofold condition is required:

1. That it be explicitly sought as good: for an act of the will cannot be morally good except from the moral goodness of the object, which is explicitly sought by the will as such.
2. That it be referred to God at least objectively: for since God is the first principle and ultimate end of all things, reason demands that all our works be referred to God.

a. Besides the threefold subjective intention, actual, virtual, and habitual (n. 42, 6), there is another relation of actions to God, which is called objective or natural. An action is referred to God objectively, naturally,

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105. Cf. Ballerini-Palmieri I, n. 103 ff. Walsch, l.c., n. 675 ff. Frins II, n. 290 ff. Ernst, *Uber die Notwendigkeit der guten Meinung* (Freiburg: Herder, 1905).

or implicitly, by the fact that the action is referred to God, not by some intention elicited by the one operating, but by its very nature. For every good work by its own nature is fitting to the moral order; but since God is the author and end of the moral order and has willed that it be observed, one who deliberately acts according to this order implicitly regards God and places an action ordered to God and conformable to the divine will. Now it is asked how an act must be referred to God in order that it be good. Concerning this matter there are diverse opinions of theologians.[106]

b. There are some who teach that all acts which are not concerned with God Himself, the ultimate end, must be referred to God through the virtual intention of the one operating in order that they be good.

Their argument is this: by a positive precept we are obliged to refer all our actions to God, for the Apostle says: Whether you eat, or drink, or do anything else, do all things for the glory of God.[107]

a. St. Alphonsus seems to be of this opinion, who (l. 5, n. 44) teaches that indeed an actual relation of all works to God is not required, but nevertheless a virtual one is. "Hence," he says, "it is necessary several times in the day, at least in the morning, generally to offer all one's acts to God, so that the precept of the Apostle may thus be fulfilled, at least by a virtual intention of doing all things for the glory of God."

b. Besides the Jansenists, the theologians who are called Augustinians (Noris, Berti, and others) thought that every act good from its object, in order that it be truly good, must be referred explicitly to God from the motive of charity. They came to this opinion from several testimonies of St. Augustine wrongly understood, and they thought it was confirmed from Sacred Scripture (by the texts just cited). They said that the omission of this relation was a venial sin.

It cannot be understood why, from the nature of the thing, another relation of the same action to the ultimate end would be required for honesty than the implicit and natural relation. And indeed, since God is the absolutely ultimate end, every moral action must tend toward God the ultimate end; but a moral action, by the very fact that it is morally good, tends toward God, and the one operating exercises an action tending by its nature toward God. Therefore, if another and more perfect relation were required, this would be necessary from the positive will of God. Therefore, in fact, the patrons of this opinion appeal to the precept of God promulgated through the Apostle. But no divine precept exists by which we are obliged to refer our actions to God by a positive intention. For the words of the Apostle related above are explained by some, with St. Bonaventure and his school, not of a precept but of a counsel; but if nevertheless, as St. Thomas with his followers thinks, they contain a precept, they do not oblige to anything else except that all works be referred to God implicitly and objectively. And indeed those words cannot contain a universal precept which affects absolutely all men; for if all actions, in order to be morally good, had to be referred to the ultimate end by the intention of the one operating, it would follow that all works of unbelievers are sins from defect of due relation, which is false.[108]

Nor do those words contain a particular precept which obliges only the faithful; for besides the fact that an intolerable yoke would be imposed upon the faithful by a precept of this kind, this doctrine is contrary to the sense and practice of the faithful. For all the faithful, even the pious and timorous, judge that they do a

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106. Since the relation of works to God is made through a good intention, here is solved the question whether a good intention is required, and what kind, in order that our works be good.

107. 1 Cor. 10:31. Cf. also 1 Cor. 16:14; Col. 3:17; 1 Pet. 4:10-11.

108. Cf. Baian proposition 25: "All works of unbelievers are sins, and the virtues of philosophers are vices"; likewise propositions 36 and 37.

good work if from mercy they give alms to a poor man, even if they do not think about a further end.[109]

Finally, if these words contained a precept of explicitly referring all things to God, we would not be held only to refer all works to God in whatever way, but we would be held to this from the motive of charity. For to seek the glory of God by one's acts pertains to charity; indeed it is even the most perfect intention which man can elicit, since it is the intention which God Himself pursues in His works *ad extra*, and the intention according to which Christ the Lord offered His life here on earth to God the Father. But it is false that all works are to be referred to God from the motive of charity; for it would follow that every action which is not done from the motive of charity is a sin, which no sane person affirms.

In fact, by these words the Apostle concludes a discourse expounding the precept that in no way by our operation should we scandalize our neighbors, but rather edify them; and therefore from the context the words objected contain the precept that our external operations, especially indifferent ones (to eat, to drink, and things of this kind), should edify the neighbor and in this way redound to the glory of God. Concerning the motive from which those operations are done, since it is internal and hidden from others, there is no discussion in these words.[110]

88. If there is question of acts indifferent in themselves, it is required that they be moderated at least according to the prescriptions of reason and that they be apprehended and sought as such, even if the will explicitly intends not the honorable good but delight or advantage.

a. One who plays in order to recreate himself and understands this action, all its adjuncts considered (of person, place, time, duration, etc.), to agree with the prescriptions of reason, and intends it as such, acts well. Theologians of every school hold this opinion, especially St. Thomas and his genuine disciples, who think that the acts which most Scotists call indifferent are morally good. Today this opinion has become almost common among theologians.[111]

b. Ordinarily men judge some action to be exact according to reason by the fact that they apprehend it as not illicit.

c. Others teach that all actions, especially indifferent ones, in order that they be morally good, must be referred positively to an honorable end, that is, the reason which moves and determines the will to acting must be a positively honorable good or the motive of some virtue; nor does it suffice that it be either delight or advantage of nature.

In order that actions by which a man consults his own health or preserves life through food be morally good, the will must seek them because, for example, God thus commands, or because they sustain life. The

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109. Cf. proposition 9 of Alexander VIII: "He truly sins who has hatred for sin merely because of its turpitude and unfittingness with nature, without any respect to God offended." Therefore he neither sins nor performs an evil act who, from the motive of natural honesty without a further relation to God, elicits an act of sorrow for his sins.

110. Cornely, *Commentarius in s. Pauli ep. 1. ad Cor.* (Paris: Lethielleux, 1890).

111. Cf. Ballerini-Palmieri I, n. 112-129; VI, n. 239. Genicot I, n. 39. Pesch III, 673. Lest anyone think this doctrine foreign to the mind of the ancient theologians, let him compare these testimonies. "The act of political virtue (to speak to someone from a certain civil friendship - an indifferent act from an indifferent end) is not an indifferent act, but is good in itself, and if it is informed by grace, it will be meritorious." St. Thomas, II Sent., dist. 40, q. 1, a. 5. "In two ways man can operate for relieving a necessity of nature or even for an advantage of the body: first, by considering human nature only as animal; in another way, by considering it also as rational, which happens when, for operating on account of an advantage of nature, man applies the rule of reason and judges that advantage to be fitting to himself also as regulated by reason. Therefore the former mode does not suffice for the honesty of the action. But if he operates in the second mode, this is enough for the honesty of the action." Suarez, in I-II, tr. 33, disp. 9, sect. 3, n. 9. "We are accustomed to call recreation honest, games honest, etc., insofar as in their delightfulness, which is the reason of willing and the formal object of such acts, the measure prescribed by reason is preserved, and on account of this measure preserved they are named honest." Mastrius, l. 1, disp. 5, q. 4, a. 4, n. 196.

bestowal of alms by which someone intends to relieve the need of the poor is a morally good work because it is done from a positively honorable motive, namely from the motive of the virtue of mercy.

Of this opinion, besides the Augustinians, are many theologians of every school, not only Thomists, but especially Scotists, who, admitting acts indifferent in the individual, require this for acts to be morally good: that they be explicitly ordered to an honorable end.

b. Their argument is this: man always and in all things is held to operate as man, or as a rational being. For God cannot permit that man, acting deliberately or as a rational being, should operate in a mode which does not befit the dignity of rational nature. But an operation which is not positively referred to an honorable end is not worthy of man; for the end proper to rational nature is a positively honorable end. Therefore one who by his actions seeks advantage or delight, and does not positively intend a further end, acts after the manner of brutes and does not place a morally good action.

c. Refutation. But neither does this opinion seem to be admitted. For although the end proper to rational nature is called the honorable good, nevertheless it can be shown by no argument that man is held always and in all things to intend that end positively in order that he act well. For it suffices that he intend it negatively, that is, that he apprehend himself to do nothing which is contrary to the honorable end; by this very fact he also implicitly intends the positively honorable end. Besides this, this opinion also seems to be contrary to the sense and practice of the faithful, as will soon be explained.

89. Arguments for the proposed opinion. a. An action is morally good which is good from object, end, and circumstances; but an action which is ordered according to reason is of this sort. Certainly an object which, considered abstractly, is indifferent, but in the concrete, all circumstances considered, is ordered according to reason, must be called morally good. Likewise an end which, considered abstractly, is indifferent (delight), but in the concrete, with account taken of the circumstances, is ordered according to reason, must be called morally good, because it is conformable to reason. It is always indeed required that man in his deliberate actions operate as man and as befits rational nature; but one who in some action intends delight or advantage of nature, yet one tempered according to the norm of reason, does not act after the manner of brutes, but as a rational being, namely deliberately and according to the prescription of reason.

b. An act by which moral virtue is exercised is a morally good act: "the honorable," says St. Thomas, "is properly referred to the same thing as virtue."[112] But there are acts whose object and end are indifferent in themselves, and which are constituted acts of virtues by this alone, that the use of things, which is undertaken for advantage and delight, is in every respect tempered according to the norm of reason; of this kind is the virtue of temperance.[113]

c. This opinion agrees with the mind and practice of the faithful, even the timorous. For no one, however pious he may be, judges that he has committed sin if he moderately uses the advantages and delights of nature according to the prescription of reason, and is not solicitous about a further honorable end. Therefore the faithful nowhere accuse themselves of actions of this kind as though they had performed an evil action; and this practice of the faithful agrees very well with the mind of the holy Fathers.[114]

Note. Nevertheless all concede that this moral goodness of actions is the lowest, and that it can be increased and perfected through an intention by which actions are explicitly ordered to a higher honorable end and

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112. *Summa* II-II, q. 145, a. 1.

113. St. Thomas, II-II, q. 141, a. 6. Cf. also I-II, q. 64, a. 1.

114. Cf. St. Augustine, *In Ps.* 34, serm. 2, n. 16; *In Ps.* 164, n. 2.

therefore to the ultimate end. For the goodness of actions grows so much the more, the higher and nobler is the end which is positively intended by the agent, and the more this intention is explicit and actual.

90. Difficulties. Against this doctrine a twofold difficulty arises. One is from Sacred Scripture, by which idle words, and by equal reason idle actions, are reproved;[115] but idle words are said to be those which do not have an honorable end. The other difficulty arises from propositions 8 and 9 condemned by Innocent XI, from which it is clear that to use delights for pleasure alone is sin;[116] but one who in delightful actions does not intend a further end acts for pleasure alone.

a. An idle word is called not indeed a shameful or lying word, but neither is it a word which is not directed by the intention of the speaker to a higher honorable end. Rather an idle word is a word which, without reason of necessity or utility, is uttered from mere buffoonery or talkativeness; but a word of this kind, as uttered against the prescription of reason, is evil.[117]

b. He is said to act for pleasure alone, not who in the use of delights does not intend a further honorable end, but who seeks delightful actions as long as they bring pleasure, without respect to the prescriptions of reason dictating and requiring mode and measure, lest the use of delights impede goods of a higher order. Therefore one who acts for pleasure alone not only does not intend a higher end, but also implicitly excludes and impedes it (n. 74).

Therefore to act for pleasure alone in such a way that a further honorable end, and therefore the ultimate end, is impeded, is sin. But to act for pleasure alone in such a way that delight moves one to acting and is intended, without being directed to a further honorable end, is not sin, provided that the delightful action is known truly to serve nature and that in its use the mode prescribed by reason is observed.

91. On the use of delights.[118] a. Delightful goods (*Genussmittel*, *Genussguter*) are called those whose use brings delight. Delight is the rest or complacency of the appetite in a present or possessed good. Since there is a twofold appetite, there are also two genera of delightful goods: spiritual and sensible. Although delight is perceived also from the use of spiritual things, nevertheless the discussion here is chiefly of the delights of the lower appetite from the use of sensible things.

b. Sensible delightful goods are of two kinds: necessary, which are required for conserving life or the species and to which delight is annexed, as food and drink; and non-necessary, which serve only for bringing delight, as liquors, odors, spices, tobacco, etc. These are either taken alone or sprinkled upon things necessary for life in order to increase their delight. Concerning delightful things a twofold question is instituted: a. whether their use is licit; b. whether delight itself can licitly be sought.

1. Each person can licitly procure for himself delights which are not harmful, provided that their use is directed by the law of reason so as to be honorable and morally good; nevertheless abstinence from them is to be commended as an exercise of virtue.

a. All created things are good and were created by the author of nature for this reason, that we might use them to obtain our honorable ends. This especially holds concerning things which serve for conserving

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115. Matt. 12:36.

116. Proposition 8: "To eat and drink unto satiety for pleasure alone is not sin, provided it does not harm health, because the natural appetite can licitly enjoy its own acts." Proposition 9: "The work of marriage exercised for pleasure alone is entirely without fault and venial defect." These propositions are false under multiple heads.

117. Cf. Knabenbauer, *Commentarius in evangelium s. Matthaei* (Paris: Lethielleux, 1892), I, p. 496 f.

118. Cf. I. B. Becker, "Die moralische Beurteilung des Handelns aus Lust," *Zeitschrift fur katholische Theologie* (1902), pp. 448, 673. Frins II, n. 198 ff.

life and the species: "For all things are yours";[119] therefore their use is not only not prohibited but entirely licit.

b. After the fall the appetite is borne toward delights independently of the norm of honesty, namely even toward those which are illicit and inordinately toward those which are licit. Therefore in their use it must be ruled by reason, so that its acts may be morally good.

c. For a twofold reason abstinence from delightful things, even licit ones, is to be commended: to strengthen the will, so that it may abstain from them so much the more certainly and easily when their use is illicit; and to exercise virtue according to the example of Christ the Lord, who, though He was rich, for our sake became poor,[120] and completely renounced non-necessary delights.

2. The act of the will by which delight itself or a delightful thing is sought on account of delight is licit and morally good, provided that the object is licit and the appetite for delight is moderated according to the rules of right reason. Therefore one who uses the delights of nature, such as conversing, eating, drinking, playing, recreating himself, etc., because they please, is far from acting badly; rather, he acts well, if in these things he observes the mode and measure prescribed by reason.

a. There are theologians (for example Billuart with other Thomists) who contend that acts which are done from delight, of whatever sort this may be, are all morally evil: for since to act on account of delight is not fitting to a rational being, they think every deliberately sought delight is morally evil. Others (as Viva)[121], distinguishing between animal delights, such as delights of touch and taste, and superior delights, though sensible, such as delights of sight and hearing, teach that the former can never under any condition be licitly sought for their own sake, because they are not of themselves worthy of rational man; but that the latter can licitly be sought for their own sake, provided they are sought with moderation, because they serve intellectual knowledge and do not so depress man to the condition of brutes.

b. To actions which contribute to conserving and perfecting nature, the author of nature has for this reason given advantage and delightfulness, that men might be drawn from this to exercising them. Therefore man can will advantage and delights. Now if in those actions he perceived and sought nothing other than advantage of nature and pleasure, the action would indeed be fitting to animal nature, but would not be worthy of rational nature. But by the fact that he prescribes in every respect, to the advantages and delights which he seeks, the mode and measure which right reason demands (with regard to adjuncts of time, place, duration, etc.), he acts as a rational being. Nor can it be understood what would be lacking to actions of this kind so that they cannot be called right and worthy of man. For the nature of man, since he is a rational animal, is not rational only, but animal and rational; therefore he can positively seek and pursue those things which are fitting to his animal nature. But by the fact that these are exercised under the guidance and dominion of reason, they also sufficiently befit rational nature.

92. On omissions. It is asked whether omissions of a good work not commanded are sins. An omission of a good work cannot take place without the pursuit of some good; now, according as this good is honorable or dishonorable, the omission will be sinful or not sinful.

In order that this may be explained better, it must be noted that omissions of a good work can occur in a twofold way: either in place of a more perfect work a less perfect work is chosen, or the good work is simply omitted.

Notes

119. 1 Cor. 3:22.

120. 2 Cor. 8:9.

121. *Damnatae theses*, on propositions 8 and 9 condemned by Innocent XI, nn. 6, 9, 13.

a. If in place of a more perfect action another less perfect action is chosen which itself is honorable, the omission is far from a sin; rather, it is a good act, although of lesser perfection than the omitted action. If, for example, to a young man there offers itself an occasion of hearing Mass (not commanded) and at the same time of taking a walk, and, the more perfect work omitted, he chooses the less perfect walk, by the omission of Mass he in no way sins.

b. If the good work is simply omitted, or excluded by an act of nilling, without another work being chosen in its place, it depends upon the motive on account of which the more perfect work is omitted whether the omission is sin or not. For since no one can will against the good insofar as it is good, one who omits a good work omits it for this reason, that he perceives in it some evil which he intends to flee; but we flee evil from love of the opposite good. Now if the love of the opposite good is honorable, the omission will be a morally good act; if it is dishonorable, the omission will be sin. If, for example, when an occasion of hearing Mass is offered, a young man apprehends that indeed no impediment is present for going to church, but also that no obligation urges, and omits it, he decides to omit Mass for this reason, that he apprehends in it an evil, for example inconvenience, which he intends to flee. Now if the motive on account of which he tries to avoid the inconvenience is reasonable, the omission is not sin; but if the motive is, for example, spiritual sloth or disdain of the good, the omission is sin.[122]

Appendix

On Acts Morally Indifferent

93. Declarations. 1. It is not asked whether human acts are morally indifferent: for it is clear that human acts which are done without advertence to the moral order are neither good nor evil (n. 55). But the question is instituted concerning moral acts: namely, whether acts which are done with advertence to the moral norm are all either good or evil, or whether moral actions must be admitted which are indifferent.

2. This question concerns moral acts considered concretely and in the individual, namely as they are exercised by an individual person operating here and now, and therefore together with the end of the one operating and with the remaining adjuncts accompanying the action in the concrete, for example to sing in church in order to praise God. For if moral acts are considered abstractly and according to species, that is, only according to their object, for example to sing, with abstraction made from the end of the one operating and from the remaining circumstances, it is certain that moral actions can be indifferent, because per se they have neither conformity nor difformity with the norm of morality.

It is clear that an act considered according to species does not exist except in the abstraction of the mind: for as often as an act is performed, it is performed in certain circumstances and unto some end which the agent proposes to himself.

3. Now concerning moral acts considered concretely and in the individual, there is not one opinion of philosophers and theologians. For the Scotists, affirming with St. Bonaventure,[123] and the Thomists with St. Thomas,[124] and the greater part of other theologians, denying, are opposed concerning whether any moral act considered in the individual can be indifferent. Nevertheless, they affirm this only of truly moral acts, which are done deliberately and with advertence to the moral order. For it cannot be denied that acts which are done without advertence either to the act itself or to the morality of the act are indifferent even considered in the individual.

Notes

122. Cf. Pesch III, n. 675. Lehmkuhl I, n. 40.

123. In II Sent., dist. 4, q. 1, a. 3.

124. *Summa* I-II, q. 18, a. 9.

These things, however, hold concerning the natural order and the natural goodness of actions. For indifferent actions are sometimes also called supernatural actions which are not meritorious and yet are not sins, that is, actions which are neither meritorious nor demeritorious. It is readily conceded that there are indifferent supernatural actions, of which kind are works both of sinners and of unbelievers which are done from grace, but especially works by which they dispose themselves for justification. Whether such actions must also be admitted in the just, who are in the state of sanctifying grace, depends upon the conditions which are required for a meritorious act.

94. There are no indifferent moral acts. For the one operating either intends an honorable end or does not intend one. If the first, the action is morally good. If the other, the one operating either apprehends the action to be exact according to the norm of reason, or apprehends it as opposing the norm of reason. There is no middle in him who adverts to the morality of the action. If the first, the action is good; if the other, the action is evil (n. 87).

1. Many Thomists reason in this way: any action which is exercised deliberately is ordered by the one operating to some determinate end, because man acting deliberately always acts from some end. Now this end is either an honorable end or it is not. If the first, the action will be good; if the other, the action will be evil. For as often as man acts deliberately, he must act according to the dignity of rational nature. But he acts according to the dignity of rational nature only if he acts for an honorable end; therefore in the concrete there is no morally indifferent action.

This argument supposes that actions must be positively directed to an honorable end in order that they be good. Therefore, if it is taken strictly, as the words sound, those actions indifferent from the object which are done from an indifferent end or on account of sensible delight, but are nevertheless ordered according to the mode prescribed by reason, would have to be called morally evil.

2. The reason of the Scotists, by which they fortify the contrary affirmative opinion, is this: in order that man act fittingly to rational nature, it is not necessary that always and in all things he tend toward a positively honorable end. Therefore if an action is ordered to some advantage of nature or is exercised for relieving a need of nature, it will not be good, because it does not tend toward an honorable end; nor will it be evil, because on the one hand it is not unfitting to rational nature, and on the other it is not necessary that every action be referred to an honorable end. Therefore it will be indifferent.

This argument also supposes the same theory, namely that actions must be positively directed to an honorable end in order that they be good. Nevertheless it affirms that those actions which are done on account of an indifferent end, whether their object is good or indifferent, but nevertheless ordered according to the prescription of reason, are morally indifferent.

95. Things to be noted concerning this question. 1. From the premises it is clear that the whole controversy concerning indifferent acts depends upon two heads of doctrine: a. whether an obligation can be demonstrated of always and in all deliberate actions intending a positively good end; for if this obligation exists, actions placed on account of an indifferent end become evil because of this neglected obligation. b. But if this obligation is not established, it is further asked whether those actions which are exercised on account of an indifferent end, but nevertheless according to the prescription of reason, must be called good or indifferent.

2. Whatever is said, certainly those theologians are not to be tolerated who on the one hand deny acts indifferent in the individual, but on the other hand absolutely require for the moral goodness of an act that an honorable end be positively intended. For the rigor of this doctrine is too greatly opposed to the mind and practice of the faithful, who are not persuaded that in absolutely all actions a positively honorable end must be sought lest they be evil. Therefore no one, whether uneducated or learned,

whether of lax or timorous conscience, recognizes a moral defect in the omission of this good intention, and therefore no one ever accuses himself of it. And indeed it cannot be understood why, for example, an action is evil by which someone tries to drive away the sensation of cold only to relieve this annoyance without a higher end. Therefore it will be either good or at least indifferent; the Scotists call it indifferent, but according to the theory expounded it must be called morally good, if the agent judges it licit in the concrete and explicitly intends it as such.

Fourth Question

On Supernatural Acts[125]

96. Declarations. 1. Moral acts by which we arrive at the supernatural end of eternal life must be supernatural, and this by the internal supernaturality of the act itself, by which it is elevated above nature in its very being and as to substance. For the way must be proportioned to the terminus, and the work to the reward; but the end of eternal life is strictly supernatural and essentially diverse from a natural ultimate end. Therefore also the acts by which we tend toward that end must be supernatural as to essence.

2. The conditions which are required in order that a human act truly be supernatural are assigned variously by authors. All indeed require: a. that the act be morally good, for a human act indifferent in itself morally cannot be supernatural. Certainly a supernatural act has God as principal author through grace exciting and assisting; but God does not excite by His grace to indifferent acts. Then they require: b. that the act proceed from a supernatural principle, namely from a power elevated by actual grace; for in order that an act be supernatural, this certainly is required: that it be elicited not by the powers of nature, but by the supernatural powers of grace. But others further require: c. that its formal object or motive also be supernatural.

What this condition means they explain in diverse ways; nevertheless most wish the formal object to be apprehended through faith, that is, that the agent be moved to acting by some revealed truth which he knows not by the mere light of reason but by faith (the intellect furnished with the light of faith). For example, one who gives alms to a poor man because to aid the poor is honorable acts from a natural motive; but one who bestows alms because the poor man has been redeemed by Christ, because he is the brother of Christ, because Christ commands this, because it contributes to eternal life, acts from a supernatural motive apprehended through faith, provided that he is furnished with the habit of faith. For faith must influence the supernatural act; but it influences through a motive known from faith.

97. Twofold opinion. 1. Theologians of great name require for a supernatural act, besides a supernatural principle, also a supernatural object or motive: Suarez,[126] Lacroix,[127] St. Alphonsus,[128] Mazzella,[129] Lehmkuhl.[130]

These authors bring forward two kinds of arguments:

Notes

125. Cf. St. Thomas, *De veritate*, q. 14. Schmid, "Die Ubernaturlichkeit der menschlichen Heilswerke," *Zeitschrift fur katholische Theologie* (1888), pp. 263, 419. Mullendorff, "Die Verdienstlichkeit u. das ubernaturliche Motiv," *Zeitschrift fur katholische Theologie* (1893), pp. 42, 496. Schiffini, *De gratia divina* (Freiburg: Herder, 1901), n. 371 ff.

126. *De gratia*, l. 2, c. 4, 5; l. 12, c. 7, 33, n. 10.

127. *Theologia moralis*, l. 2, n. 21 ff.

128. *Theologia moralis*, l. 6, n. 439.

129. *De gratia Christi*, n. 54 ff.

130. *Theologia moralis* I, n. 258. *Passauer Monatsschrift* (1895), p. 14 ff.

a. From the nature of the thing: acts are specified by the (formal) object; but a natural act differs in species from a supernatural act; therefore the (formal) object of each act must be diverse in species or essentially. But the essential diversity of each (formal) object consists in this, that one is apprehended through reason, but the other through faith.

b. From the sources of revelation. Some patrons of this opinion concede that from the nature of the thing there is not an efficacious argument by which it is demonstrated that a natural and a supernatural act cannot be concerned with the same object. But they affirm that from the positive will of God all supernatural acts must proceed from faith, or must have a supernatural motive; since both Sacred Scripture and tradition teach that faith is the root from which supernatural life sprouts. Therefore without the influence of faith through a motive known from faith, supernatural acts cannot be exercised. And indeed:

c. These testimonies: "Without faith it is impossible to please God; for he who comes to God must believe";[131] "the just lives from faith,"[132] must be understood not only of first justification, for which man must dispose himself through an act of faith, but of absolutely all supernatural acts, which cannot be supernatural unless faith influences them through their supernatural motive.

d. The Council of Trent, wishing to declare the doctrine of St. Paul expressed by these testimonies, adds: "For this reason we are said to be justified through faith, because faith is the beginning of human salvation, the foundation and root of all justification";[133] from which we have that not only first justification, but also the increase of sanctifying grace through supernatural and meritorious acts, must proceed from the root of faith. But, they say, acts proceed from the root of faith only in this way, that faith influences them through a supernatural object and concurs in their production.

2. Nevertheless it can be affirmed: in order that a human act be supernatural, no other condition is required except that it be ethically good and proceed from grace or from a supernatural principle; but it is not necessary that the object of the supernatural act be supernatural. Therefore the supernaturality of the act does not depend upon the object, but upon the eliciting principle, so that it is supernatural even if it is concerned with a natural object, provided that it is elicited by the powers of grace.

a. By these things it is not denied that an act which proceeds from faith, and therefore is elicited from the supernatural motive of faith, is of greater dignity and worth. Therefore, although the supernatural good intention, as it is called, is not proved necessary from this head, nevertheless the faithful are to be admonished and exhorted that they accustom themselves to exercise their actions from the supernatural motives of faith; for their works will in this way be of greater merit. But for the very supernaturality of the act this is not necessarily required.

b. For the rest, that which Cardenas teaches specifically concerning alms can be extended to most morally good actions of a Christian man: "He who in the school of faith has learned that alms are a holy operation and pleasing to God, because God has thus revealed, although when the occasion of alms is offered he is actually unmindful of divine revelation, nevertheless operates led by the doctrine which he learned in the school of divine faith; and thus that operation proceeds virtually from an act of faith, because he operates from the dictate which he acquired in the school of faith."[134]

Notes

131. Heb. 11:6.

132. Heb. 10:38; Rom. 1:17; Gal. 3:11.

133. Sess. 6, c. 8.

134. Cardenas, *Crisis theologica*, pr. 4, disert. 16, c. 6, n. 54.

98. Arguments for this opinion. 1. Acts which proceed from a principle supernatural through grace are without doubt supernatural: for if the root and principle is supernatural, the fruit or effect must also be supernatural. And indeed actual grace brings it about that human acts are supernatural. For grace is granted for this reason, that acts may become supernatural through grace; and for this reason grace is necessary for every salutary work both of the just and of the sinner, both of the faithful and of the unbeliever, because grace itself must bring it about that the work is supernatural.

a. Therefore if for supernatural acts a supernatural object or motive were required, this would be for this reason: because in this order of providence God would grant the help of grace (especially for indifferent acts) only under this condition, that man act from a supernatural motive. But it can be demonstrated by no argument that God in this order made the supernatural concurrence of grace dependent upon the supernatural motive of the agent. On the contrary, it seems able to be demonstrated that faith is the condition on which the supernatural help of grace depends in this order, so that God grants supernatural grace to those who have already received faith, by which their works are elevated to the dignity of a truly supernatural act. Namely, for man constituted on the way to the terminus, as often as he acts well, God is present with the supernatural help of grace. For God has destined man to a supernatural end; by this very fact He has also imposed upon him the obligation of tending by his acts toward the end established for him. But since without the help of grace he cannot tend toward his end, God must succor him through grace, so that man can satisfy his obligation. Therefore as often as man by his acts tends toward the end established for him, God grants him supernatural grace. But man tends toward his end as soon as he embraces faith or disposes himself to having it: for through faith he apprehends his end and orders himself to it. To bring forward at least one testimony of Scripture from many, Christ the Lord says: "He who hears My word and believes Him who sent Me has eternal life,"[135] that is, he has that by which he can perform the works of eternal life, because he has the condition by which, once posited, supernatural graces are supplied by God. From tradition, moreover, it is established that in the Church there flourishes the persuasion which St. Augustine expresses in these words: "that anyone cannot operate well unless through faith he has received grace. But man begins to receive grace from the time when he begins to believe God, moved to faith by internal or external admonition."[136]

b. From the preceding argument it follows that actual grace is always available to all the faithful, whether just or sinners, by which their morally good actions become supernatural. But with greater certitude it can be affirmed that all morally good works of the just are always exercised with the help of divine grace and therefore are supernatural. For the Council of Trent has this: "For since that same Christ Jesus, as head into the members and as vine into the branches, continually pours virtue into the justified themselves, which virtue always precedes, accompanies, and follows their good works."[137]

2. If for supernatural acts the influence of faith through a supernatural motive were required, there would be no supernatural act without the influence of faith; but there are supernatural acts without the influence of faith. It is certain that in unbelievers before faith and independently of the influence of faith there are found acts which proceed from grace: for the proposition affirming that faith is the first grace has been proscribed;[138] since before faith truly supernatural graces are granted, by which the unbeliever may dispose himself to embracing the true faith. But acts which are elicited by the powers of grace are

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135. John 5:24.

136. *Ad Simplicianum*, l. 1, q. 2, n. 2. Cf. *Zeitschrift fur katholische Theologie* XVIII (1894), p. 593; XX (1896), p. 22 ff.

137. Council of Trent, sess. 6, c. 16.

138. Cf. proposition 27 of Quesnel and 5 condemned by Alexander VIII.

supernatural. Therefore there are supernatural acts which are not founded on faith in this sense, that faith influences them.

99. To the arguments of the opposing opinion. a. Acts without doubt are specified by the object: for an object diverse in species brings it about that the acts also are essentially diverse. Nevertheless the object is not the only reason from which the essential distinction existing between acts must be sought, since this can also be derived from an essentially diverse power, even if the object of the acts is the same. Now the distinction between a natural and a supernatural act must chiefly be taken from the side of the essentially diverse principle.

b. It cannot be affirmed that all supernatural acts are so founded in faith that they spring forth from faith as from a root. For it is established that there are truly supernatural acts in unbelievers, namely those acts which precede faith itself and its influence.

c. The words of the Apostle in Heb. 11:6 must proximately be understood of first justification, so that the sense is: the good pleasure with which God follows the just cannot be obtained without faith; and in like manner, one who comes to God through justification itself must have faith. Therefore proximately those words signify the absolute necessity of faith for justification. Then, if the words of the Apostle are taken more broadly, so that faith is said to be necessary for any good pleasure with which God follows even supernatural works, and for any approach by which even through supernatural works we come to God, this is true in this sense: not indeed that the motive of faith, but that the existence of faith in the one operating, is the condition without which grace necessary for supernatural acts is not granted.

d. The words "the just lives from faith" signify: a. the just man has through faith and on account of faith that by which he can live the supernatural life, because faith is the foundation and condition by which, once posited, he receives supernatural graces from God. b. The just man, at least for the most part, takes from faith the motives of willing and acting; from the same faith he takes motives of living well and piously and of exactly observing the precepts of the Christian religion, and in this way he lives, that is, preserves and perfects the supernatural life.

e. Faith is called the foundation and root of all justification not because of the motive of faith from which works supernaturally good must be done, but: a. because supernatural life begins with faith and depends upon faith as upon a condition of actual graces; b. because faith moves one to exercising good works and in this way concurs toward preserving and increasing justification.

Fifth Question

On Meritorious Acts

First Article

On The Nature Of Merit

100. Definition. Merit, considered abstractly, is that property of a human action by force of which it is worthy of reward or punishment: for a good action done in service of another is worthy of reward, but an evil action which redounds to the detriment of another is worthy of punishment. Merit, considered concretely, is a work worthy of reward or punishment. Therefore some work has the character of merit by the fact that it redounds to the good or detriment of another. Theological merit is a work which before God is worthy of reward or punishment; but more precisely that is called theological merit which, known from revelation, is referred to the supernatural end of eternal life, concerning which the words hold: for

God renders to each one according to his works.[139]

The moral goodness or malice of a human act, insofar as it redounds to the service or offense of God, is the cause of merit; reward or punishment is the effect of merit. In theological usage, the merit of a good act is commonly understood under the name merit, while the merit of an evil act is customarily called rather demerit.

101. Division. a. Merit is divided into natural and supernatural, according as it is ordered to a natural reward, which consists in goods of the natural order, or to a supernatural reward, which consists either solely or chiefly in supernatural goods. Natural reward belongs to works which are performed by the powers of nature alone; for since all morally good actions redound to the glory of God, they are worthy of retribution. But in this order of nature elevated through grace, no other merit and reward is considered except supernatural, which belongs to works that are done from grace.

b. It is divided into merit *de condigno*, to which wages are due from justice because its value is equal to the reward, and merit *de congruo*, to which wages are due only from a certain fittingness because its value is not equal to the reward. The former is also called perfect, the latter imperfect; the former is the merit of the just, the latter also belongs to sinners.

A twofold distinction intervenes between merit *de condigno* and merit *de congruo*: a. with regard to the value of the work: a work to which merit *de condigno* belongs is equal to the reward, not indeed with mathematical equality but with moral equality, or, as St. Thomas has it, with equality of virtue: "as the seed of a tree, in which there is the virtue unto the whole tree."[140] In merit *de congruo*, the reward surpasses the value of the work. b. With regard to the right to reward: in merit *de condigno*, on the part of the one meriting there is a right to the reward and a debt of justice on the part of the one rewarding; in merit *de congruo*, wages are bestowed only from a certain equity, and if the reward is owed because of a promise on the part of the one rewarding, it is owed only from fidelity.

c. As regards the infallibility of merit, it depends upon the divine promise. Now every merit *de condigno*, because of the divine promise joined to it, is infallible; but merit *de congruo* is one kind infallible, another fallible, according as a divine promise is or is not joined to it. Thus a sinner through the ultimate disposition for sanctifying grace merits this grace *de congruo* infallibly, but not through a remote disposition.

d. By reason of the good which is repaid in the homeland, it is divided into essential or substantial reward, which contains: a. eternal life or the beatific vision universally; b. increase of glory or greater grades of the beatific vision; and accidental reward, which contains all goods which besides the beatific vision come to the blessed in the heavenly homeland, and which are called secondary: the three aureoles (of martyrs, doctors, and virgins); familiar fellowship of the angels, the blessed, and the very queen of heaven; the vision of the humanity of Christ; joy concerning one's own body; a singular place assigned to the saints in heaven.

Second Article

On The Conditions Of Merit

102. What the conditions of merit are. Only those special conditions which are required on the part of the one meriting for merit must be proposed more accurately here.

Notes

139. Rom. 2:6; Matt. 16:27.

140. Cf. *Summa* I-II, q. 114, a. 3, ad 3.

a. The general conditions of merit, which are required for every merit both *de condigno* and *de congruo*, are four, of which two are referred to the person meriting, but two to the meritorious work: a. the state of the way, which by the free disposition of God has its terminus in death; b. liberty from coercion and necessity; c. the moral goodness of the work; d. the supernaturality of the work.[141]

b. The special condition of merit *de condigno* is the state of grace on the part of the person meriting. For true merit does not depend on the supernatural work alone, but also on the state and dignity of the person meriting. Therefore supernatural actions, unless sanctifying grace is added, do not have true and perfect merit; since sanctifying grace gives to works that value by which they are constituted proportioned and equal to the reward.

c. The Council of Trent attributes true and properly so-called merit, or merit *de condigno*, only to the works of the just;[142] b. Sacred Scripture declares that man cannot bear the fruit of good works unless he has remained in Christ through sanctifying grace.[143] Besides this, it calls only sons heirs, that is, he does not merit the inheritance unless he is a son through sanctifying grace.[144] c. And indeed, if one who is not in the state of grace were capable of merit, someone could be at the same time worthy of eternal life and eternal death. Besides this, the reward is the good proper to the sons of God, since it is the inheritance of the sons of God through adoption; but only through grace is man elevated to the state of sons of God. Therefore works done outside the state of grace have no proportion to the reward.

103. Many theologians further require that the work be done from charity: for without charity neither faith nor any other good work of whatever kind has any value before God.[145] But how the work must proceed from charity in order that it can be meritorious, not all explain in the same way.[146]

a. Some explain it so that only elicited acts of charity and acts commanded by charity, namely those which are ordered to God from the motive of charity actually or at least virtually, are meritorious. Therefore these require for merit an intention at least virtual by which all works are ordered to God from charity. By an argument taken from the nature of the thing they confirm this opinion in this way: for merit *de condigno*, which is the noblest merit, an act of the supreme and most perfect virtue, which is charity, is required. To confirm their opinion they appeal to the authority of St. Thomas,[147] whom St. Alphonsus understands and follows in this sense.

b. Others explain it so that acts of charity and works which through an act of charity are habitually ordered to God are meritorious. Therefore these require for merit a habitual intention by which all works are ordered to God from charity. In order that this condition be satisfied, it is required that an act of charity precede, that it never have been retracted by a subsequent grave sin, and that it be renewed as often as the precept of charity urges. By this reason they judge all works to be habitually referred to God from the intention of charity. The patrons of this opinion also appeal to St. Thomas, whom they think must be understood in this sense.[148]

Notes

141. The necessity of these conditions is shown by the dogmatic theologians, among whom may be compared: Schiffini, *De gratia divina* (Freiburg: Herder, 1901), n. 344 ff. Chr. Pesch, *Praelectiones dogmaticae*, 3rd ed. (Freiburg: Herder, 1900), V, n. 397 ff. Hurter, *Compendium theologiae dogmaticae*, 9th ed. (Innsbruck: Wagner, 1903), III, n. 225 ff.

142. Sess. 6, c. 16, can. 32.

143. John 15:4.

144. Rom. 8:16 ff.

145. 1 Cor. 13:1-3.

146. Cf. Schiffini, l.c., n. 364 ff.

147. *Summa* I-II, q. 100, a. 10, ad 2; *De virtutibus*, q. 2, a. 11, ad 3; II Sent., dist. 40, q. 1, a. 5, and ad 6.

148. *De malo*, q. 2, a. 5, ad 10; II Sent., dist. 40, q. 1, a. 5, and ad 6.

c. Finally, others explain it so that acts of charity and all works which proceed from habitual charity, or from the habit of charity, which is always conjoined with sanctifying grace, are meritorious. Therefore these require for merit no peculiar intention or preceding act of charity by which works are ordered to God from charity, but teach that for merit the state of grace suffices, which embraces charity by an indissoluble bond, and that objective or natural ordering to God which the works of a just man have of themselves and by their nature, provided that they are good in themselves and placed through the influence of supernatural grace. For through sanctifying grace man is ordered to God, the supernatural end, and becomes a son of God, whose good works by this very fact are works of a son of God; but the works of a son of God are of themselves worthy of the eternal inheritance.

104. The opinion to be preferred. a. The reasons which show that this third opinion is altogether to be preferred to the others can be compared among the dogmatic theologians. The principal ones are these: a. In Sacred Scripture not only acts which in some way proceed from actual charity, but also acts of other virtues, and these named simply, are promised and attributed eternal beatitude itself.[149] b. The Council of Trent, recounting all the conditions required for merit *de condigno*, with no mention made of an act of charity or of another good intention, declares all good works of the just which are done through grace to be meritorious.[150] Nor by the words "which have been done in God" does it signify anything other than works which are done in grace and through grace. That these words must be understood in this way is clear from the words placed in the canon (32): "which are done through the grace of God"; for these are equivalent to the former. Therefore from the mind of the Council of Trent, besides the state of grace and the influence of actual grace, nothing else is required for merit. c. And indeed all good and supernatural acts which are exercised by a just man are by their nature ordered to God the supernatural end, redound to the glory of God, and by this very fact are means proportioned to the ultimate end; therefore they have everything which can be required for merit *de condigno*. For through the habit of charity, which necessarily follows sanctifying grace, man is ordered to God the supernatural end, and since through the same grace and charity he is constituted son and friend of God, all his works are implicitly and habitually referred to God and consecrated to Him. Therefore for merit it is not required that also on the part of the one operating they be ordered to God the supreme good.

b. The first of the other opinions brings forward a gratuitous exaggeration and in its confirmatory argument contains a begging of the question: for this very thing is asked, whether the highest merit *de condigno* belongs only to the noblest virtue of charity, or also to others. The charity of which St. Paul speaks (1 Cor. 13) is not actual charity but habitual charity. Therefore the Apostle does not teach that good works, even heroic ones, are of no profit unless they are done from love of God, or unless they are referred to God through a good intention (through an act of charity), but he teaches that charisms, or graces gratuitously given, are of no profit for the merit of eternal life if they are severed from habitual charity and from sanctifying grace.[151] The second opinion, besides the fact that it demands for merit a condition which the Council of Trent does not require, is pressed by another difficulty not light. Let us imagine a child baptized in infancy, who, after he has come to the use of reason, does not advert to the obligation

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149. Cf. Matt. 19:16 ff.; 25:34 ff.; 1 Tim. 6:17 ff.

150. Sess. 6, c. 16, these words are read: Nothing more is to be believed to be lacking to those justified themselves, by which they should be considered to have fully and truly merited by those works which have been done in God … eternal life to be obtained in its own time, provided nevertheless that they have departed in grace. And can. 32 has these words: If anyone shall say … that the justified man by good works which are done by him through the grace of God and the merit of Jesus Christ, of whom he is a living member, does not truly merit increase of grace, eternal life, and the attainment of that eternal life … and also increase of glory, let him be anathema.

151. Cf. Cornely (*Cursus scripturae sacrae*) on this place.

of eliciting an act of charity, and therefore for a notable time in the state of grace does good works without having elicited an act of charity; or an adult who, justified through attrition and the sacrament of penance, lives in grace without eliciting an act of charity, since the precept is not yet urging; or finally a just man who for a notable time from inadvertence omits renewing an act of charity when the precept already urges: that all these throughout this whole time can merit nothing, after the Council of Trent there will hardly be anyone who contends it.

Note. If this opinion were not certain, supernatural intentions, especially from the motive of charity, would have to be elicited frequently by a just man: for where there is question of conditions required for merit, the probability of an opinion does not help, but only the truth. But even if the truth of these opinions is not to be doubted, the faithful are to be induced by apt motives to operating from the most perfect intentions, especially of charity frequently renewed: for the more perfect the intention of the agent is, the greater is the merit of the action. Besides this, a good intention, especially a supernatural one, renewed more often, contributes much, indeed sometimes is necessary, for efficaciously strengthening the will in the purpose of resisting even more vehement temptations and of constantly fulfilling even the more difficult Christian laws.

Book Third

On Laws[152]

105. Law is called the remote external rule of moral actions, and conscience the proximate and internal rule of the same. For we have seen which actions are in general morally good and meritorious of eternal life; now which good and meritorious actions we must perform in order that we may attain the ultimate end is determined by the divine will, which is made known to us through divine law. Therefore divine law directs our actions to the ultimate end. But divine law cannot direct our actions unless it is made known to us through conscience and applied through it to individual actions. Therefore human actions must be conformed to divine law and conscience in order that they be apt for the end.

First Question

On The Nature Of Law

106. Definition. Law is defined by St. Thomas: an ordinance of reason for the common good, promulgated by him who has care of the community.[153] Whatever be the true etymology of the name, law manifestly contains the notion of obligation or of a bond by which the subject of the law is bound, and at the same time the notion of a norm and rule of acting. For law regulates operations by the fact that it induces obligation.

a. Law is called an ordinance, because it consists in a norm or disposition, and one obliging, by which actions are directed to the end. Therefore law is distinguished from counsel, which induces no obligation and need not necessarily proceed from a superior who has authority.

b. Of reason: by this word practical reason is signified, which comprises intellect and will. For although law consists essentially in an act of the will, insofar as it induces obligation, nevertheless the intellect also must concur in establishing it, since it belongs to the intellect to consider whether the law to be made conduces to the end.

Notes

152. St. Thomas, I-II, q. 90-108. St. Alphonsus, l. 1, n. 99-208. Suarez, *De legibus*, a classic work consisting of ten books. Laymann, *Theologia moralis*, l. 1, tr. 4. Reuter, *Theologia moralis*, pr. 1, n. 118-262. Sporer-Katzenberger, *Supplementum*, c. 1. Wernz, *Ius decretalium* (Rome: Typographia C. de Prop. Fide, 1898), I, n. 80-173. Wildmuller, *Uber das Sittengesetz* (Wurzburg: Woerl, 1878).

153. Cf. *Summa* I-II, q. 90, a. 4.

c. For the common good: for the end of law is the good of the whole community, which the law directly and immediately regards, and through the common good it is directed mediately to the good of individuals. This good is both spiritual and temporal, namely the whole good of the community.

d. By him who has care of the community: for to make law is an act of superiority and jurisdiction; therefore only he who has the power of ruling a community can impose upon the whole community a norm by which it is to be directed.

e. Promulgated, that is, so published or intimated that it can be known by the subjects. For the will of the subject can be induced only through knowledge to conform itself to the will of the legislator. Hence a law not promulgated, just as a law not known, cannot oblige.

They dispute whether promulgation is more truly said to belong to the essence of law or rather to be its necessary condition, without which it cannot have external efficacy. For the rest, this dispute is more speculative than practical: for each opinion concedes that a law which has not been promulgated does not oblige.

107. The distinction between law and precept. A twofold precept is distinguished, common and particular. Moreover, between law and a common precept, which by the ancients is called a statute, there is only this distinction: that law is a stable ordinance, while a common precept is transitory. For a common precept is from a prince for the whole community unto the common good, but for a time. But law and a particular precept differ from one another in several ways.

1. They differ by reason of the author: for public authority and the power of jurisdiction are required for establishing a law; for a precept private authority and dominative power suffice: that of a father, husband, master.

2. By reason of the subject: for law is a common ordinance which is given to a community, namely either to all its members or to those who are of the same condition in some community, whether they are many or few in number, as clerics, merchants, etc.; but a precept is given to a private person or to a family.

3. By reason of the end: for law is borne immediately toward the common good; but a precept immediately toward the good of a private person.

4. By reason of place: because law directly affects territory, but a precept directly affects the person; therefore a precept obliges even outside the territory of the one commanding, but law (ordinarily) does not oblige subjects who are outside the territory of the legislator.

5. By reason of duration: for law is a stable ordinance which is not made for a determinate time, but either always endures or at least endures so long until it is revoked; but a precept per se is made for a time.

a. Therefore a law is not extinguished together with the legislator, but endures beyond his death; but a precept per se ceases by the death of the one commanding. Per se, because it can happen that the legislator attributes special stability to the precept of a superior, as sometimes happens in religious orders.

b. Nevertheless the names law, precept, and statute are customarily used indiscriminately in law. Hence, to discern whether some ordinance is a law or a precept, attention must be given not so much to the name as rather to its conditions.

108. On the sanction of law. 1. The sanction of law considered actively is the decree of the legislator by which he proposes good things (rewards) to be obtained for the observance of the law, and evil things (punishments) to be undergone for its violation; considered passively, it signifies the good things themselves proposed for observance of the law and the evil things proposed for violation of the law. Sanction is the complement of law and obligation.

2. There is distinguished an internal sanction, which signifies good or evil things which from the nature of the thing follow the observance or violation of law (tranquillity and remorse of conscience, good or bad reputation, etc.); and an external sanction, which signifies good or evil things which are connected with the observance or violation of law from the disposition of the legislator.

3. Its end is threefold: a. that subjects be efficaciously moved to observance of the law; for the very knowledge of the law and consciousness of obligation (*Pflichtbewusstsein*) do not sufficiently induce man, as he now is, subject to the allurements of concupiscence, to keeping the law. b. That the moral order be completed by the retribution of reward and restored by the retribution of punishment; for the order of justice requires that reward be repaid to the merit of law observed, and punishment to the demerit of law violated. c. That subjects rebellious against the will of the legislator be subjected to his authority, by the fact that those who refused voluntarily to subject themselves to the law are forced against their will to undergo evil.

Note. Ethics and dogmatics teach of what kind the sanction of divine law is and must be in order that it be sufficient for obtaining the end, and whether it must be of eternal reward and eternal punishment.

109. On moral obligation, the effect of law. 1. Obligation taken broadly is the necessity by which created beings strive through their operations toward their proper ends. This necessity is essentially diverse in rational creatures and in creatures lacking reason: for the latter are led to their ends by determination of nature, but the former must lead themselves to their ends according to norms imposed upon them by law. The former necessity is called physical obligation, the latter moral obligation. Therefore moral obligation is a necessity imposed by law upon rational creatures of doing or omitting something. By this obligation rational creatures are truly bound, yet in such a way that they are not deprived of liberty, but the power is left to them even of departing from the obligation.

2. The supreme principle and source of every obligation which arises from law is God Himself, whence the force of a law truly obliging must proceed either immediately or mediately from God. For the will of a rational creature, independent from other creatures in the pursuit of its end, can be bound efficaciously only by God, the absolute lord of creatures. Therefore Sacred Scripture testifies that every legislative power is from God: "Let every soul be subject to higher powers; for there is no power except from God, and those that are, are ordained by God."[154] It testifies the same concerning individual legislators.[155]

110. The chief divisions of law. 1. By reason of state, law is divided into eternal law, which is from eternity in God the legislator alone, and temporal law, which in time is also outside God in creatures.

Law can be considered in a threefold state: in the legislator, in whom it exists through the act of the intellect by which he judges that an action is necessary or useful for the end, and through the act of the will by which he wills it to be observed by subjects; in the subjects, in whom it exists through the act of the intellect by which the command of the superior is received and proposed to the will; in a sign, of which kind are writing or the living voice by which law is exhibited.

2. By reason of the author, law is divided into divine and human law, according as it proceeds immediately from God or from a human legislator.

Notes

154. Rom. 13:1.

155. Cf. Matt. 16:19; Prov. 8:15; Eph. 6:1; Eph. 6:5.

a. Divine law is divided into natural and positive law; the former is necessarily made by God and promulgated by the light of reason; the latter is freely made by God and promulgated in diverse ways, though externally.

Positive divine law is divided into Mosaic, which God gave through Moses to the Israelite people, and evangelical, which Christ, author of the New Testament, made.

b. Human law is one kind ecclesiastical, another civil, according as it is made by an ecclesiastical legislator or by a secular legislator.

3. According to the diverse matter of the law, there is distinguished a commanding or affirmative law, if it is referred to a good act and to placing it; a prohibiting or negative law, if it is referred to an evil act and to omitting it; a permitting law, if it is referred to an act which is neither commanded nor prohibited but licit; and a penal law, if it sanctions a penalty.

a. Although the force of obliging of affirmative and negative law is the same, nevertheless they have diverse efficacy according to the celebrated axiom: affirmative law obliges always but not for always; but negative law always and for always. For the evil act which negative law prohibits must be omitted at any time; but the good act which affirmative law commands is indeed always commanded, yet it need not be exercised at any moment, but only at the appointed time.

b. It is clear that a permitting law is not properly a law, because it induces no obligation, which is required for the notion of law properly so called. But if it is said to oblige insofar as it prohibits anyone from impeding one who wishes to exercise an act permitted by law, it must be noted that in this sense it pertains to negative and prohibiting law.

4. By reason of obligation it is divided: a. into moral or preceptive law, which obliges only to its own observance; purely penal law, which obliges only to undergoing the penalty; and mixed law, which obliges to both; b. into personal law, which follows the person wandering outside the territory, and local law, which does not follow the person outside the territory.

It is clear that all laws of a particular superior are local, because he himself cannot exercise power outside the territory; therefore his laws cannot follow a subject outside the territory. On the contrary, all laws of a universal superior are personal in this sense, that they oblige subjects everywhere, unless by his will they have been promulgated only in certain places: for law does not oblige where it has not been promulgated.

5. Negative law by reason of effect is either simply prohibiting, which renders the act evil and illicit, or prohibiting and at the same time irritating, which renders the act not only illicit, but also invalid.

Second Question

On Divine Law

First Article

On Eternal And Natural Law[156]

111. What eternal law is. Eternal law is the divine will, which necessarily and from eternity wills that creatures to be created preserve the order constituted by divine wisdom, or that creatures to be created fittingly strive toward their proper ends.

Notes

156. Suarez, *De legibus*, l. 1, c. 1-4. Seydl, *Das ewige Gesetz* (*Theologische Studien der Leo-Gesellschaft*, Vienna: Mayer, 1902). Cathrein, *Moralphilosophie*, 4th ed., p. 332 ff. Meyer, *Institutiones iuris naturalis*, 2nd ed., n. 238 ff.

a. From eternity God by His wisdom saw all things to be created in time; likewise from eternity by His most free will He decreed to create the world in time for His own glory. By this act of the intellect God knew the universal end to be assigned to the world and the particular ends to be assigned to individual things; and at the same time He knew the operations by which the things to be created could attain both the universal and the particular end. But by the decree of the will He established that the things to be created should strive toward their ends by fitting operations. The operations by which the things to be created strive toward their ends constitute the order of the universe, the order of nature. But eternal law consists in that act of the divine will by which the operations of creatures are ordered to their ends.

b. Eternal law of itself is universal, so that its object is constituted not only by the moral order, or the operations by which rational beings strive toward the end, but also by the physical order, or the operations of beings lacking reason, indeed even by the supernatural order, or the operations by which man, elevated into a son of God, strives toward the end of eternal life. Therefore according to St. Thomas, eternal law is the reason of divine wisdom insofar as it is directive of all acts and motions.[157] Yet for the most part eternal law is customarily considered only in relation to the moral order, and that the natural order.

c. It is clear that eternal law as such differs from other laws in two ways: a. because it has no subjects whom it obliges, nor operations which it directs, since from eternity there are none capable of obligation and direction; b. because eternal law as such, or antecedently to natural law, produces no obligation in men, since it has not been promulgated to them.

112. What natural law is. 1. Natural law subjectively is the obligation necessarily imposed upon men of tending by fitting acts toward their proper end. Therefore it is eternal law itself imposed upon men by the command of the divine will.

a. The end to which man is ordered, together with the actions by which he can attain it, constitutes the moral order. Hence natural law can also be called the obligation imposed upon men of preserving the moral order.

b. Since acts fitting to the order are good, but acts unfitting to it are evil, natural law can be called the obligation imposed upon men of doing good and avoiding evil.

c. Once the decree of creating a rational creature has been supposed, God cannot but will those things which are good and necessary for preserving the order, and He cannot but not will those things which are evil. Therefore, once the existence of a rational creature has been supposed, God necessarily commands and prohibits those things which belong to natural law.

2. Natural law objectively is the moral order constituted by God, consisting in operations which, with consideration of man's relation to God, to himself, and to neighbors, must necessarily be done or omitted. These operations considered objectively are just so many norms by which all human activity is ruled.

Therefore the matter of natural law is constituted by all those things which by their nature are honorable and necessary for the end, and by those things which by their nature are evil. And since those things which by their nature are evil disturb the order of nature, but those things which by their nature are honorable conduce to preserving the order of nature, the law of nature is rightly defined by St. Augustine: the reason and will of God commanding that the natural order be preserved, forbidding that it be disturbed.[158]

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157. *Summa* I-II, q. 93, a. 1.

158. St. Augustine, *Contra Faustum*, l. 22, c. 27.

3. God promulgated natural law through the light of reason. For God placed in human reason a power by which, with great facility, it can form moral ideas and moral principles, and by reasoning can deduce conclusions or first moral precepts from the supreme principles. Therefore St. Thomas most beautifully calls natural law a participation of eternal law in the rational creature.[159]

a. Therefore the act by which God promulgated the law of nature is creation itself, by which He placed the natural light of reason in men. For this reason an absolutely obliging law has been imposed upon all men by force of rational nature, which all can know by their reason, and which all are held to observe by their operations. Hence St. Paul: "For when the Gentiles, who do not have the law, naturally do those things which are of the law, such persons, not having the law, are a law to themselves. They show the work of the law written in their hearts, their conscience bearing witness to them."[160] The arguments of reason by which the existence of natural law is proved can be compared among the moral philosophers.[161]

b. Therefore natural law differs from eternal law as a law which is at once in the legislator and in the subjects differs from a law which is only in the mind of the legislator.

4. The subject of the law of nature is every man of all times and places: for the foundation of natural law is rational nature; besides this, it is itself the means by which man is ordered and directed to his end. But rational nature is the same in all, and all have been destined to the same end.

Therefore not even those who lack the use of reason, such as infants and the perpetually insane, are exempt from the obligation of natural law, since they too have rational nature. Nevertheless these are obliged by the law only in first act, and therefore in violating the law they sin only materially.

5. Natural law is the foundation of any positive law, and this in a twofold way: first, because the obligation of obeying a legitimate superior, whether God or man, is had from the law of nature; then, because a law which is contrary to the law of nature has no force. For that is not a law which contains what is unfitting to human nature and to the end to which man has been destined.

113. On the precepts of natural law. 1. The precepts of natural law by reason of knowledge are of three kinds:

a. To the first belong certain most universal principles of morals, such as: good is to be done, evil is to be fled; the supreme deity is to be worshiped; the highest good is to be loved; benefactors are to be honored; what you do not wish to be done to yourself, do not do to another, etc. These principles are not derived from others, but from them all and each of the precepts of the law are deduced by the discourse of reason.

b. To the second belong those precepts which are deduced from universal principles immediately and by an obvious and easy discourse, of this kind: honor father and mother; you shall not steal; and the rest which are contained in the Decalogue (except the determination of the Sabbath).

Therefore not only the supreme moral principles but also the precepts of the Decalogue, as universal norms of human actions, are known to all peoples, even uncultivated ones, of all times and places, as is established from ethnology.[162]

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159. *Summa* I-II, q. 91, a. 2.

160. Rom. 2:14-15.

161. Cathrein, l.c. Meyer, l.c. Schindler, p. 144 ff.

162. V. Cathrein, *Moralphilosophie*, 4th ed., I, p. 344 ff. W. Schneider, *Allgemeinheit und Einheit des sittlichen Bewusstseins* (Paderborn: Schoningh, 1895).

c. To the third belong those precepts which are inferred only mediately and remotely from the first principles or from the precepts of the Decalogue, after diligent study has been premised and by a more subtle discourse, as: an injury inflicted on someone is not to be avenged by one's own authority; found things must be restored.

Even precepts of the third kind are necessarily commanded or prohibited; nevertheless, since they are often indeterminate and ambiguous, they furnish a foundation for positive laws, by which they are more accurately determined and firmly constituted.

2. Considered according to force and efficacy, the precepts of nature are of two kinds: some are called primary, which nature absolutely demands, because without them the moral order is rendered impossible; others secondary, to which nature indeed strongly inclines, because without them the moral order is less perfect, but which nevertheless it does not absolutely demand.

Thus nature absolutely demands the unity of marriage insofar as it excludes polyandry; but it does not absolutely demand the unity of marriage insofar as it excludes polygyny. Hence polyandry is absolutely prohibited by the law of nature, but polygyny, though less conformable to the same law, is not absolutely prohibited. The same must be said of the dissolution of marriage.

3. Considered according to the mode of obliging, some precepts of the law of nature are absolute, or independent of every condition, as: God is to be worshiped; others are conditioned, which suppose some fact on which they depend, as: a vow or oath is to be observed. From this arises the division of the law of nature into absolute and conditioned.

114. Whether the precepts of natural law can be invincibly unknown. Because the precepts of natural law are of three kinds, a distinction is needed in solving this question.

1. The first principles of natural law cannot be invincibly unknown by an adult who is fully self-possessed in reason: for the first moral principles are immediately evident to one who understands their terms; but truths of this kind cannot be unknown by one who uses reason sufficiently cultivated.

2. The second principles of natural law, which are contained in the Decalogue, cannot be invincibly unknown for a long time: for those things which are evidently deduced from known principles by an obvious and easy inference cannot long lie hidden from a man possessed of cultivated reason. If he does not know them clearly, he is at least incited through remorse of conscience to investigating the truth.

Therefore if some labor for a longer time under ignorance of these precepts, it must be called vincible and culpable, as having arisen not from defect of intellectual light, but from malice of the will. For with the Apostle as witness, because of depraved customs the law of nature can be erased from the hearts of men, who nevertheless are not excused from sin because of this ignorance.[163]

3. The more remote precepts of natural law, which are deduced from their principles only with great difficulty and after diligent study has been premised, can be invincibly unknown even for a long time by those who have never devoted themselves to studies, and often in fact are unknown. This is shown by the disagreement of theologians and even of the holy Fathers themselves concerning these precepts.[164]

All indeed concede that theoretically there is invincible ignorance of natural law; but the probabiliorists, tutiorists, and Jansenists denied that practically there can be ignorance of this kind and that the one oper-

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163. Cf. Rom. 1:20 ff.

164. Cf. Ballerini-Palmieri I, n. 48.

ating is therefore excused from sin. But since this opinion has not only been proscribed by the Church,[165] but today is also obsolete, it is enough to have indicated it.[166]

115. Concerning ignorance of the Decalogue, for practice it must be noted what authors commonly teach after consulting experience.

a. The malice of internal acts, namely of depraved thoughts and desires, especially inefficacious ones, can be invincibly unknown.

b. The malice of external acts can also be invincibly unknown, especially by children and the uneducated, indeed also by others in extraordinary circumstances, as where human law tolerates what is morally evil. Thus it can happen that someone is ignorant of the malice of pollution; that he thinks it licit to lie in order to save his own life or another's, to steal from evil rich persons in order to succor good poor persons, to perjure himself in order to protect life. Indeed there are some who affirm that it can happen that even Christians think fornication licit in places where public prostitutes are permitted.[167]

c. Whether the malice of an internal act can invincibly be unknown even when the malice of the external act is known, and therefore whether someone can invincibly think that a serious will of sinning (stealing) is not sin if the external act (theft), which he knows to be evil, has not followed, is not one opinion among authors. For while some affirm this, St. Alphonsus with others denies it in these words: "I have never been able to judge this opinion probable."[168] In practice penitents in these cases will have to be prudently questioned as to whether they had some, at least confused, knowledge of the malice, and their assertion must be believed.

116. On the immutability of natural law. A twofold change of the law of nature is distinguished: internal, by which the law itself is abrogated or changed into another; and external, by which dispensation is made in the law through either human or divine power.

1. The law of nature cannot be changed intrinsically: for since the law of nature contains that which is fitting to human nature, with account taken of its religious, sensitive-rational, and social character, it cannot be changed unless human nature is changed.

2. Natural law cannot be changed extrinsically even by divine power. Nevertheless: a. in secondary precepts God can permit an exception for a time for obtaining a higher end; and b. in those actions which are not absolutely base, He can dispense improperly.

a. The law of nature, once creation has been supposed, is necessary and independent of the will of God; therefore it also necessarily endures unchanged so long as human nature remains the same. And indeed God must always will that man worship his creator, that he subject the sensitive appetite to reason, and that he observe charity and justice toward his neighbor.

b. Since the order of nature does not absolutely demand secondary precepts, but demands them only so that it may be perfect, nothing prevents God from permitting an exception for a time for obtaining a higher end. Thus God permitted the children of the first parents to take sisters as spouses in order to

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165. "Although invincible ignorance of natural law may be granted, in the state of fallen nature this does not excuse the one operating from formal sin from it." Proposition 2 condemned by Alexander VIII (December 7, 1690).

166. Cf. Lacroix, l. 1, n. 720 ff. Thyrsus Gonzalez, *Fundamentum*, diss. 11, c. 5. St. Alphonsus, l. 1, n. 170-174.

167. Cf. Sporer-Bierbaum, *Theologia moralis sacramentalis* (Paderborn: Typographia Bonifaciana, 1901), III, pr. IV, n. 572.

168. Cf. St. Alphonsus, *De conscientia*, n. 9. Lacroix, l. 1, n. 35.

preserve the unity of the human race; thus also He permitted the dissolution of marriage and servitude to the Israelite people for a time.

c. A law is said to be changed properly if the obligation of the law ceases while the same matter of the law remains; but a law is said to be changed improperly if the obligation of the law ceases when the matter of the law has become another. In order to understand how it can happen that the matter of the law is changed, it must be noted that sometimes the matter of natural law is evil simply in itself; thus speech injurious to God is evil in itself and on account of itself. But sometimes it is evil in itself for this reason, that another's right is annexed to it. Now one who exercises dominion over that right, by taking away that right, can bring it about that an action which was formerly illicit now becomes licit. It is clear that the natural law which prohibits another's right from being injured is not changed in this case, but the matter of the law, with some circumstance removed from it, has been changed.[169]

Thus natural law prohibits killing oneself or an innocent person; likewise it prohibits taking another's thing. If, however, God, who is lord of life and death and of all things, permits or commands this, it can licitly be done.[170]

117. 3. A fortiori the Church cannot change the law of nature. Nevertheless she can infallibly declare and interpret it, indeed in those precepts whose particular obligation depends upon an act of the human will, she can improperly dispense. Thus in fact she dispenses in vows and oaths, in ratified marriage, and in religious profession.

In order that this may be explained, the following things must be noted:

1. Obligations of the law of nature are of two kinds: some affect individuals independently of an act of the human will, as God is to be worshiped, parents are to be honored, one must not lie, etc.; others affect individuals only dependently upon an act of the human will. Of this kind are obligations which arise from contracts, vows, and oaths.

2. In obligations of the first kind the supreme pontiff cannot dispense; in obligations of the second kind he does not properly dispense, because he does not relax the obligation of natural law (that a vow is to be fulfilled, that a promise is to be kept), but according to the power which he uses over the human will, he permits the act of the will by which the obligation of the law of nature was induced in a particular case to be changed or retracted. When this has been done, the obligation itself ceases in this individual. But because the obligation has been contracted toward God, the act of the human will inducing the obligation can be changed and retracted not at will, but only with God consenting (that is, with a just cause existing). Therefore when the supreme pontiff dispenses from a just cause, he himself declares that God consents to the change of the will.

3. From these things it is clear that the supreme pontiff has the power of dispensing in divine natural law signifies nothing other than that the supreme pontiff can declare when God consents to a change of the will from which the obligation of the law arose. But God willed that the supreme pontiff be furnished with this power because it is not only expedient for the faithful, but sometimes plainly necessary. For when the inconstancy of worldly things is considered on the one hand, and the imprudence and inconsideration of men on the other, it not rarely happens that obligations contracted from the human will are more harmful than useful to men.[171]

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169. Cf. Lehmkuhl I, n. 190.

170. Cf. Gen. 22:2; Ex. 3:22; 11:2; 12:35.

171. Cf. Ballerini-Palmieri I, n. 406 ff.

Second Article

On Positive Divine Law

118. Notion. Positive divine law is a law freely made by God and promulgated by some immediate act. Hence positive divine law can be known by us only through revelation. Once the destination of man to a supernatural end has been supposed, God necessarily established a positive law by which man would be directed to the supernatural end of eternal beatitude. Positive divine law is distinguished as twofold: the ancient or Mosaic law, and the new or evangelical law. Passing over those things which are handed down concerning the old law, certain things concerning the new or evangelical law should be noted.

Just as the destination of man to a supernatural end does not destroy human nature and its natural end, but elevates and perfects them, so the revealed supernatural law does not take away the law of nature; so that positive law and natural law together constitute the integral moral law of man destined to the supernatural end of eternal life.

119. On the abrogation of the ancient law. 1. The ancient Mosaic law, which of itself obliged only the Jews, was abrogated at the death of Christ, or certainly on the day of Pentecost.

a. The apostolic council solemnly declares that the Mosaic law, and that whole law as to ceremonial, judicial, and moral precepts, was abrogated.[172] The Apostles communicate this declaration to the Antiochians in these words: "It has seemed good to the Holy Spirit and to us to impose no further burden upon you" (namely from the Mosaic law).[173]

b. It is certain that the Mosaic law did not cease before the death of Christ; but whether it was abrogated at the time of the death of Christ, as the Thomists will, or on the day of Pentecost, when the solemn promulgation of the new law was made, as the Scotists teach, cannot be affirmed with certainty. From the Apostle it is established that the old law did not cease before the death of Christ; from the same Apostle the opinion which holds that the old law was abrogated in the very death of Christ the Lord seems to be confirmed.[174]

2. Although the ancient law after the death of Christ was dead, that is, deprived of the force of obliging, nevertheless it did not immediately become death-bearing, but for a time could still be observed without sin; not indeed insofar as it signified Christ as going to come, but insofar as it prescribed the mode of worshiping God. And indeed the Apostles themselves sometimes observed the ceremonial things of the law.[175]

a. It is clear that these things hold of the ceremonial law, which to observe even now is mortal sin, since it is false and superstitious worship; for one who observes the ceremonies of the Mosaic law professes that the Messiah has not yet come, but is still going to come.[176] The judicial precepts, and more so the moral precepts, are not death-bearing, although they themselves have also lost the force of obliging which arose from the Mosaic law.

b. When the new law had been sufficiently promulgated through the Apostles, the ancient law could no longer licitly be observed, but began to become death-bearing, or false and illicit worship. But when

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172. Cf. Acts 15:1 ff.

173. Acts 15:28.

174. Heb. 9:16-17; Eph. 2:15. Cf. Pesch V, n. 517 f.

175. Cf. Acts 10:14; 16:3; 18:18; 21:24; 1 Cor. 9:20 f.

176. Cf. Gal. 5:2, 4.

exactly this happened cannot indeed be accurately determined; nevertheless after the destruction of Jerusalem it certainly could no longer be observed.

c. Concerning this matter a celebrated controversy arose between St. Jerome and St. Augustine. The former contended that the Mosaic law after the death of Christ could never have been observed without sin; but that the Apostles observed it not seriously but by simulation. St. Augustine rightly contradicted him, contending that the Apostles, in observing the ancient law, acted seriously and could observe it without sin, because in the beginning it was indeed dead, but not yet death-bearing. Jerome at last yielded to the opinion of Augustine.[177]

120. On the existence of the new law. 1. Christ the Lord, by the legislative power which He possessed, established a new law obliging all, which is called supernatural law.

a. By the name of new law there is often understood improperly the new order of salvation which Christ instituted after the old law had been abrogated. Now this order of salvation contains law properly so called, or precepts made by Christ, who did not come to destroy (the law), but to fulfill.[178] And indeed: a. Christ announced very many precepts during His public life; therefore b. He commanded the Apostles and their successors to commend to men the observance of His commandments;[179] c. and the Council of Trent condemns those who deny that Christ gave new precepts.[180]

b. From a multiple title the law made by Christ must be called supernatural: both because it proceeds from God as author of the supernatural order, and because it is instituted for men elevated to the supernatural order and is observed by supernatural powers, and finally because it directs to a supernatural end.

2. The new or evangelical law contains precepts of three kinds: theological, moral, and sacramental. The theological are referred to the theological virtues;[181] the moral are contained in the Decalogue, for Christ did not abrogate the natural law, but explicitly renewed it, confirmed it, and added greater perfection to it;[182] the sacramental pertain to the sacraments and the oblation of the sacrifice.[183]

a. Because Christ confirmed the precepts of the Decalogue by His own authority, they oblige from a twofold title: by force of natural and positive law. Therefore Christians violating the precepts of the Decalogue do not indeed commit two sins diverse in species or number, yet they sin more gravely than unbelievers violating the same precepts.

b. Judicial precepts are not contained in the evangelical law, unless those precepts are called judicial which regard the constitution of the Church[184] and its authority.[185] Although judicial precepts are necessary for governing the faithful people gathered into a society, nevertheless Christ Himself did not will to establish them immediately, but only mediately through the Church, which He therefore furnished with legislative power. Precepts of this kind were afterward in fact established as occasions occurred, and they are contained in canon law.

Notes

177. Cf. Suarez, l. 9, c. 15 ff. Mohler, *Gesammelte Schriften und Aufsatze* (Regensburg: Manz, 1839), I, p. 1 ff.

178. Matt. 5:17.

179. Matt. 28:20.

180. Sess. 6, can. 19.

181. Mark 16:16; Matt. 22:37; Luke 10:27.

182. Matt. 5: "But I say to you," etc.

183. John 3:5; Luke 22:19; John 6:54 f.

184. Matt. 16:18 f.

185. Matt. 18:17 ff.

c. Besides moral precepts, the new law also contains several moral counsels, of which the principal ones are the three counsels which are commonly called evangelical, namely of poverty, chastity, and obedience.

121. Its obligation. The evangelical law obliges all men of all times and places. a. For it was imposed upon all by Christ,[186] because from the will of God all are to be led through Christ to sanctification and salvation. Therefore Christ expressly says: "All power has been given to Me in heaven and on earth. Going therefore, teach all nations. Teaching them to observe all things whatsoever I have commanded you."[187]

b. That the law of Christ obliges all men of all times, so that no other law will follow until the consummation of time, is clear: a. God in the Old Testament had promised a new covenant which would remain forever;[188] b. Christ foretold the immutable stability of His kingdom;[189] therefore the time of the new law is called the last time;[190] c. it would have to be abrogated so that a more perfect one might be introduced; but there cannot be a law more perfect than that whose precepts immediately join man with God, whose sacraments truly sanctify man, whose sacrifice is of infinite dignity.

The absolute perfection of the moral doctrine of Christ the Lord is also apparent from the doctrine itself. First, being accommodated neither to a determinate time nor to a certain nation, it fits all men of all times and places. Besides this, its foundation and end is God, the absolute and infinitely perfect good. Finally, the precept of divine charity raises man to the highest moral perfection and at the same time to perfect beatitude. The precept of love of self and of neighbor satisfies in the most perfect way all the needs of human nature, both individual and social.

c. Nevertheless the precepts of the new law do not oblige all men in an equal way: for the precept of receiving faith and entering the Church through the reception of baptism obliges all immediately; but the others only mediately, namely through entrance into the Church and through baptism received.

To the question when the new law began to oblige, some respond that objectively and in first act its obligation began at the death of Christ, or at least on the day of Pentecost: for they think that Christ established that together with the solemn promulgation of the law its obligation should begin.[191] But others teach that it began to oblige after its sufficient publication throughout the world; and that sufficient publication of it was made through the Apostles: for "their sound went forth into all the earth." Therefore in first act, at the time of the Apostles (forty years after the death of Christ, or certainly after the destruction of Jerusalem), all were obliged by the evangelical law. But in second act individuals are not obliged before knowledge of the law has reached them; for until this time unbelievers are excused from observance of the law because of ignorance.[192]

122. On the power of dispensing in positive divine law. a. It is certain that Christ, the author of the evangelical law, could have granted to the Church the power of dispensing in His law: for any legislator can confer upon another the power of dispensing in his laws. The question is whether this power has in fact been granted to the Church, and therefore whether the supreme pontiff can relax divine law from a just cause. But theologians commonly teach that power of this kind has not been granted to the Church, nor has the Church ever used this power.

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186. Matt. 28:18 ff. Cf. Mark 16:15; Rom. 1:16.

187. Matt. 28:18 ff.

188. Jer. 31:31, 40.

189. Matt. 16:18; 28:19 f.

190. Acts 2:17; 1 John 2:18.

191. Cf. John 3:14 ff.

192. Cf. Suarez, l. 10, c. 4, n. 25.

The words of the Lord to Peter: "Whatever you shall loose upon earth shall be loosed in heaven,"[193] are not to be understood as altogether unlimited, but must be restricted to those things which are necessary so that the Church can perform her office, or to those things which are necessary for the good of the Church and the salvation of souls. But of this kind is not the power of dispensing in divine laws; for it is better if dispensation is not made in them. Namely, in order that the unity of the Church instituted by Christ might appear more clearly, it was altogether expedient that the principal institutes and precepts of Christ be uniform among all the faithful of all times, and therefore immutable.

b. Nevertheless the Church can declare and authentically interpret divine law, and this infallibly: for she is the infallible interpreter of the institutions and precepts of Christ. Therefore the supreme pontiff can not only declare what cause excuses from divine law, but can also determine the sense of the law and its obligation, and by interpreting can modify and limit the law itself.[194]

Third Article

On Counsels[195]

123. Notion. Counsels are good actions commanded by no law, yet better than their opposites, as virginity, which is better than marriage, fasting, which is better than temperance.

a. Besides actions commanded or prohibited by law, there are many others neither commanded nor prohibited but licit, among which are contained those which are commended to us as counsels. For God manifests His will to us in a twofold way, either by commanding or by persuading and commending. Commanded actions are necessary for obtaining the end; counsels are not necessary, but free and left to the choice of each one.

b. Not all actions commanded by no law pertain to counsels: for it belongs to the notion of counsel that it be an action better than its opposite. Therefore marriage, although it is not commanded, is not a matter of counsel, because it is not better than virginity.

c. Counsels differ from laws in several ways: a. laws oblige all; counsels oblige only those who have bound themselves to their observance; b. laws oblige by their own force from the divine will, counsels only dependently upon the human will; c. laws are means necessary for obtaining eternal life, counsels are free means which nevertheless conduce more securely and perfectly to eternal life. Because counsels are not necessary but free, their works are called works of supererogation (*Werke der Ubergebuhr*).

From these declarations are understood the qualities which belong to counsel, namely that it be: a. a free work not commanded; b. a better good; c. a work of supererogation.

124. Their existence. 1. Although from most ancient times several erred against Catholic doctrine concerning counsels, nevertheless Protestants and Rationalists deny and attack the counsels themselves on principle.

The heretics of ancient times (Apostolics, Encratites, Manichaeans, Pelagians, Helvidius, Jovinian, Vigilantius, etc.) erred in that they said determinate supererogatory actions were commanded or prohibited. Thus some said poverty was commanded (on the contrary, national economists of our time altogether condemn

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193. Matt. 16:19.

194. Cf. Ferraris, *Bibliotheca* (Rome: Typographia C. de Prop. Fide, 1890), s.v. Papa, a. 2, n. 30.

195. St. Jerome, *Adversus Jovinianum*, l. 2. St. Thomas, I-II, q. 108, a. 4; II-II, q. 184, a. 3; q. 186, a. 7. Suarez, *De religione*, tract. 7, l. 1, c. 6-9. Bellarmine, *De monachis*, c. 7-13. Ballerini-Palmieri IV, n. 4-8. Gopfert, *Moraltheologie*, 6th ed. (Paderborn: Schoningh, 1908), I, n. 36-41. Simar, *Lehrbuch der Moraltheologie*, 3rd ed. (Freiburg: Herder, 1893), p. 45 ff. Schwane, *De operibus supererogatoriis et consiliis evangelicis* (Munster: Theissing, 1868). A. Weiss, *Apologie des Christentums*, 3rd ed. (Freiburg: Herder), vol. 5, p. 203 ff.

poverty spontaneously chosen for the sake of God); others affirmed that the use of meat and wine was illicit. But they did not deny the existence itself of counsels. Protestants and Rationalists, however, attack the counsels themselves: the former indeed from the doctrine of the enslaved will and of good works as superfluous, the latter from the moral principle of Kantian philosophy, by force of which man must strive toward the highest moral perfection by all apt means.

2. That besides precepts there are also counsels is gathered:

a. From the conversation of Christ with the young man asking about perfection: "If thou wilt enter into life, keep the commandments … If thou wilt be perfect, go, sell what thou hast, and give to the poor, and thou shalt have treasure in heaven, and come, follow Me."[196]

By these words Christ the Lord superadds something to the precepts, whose observance is said to be necessary for salvation; something which is better and more perfect and not necessary, but to be chosen at will, and He commends it for obtaining greater happiness. Therefore He speaks of a counsel.

b. From St. Paul: "But concerning virgins I have no commandment of the Lord; but I give counsel, as having obtained mercy from the Lord, that I may be faithful … Therefore he who joins his virgin in marriage does well; and he who does not join her does better."[197]

By these words the Apostle says that virginity is not commanded, and from divine inspiration he commends it not only as good, but as better than marriage. Therefore by these things he commends a counsel.

c. From the very nature of moral actions it is clear that there are very many good actions which are not commanded and at the same time are better than their opposites; but in species counsels can be referred to three heads:

d. To the motive from which precepts are observed: for that precepts be observed not from a motive of natural honesty, but from a supernatural motive, and especially from the motive of charity of God, pertains to counsels.

e. To abstinence from indifferent actions: for indifferent actions, especially those which are referred to delights, although under certain conditions they are not evil, nevertheless impede the tendency toward the ultimate end and bring it into danger; therefore to abstain from them, insofar as they are not necessary, is a matter of counsel.

f. To the exercise of virtues: for very many good actions and actions better than their opposites are either in no way commanded or at least not commanded at all times, as virginity, frequent reception of the sacraments, hearing Mass on weekdays, frequent prayer, etc.

125. Evangelical counsels. Among counsels the evangelical counsels stand out, namely poverty, chastity, and obedience rendered to man, which are called evangelical because they are promulgated by Christ the Lord in the Gospel and by word and example are commended in a special way as means of Christian perfection, so that at the same time there is promulgated the counsel of instituting a peculiar state of life in which obligation to the observance of these counsels exists.

a. The individual counsels are contained in Sacred Scripture:

b. The counsel of poverty: "If thou wilt be perfect, go, sell what thou hast, and give to the poor."[198]

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196. Matt. 19:17 ff.

197. 1 Cor. 7:25-40.

198. Matt. 19:21.

c. The counsel of chastity: "Not all receive this word, but those to whom it has been given … There are eunuchs who have castrated themselves for the kingdom of heaven. He who can receive it, let him receive it."[199] By these words Christ the Lord signifies that virginity is a good more excellent than marriage, a good which He does not command, but commends to those who from the gift of grace can receive its worth.

d. The counsel of obedience: "If anyone wills to come after Me, let him deny himself and take up his cross daily and follow Me."[200] By these words there is contained not only commanded abnegation, but also abnegation not commanded, and especially that which consists in voluntary obedience rendered to man, since in the full sense it is denial of self, namely of one's own intellect and one's own will.

e. The Old Testament already commended certain counsels: a. sacrifices freely offered; thus peace-offerings were not commanded, but were offered freely; b. vows, which are commended in the law, but are not prescribed.[201] The chief of vows is the Nazirite vow, by which a man consecrated himself to God in a special way either for a time or forever.

126. Objections. 1. Heretics who attack counsels contend that all good actions which we can exercise are commanded. To demonstrate this they appeal to various testimonies of Sacred Scripture:

a. "Be you therefore perfect, as also your heavenly Father is perfect";[202] by these words, they say, every perfection, even the most excellent, by which we can become like God, is commanded. But in truth, by these words not every perfection is commanded to us, but that which consists in the love of enemies (v. 44). By the exercise of this we will be like the heavenly Father, who makes His sun rise upon the good and the evil.

b. "Thou shalt love the Lord thy God from thy whole heart … and in thy whole mind";[203] by these words, since perfect charity is commanded to us, whatever perfection we can attain is commanded to us. But in truth, by these words charity appreciatively perfect is commanded, which consists in this: that we avoid every sin, grave sin indeed under eternal punishment, but light sin under temporal punishment.

2. Modern cultivators of political economy attack the evangelical counsels, especially poverty and virginity, as contrary to the common good of society. But in truth, their difficulty arises from this: that, not thinking rightly concerning social good, they falsely place it solely in an accumulation of riches and in a great number of men.

Third Question

On Human Law

First Article

On The Author Of Human Law

127. Necessary power. 1. In a human legislator, two things are required for duly establishing law: a. jurisdiction, or the power of ruling as subjects those upon whom the law is imposed; b. power over that particular matter concerning which the law is concerned, which power they call competence. For a human

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199. Matt. 19:11-12.
200. Luke 9:23.
201. Deut. 23:21 ff.
202. Matt. 5:48.
203. Matt. 22:37.

legislator, possessing legitimate authority, can command only those things which conduce to the end of the community over which he presides, provided that they are not opposed to higher laws.

a. Jurisdiction taken broadly signifies the power of governing. But this is either private (domestic) power of governing, or the power of governing a person or a family (an imperfect society), and is called dominative power; or it is public (political) power of governing, or the power of governing a state or commonwealth (a perfect society), and is called power of jurisdiction, or jurisdiction taken strictly.[204] Now for making laws dominative power does not suffice, but the power of jurisdiction is required, and indeed supreme jurisdiction: not only that which is found in a judge for declaring the law, but that which exists in a king and prince for governing the whole state.

b. Dominative power, which suffices for giving precepts but in no way for establishing laws, is twofold according to its diverse origin: social and simply dominative. For either it arises naturally from any society, however small. Since every society must necessarily be ruled, the reason of order requires that there be in it a superior and subjects who are subjected to him. Therefore everyone who is born in some society or is aggregated to it is, by this very fact, held to obey its social authority. This power is in a father with respect to his child, in a husband with respect to his wife, in a master with respect to a servant. Or it arises from the vow of obedience, by which the one vowing promises to submit himself to his superior. This dominative power is in a regular superior with respect to subjects. Hence it is clear that in a regular superior there is had both power, social and dominative, and therefore in him is found true power of commanding and of obliging in conscience independently of the vow of obedience.[205]

2. For the twofold perfect community of men, ecclesiastical and civil, a twofold legislative power must also be distinguished, ecclesiastical and civil. We chiefly treat of ecclesiastical law.

1. On Ecclesiastical Jurisdiction[206]

128. Notion and division. 1. Ecclesiastical jurisdiction is the power of ruling the faithful in order to eternal salvation, granted to someone by Christ or by the Church.

Ecclesiastical jurisdiction is distinguished from civil jurisdiction, which is the power of ruling citizens in order to the common temporal good. The latter is exercised only in the external forum; the former in the external and internal forum.

2. Jurisdiction is divided: a. into proper, which is exercised in one's own name, and vicarious, which is exercised in another's name.

Thus the supreme pontiff exercises proper jurisdiction when he makes laws, dispenses in laws made by himself, and excommunicates delinquent faithful; but he exercises vicarious jurisdiction when he dispenses in vows, oaths, and ratified marriage, because by a special commission of God he acts in the name of God. In like manner a bishop exercises proper jurisdiction if he makes law and dispenses in his own law; but he exercises vicarious jurisdiction if he dispenses in another's law, for example in a universal law of the Church.

b. Into ordinary, which belongs to someone by force of his proper office, and delegated, which belongs to someone from the special commission of one who has ordinary jurisdiction.

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204. The word jurisdiction, which of itself signifies the whole power of ruling, sometimes in a stricter sense designates only judicial power. In this sense the name jurisdiction is used in the treatise on the judge and on penance.

205. Cf. Suarez, *De legibus*, l. 1, c. 8.

206. Cf. Wernz, *Ius decretalium* II, n. 2 ff., 551 ff.

c. Ordinary jurisdiction is of two kinds: one which flows from the office itself, another which is habitually annexed to the office. The former is called simply ordinary; the latter by some ordinary, but by others quasi-ordinary.

d. Ordinary jurisdiction is granted with the office itself; quasi-ordinary jurisdiction can be acquired in three ways: from man, that is, through concession of the supreme prince; from law or canon; from legitimately prescribed custom.

e. All delegated jurisdiction is vicarious, because it is exercised in another's name; but not all vicarious jurisdiction is delegated, nor is all ordinary jurisdiction proper. For all jurisdiction of the supreme pontiff is ordinary, since it flows from his office, but not all his jurisdiction is proper. Likewise ordinary jurisdiction of a bishop is proper, because it is exercised in his own name; but quasi-ordinary jurisdiction is vicarious, because it is exercised in another's name.

f. Into voluntary jurisdiction, which is exercised without judicial form and therefore always upon willing persons, as happens in absolution and dispensation; and contentious jurisdiction, which is exercised in judicial form and therefore even upon the unwilling, as if an accused person is called into court and punished.

Voluntary jurisdiction is exercised validly and for the most part also licitly even outside one's proper territory, because for its exercise the noise or process of a trial is not required; but contentious jurisdiction cannot be exercised outside one's proper territory without the consent of the judge of that place and of the contending parties.

d. Into jurisdiction of the internal forum, which primarily and directly regards private good and orders the moral relations of the faithful to God; and jurisdiction of the external forum, which primarily and directly is referred to the common good and orders the relations of the faithful to the Church, a visible society.

e. Jurisdiction of the internal forum is twofold: sacramental or penitential, which is exercised in the administration of the sacrament of penance; and extrasacramental or extrapenitential, which is exercised outside the sacrament of penance.

129. Principles. 1. One who has ordinary jurisdiction can per se delegate it to another; but one who has delegated jurisdiction cannot subdelegate it to another, except in a threefold case:

a. If he has been delegated without restriction by the supreme pontiff, and this by privilege of law granted because of the eminence of the supreme power.[207]

Therefore a bishop can delegate to others, both in a general way and for a particular case, faculties delegated to him for a time by the Apostolic See, without special concession.[208]

b. If he has been delegated for a universality of causes.

One is called delegated for a universality of causes who has received power not only of dispatching one or several particular causes, but either simply all causes or all causes in some certain genus, for example all matrimonial causes.

c. If he has received a special concession of subdelegating.

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207. C. *Si pro debilitate* 3, *De officio iudicis delegati* (I, 29).

208. Holy Office, December 17, 1898.

2. In order that a delegate can validly use the delegation granted to him, he must know and accept it. There are indeed canonists who deny that knowledge and acceptance of delegation are necessary, especially if the one delegating is the superior of the delegate, or if the delegation has been granted by general statute. Nevertheless, authors commonly affirm that this is necessary in every case.

3. Delegated power does not expire by the death of the one delegating (or by loss of office, in whatever way this happens) if it is a grace granted, but it expires if it is a grace to be granted while the matter is still intact. This is established from the disposition of law[209] and from reason, because through a grace granted, either the thing itself or a right to the thing to be received by the delegate is acquired; but through a grace to be granted, no right is acquired.

a. The distinction between a grace granted and a grace to be granted is taken from the mode in which the grace is conceded. It is called a grace granted if it is conceded by the superior himself per se, whether by way of habit or by way of act, or indeed through another but as a necessary executor; and it is called a grace to be granted if it is conceded through another as a voluntary executor.

b. The matter is called intact if the delegate has not yet begun to use his power; and it is said not to be intact if he has already begun to use his power.

But if the committed power is completed by a single act, as in absolution from reserved cases, by the first absolution the delegate begins to use his power; if the committed power is completed by several acts, as in dispensation from an impediment of marriage, when the petitions must be verified, he begins to use his power by the first act pertaining to that dispensation (the citation of the spouses).

130. a. Grace or faculty can be delegated by a superior in two ways: by way of habit, if it is granted generally for all who need it or will seek it, such as the faculty of dispensing in some law, the faculty of hearing confessions, of absolving from reserved cases or censures; by way of act, if it is granted for one or another case with respect to a determinate person in his favor.

b. A superior can grant a grace conceded by way of act in three diverse ways:

c. Either he himself grants it per se to the petitioner (although sometimes it must be communicated through the ministry of another), as if he himself immediately dispenses with a subject, or if he grants to someone permission to receive orders (of course through the ministry of the ordaining bishop).

d. Or he grants the grace through another, to whom he commits it to be granted, and indeed in such a way that he commands execution to him (a necessary executor), as if the supreme pontiff writes back in this or a similar form: absolve the petitioner from reserved cases, dispense Titius from irregularity, from an impediment, from such a vow, etc.

e. Or he grants the grace through another, to whom he commits it to be granted, but in such a way that he commits the whole matter to his judgment (a voluntary executor), as if the supreme pontiff writes back in this or a similar form: dispense, absolve Titius, if you shall have judged it expedient; or if a bishop remits the petitions with necessary and opportune faculties.[210]

f. A grace granted by the superior himself per se, whether by way of habit or by way of act, is a grace granted to him to whom it is immediately granted by the superior; a grace granted through another as

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CC. *Si cui* 36, *De praebendis* (III, 4) in 6; *Si super* 9, *De officio iudicis delegati* (I, 14) in 6.

210. Cf. Suarez, *De legibus*, l. 8, c. 31. Pirhing, t. I, l. 1, tit. 29, sect. 7. D'Annibale, *Summula theologiae moralis*, 5th ed. (Rome: Desclee, 1908), I, n. 222.

necessary executor is a grace granted to him for whom it is granted. Thus power granted to a pastor of dispensing Titius is a grace granted to Titius.

2. On Human Legislators

131. In the Church, laws can be made by: 1. The Roman Pontiff for the universal Church, who receives power immediately from Christ: for Christ the Lord conferred upon blessed Peter and his legitimate successors the power of ruling the universal Church: "I will give thee the keys of the kingdom of heaven";[211] "Feed My sheep."[212]

The supreme pontiff exercises legislative power in a threefold way:

a. By issuing a constitution, by which a universal law is made and promulgated.

b. By making a particular law for some province or for a religious order.

c. By issuing decrees or laws through the Roman congregations, which he confirms by his supreme authority.

As regards the force of law and obligation, it makes no difference in what way the pontiff establishes the law, nor does it matter whether he commands something through a bull or through a brief or by another decree.

2. An ecumenical council for the whole Church, if it has been legitimately convoked, celebrated, and confirmed by the Roman Pontiff; a national or plenary council for the whole territory of some nation; a provincial council for an ecclesiastical province. Nevertheless, before the decrees of a national or provincial council are promulgated, they must be reviewed at Rome by the Sacred Congregation of the Council, so that they can be corrected if perhaps they contain something less fitting;[213] this recognition or revision does not give greater force and authority to synodal decrees.

To the question whether bishops legitimately gathered in a council, whether plenary or provincial, possess true legislative power, the Holy Office on September 30, 1896, responded affirmatively. Therefore their decrees have the force of law, even if they have not been inserted into diocesan statutes. Nevertheless bishops are inferior to a provincial council; therefore they per se are held to observe its laws and statutes. Likewise they cannot dispense in its laws or statutes by their own authority if dispensation was reserved, but dispensation must be sought from the Holy See. But when dispensation is not reserved (ordinarily it is not customarily reserved), the faculty is presumed given to the bishops of dispensing each for his own diocese.[214]

3. The bishop for his own diocese, whether in a diocesan synod or outside a synod, who receives legislative power from the supreme pontiff. Here also belong abbots or prelates nullius (namely, of no diocese), who have power over clergy and people, and the cathedral chapter when the see is vacant, or rather the capitular vicar, who can make and abrogate laws: for he succeeds to the jurisdiction of the bishop; but legislative power is annexed to this jurisdiction.

a. Decrees issued and promulgated by the bishop in synod have the character of true law; but statutes issued and promulgated outside a synod have the character of stable law only in a twofold case: a. if the

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211. Matt. 16:19.

212. John 21:17.

213. Constitution *Immensa* of Sixtus V, January 22, 1588. Cf. Benedict XIV, *De synodo*, l. 13, c. 3, n. 1 ff.

214. Bonacina, *De legibus*, disp. 1, q. 2, punct. 1, n. 14.

bishop himself declares that he wishes to establish stable law; b. if the ordinance affects all subjects, both clerics and laity.[215]

b. Since bishops truly possess legislative power, they can by ecclesiastical law command whatever they have judged opportune for the good of souls and their right governance, provided that it is not opposed to common law. And since law, lest it be useless and ineffective, must be furnished with sanction, they can also add penalties to their laws.[216]

4. A general chapter or general congregation in religious orders, by force of jurisdiction granted by the supreme pontiff. The power which belongs to general superiors themselves is indeed diverse according to the statutes of the orders; but ordinarily they do not themselves have the power of making laws, but only of establishing ordinances or statutes either according to or besides the laws in force. Finally, local superiors by force of jurisdiction can command, and their precepts per se expire by the death or departure of the one commanding, unless special stability has been attributed to them through legislative power.[217]

a. Abbesses or superioresses in women's religious orders cannot make laws. The power of making laws for women religious, besides the supreme pontiff, belongs to the superiors of men's orders to which the women's order is annexed, or to the bishop in whose diocese the monastery is situated. Nevertheless superioresses can in particular cases and for particular persons command under grave or light obligation those things which pertain to the spiritual progress of the nuns or to regular discipline according to (not besides) the rules and constitutions of the order, not by force of jurisdiction, which they do not have and cannot receive, but by force of the vow of obedience which professed nuns emit, and by force of dominative power, which by natural law belongs to all superiors of any community. By force of this power they can also command novices who have not emitted the vow of obedience.

b. The distinction between a precept which is made by force of jurisdiction and a precept which is made by force of dominative power must be noted: one who violates the latter sins only against obedience; one who violates the former sins against the virtue to which the precept is referred. For dominative power regards only the subjection of the subject, whatever be the matter on which it is exercised; but jurisdiction regards the good to be obtained through observance of the precept in such a matter.[218]

132. On civil legislative power. 1. Just as civil society itself, so its supreme power is derived from the will of the author of nature: "There is no power except from God."[219] From its proper office it must care by its laws for the common good, or the temporal happiness of citizens, such as can be obtained in this life. In order that it may attain this end, it must establish laws of two kinds: laws by which vices are restrained and the exercise of moral virtues, especially justice, is commanded; for temporal beatitude is impossible without the exercise of moral virtues. And laws by which a sufficient abundance of external goods is procured; for a certain abundance of external goods is required for the exercise of virtues.

2. Who in civil society possesses legislative power depends upon the form of government, which today is diverse in diverse kingdoms: for in some, the supreme prince alone can make laws; in others, legislative power resides in the supreme prince and in the legislative body, which again is diverse according to the diverse constitutions of peoples.

Notes

215. Cf. Benedict XIV, *De synodo*, l. 13, c. 5, n. 1. Ballerini-Palmieri I, n. 238, note a.

216. Cf. S.C.C., September 20, 1878.

217. Lacroix, l. 1, n. 566.

218. Cf. *De praeceptis*, n. 280, 4.

219. Rom. 13:1.

Legislative power per se also belongs to a queen, an heir of the kingdom by succession: for in order that someone have legislative power it is required that he be capable of jurisdiction and that he exercise supreme power in some community; but a queen is capable of civil jurisdiction. A woman is not indeed capable of spiritual jurisdiction, because this jurisdiction requires a subject capable of order; but nothing prevents a woman from receiving civil jurisdiction.[220]

3. On The Authority Of The Roman Congregations

133. On the Roman congregations themselves. The congregations through which the supreme pontiff establishes laws and decrees and grants decisions and declarations for proposed doubts are the following seven:[221]

1. The Congregation of the Holy Office, whose president is the supreme pontiff himself, takes cognizance of causes which pertain to faith and judges concerning heresy and concerning crimes which arouse suspicion of heresy. Besides this, the whole matter concerning indulgences has been committed to it, both as to doctrine and as to use; and finally it treats those matters which concern the Pauline privilege and the impediments of disparity of cult and mixed religion.
2. The Congregation concerning the Discipline of the Sacraments treats all things which pertain to the discipline of the sacraments. Therefore dispensations of marriages for the external forum, likewise dispensations from a ratified non-consummated marriage, dispensations from irregularities, faculties of reserving the most holy sacrament, dispensations which regard Holy Communion or the sacrifice of the Mass, etc., are henceforth granted by this congregation.
3. The Congregation of the Council, to whose business belongs the whole discipline of the secular clergy and of the Christian people. For this reason it must take care that the precepts of the Church be observed, such as fasting, abstinence, and feast days, with the power of dispensing in these laws. To it belong those things which concern pious sodalities, pious legacies, stipends of Masses, benefices, and ecclesiastical goods. Finally it judges concerning all things which pertain to ecclesiastical immunity.
4. The Congregation of Religious (placed over the affairs of religious members), to which are referred those things which pertain to the governance of religious orders, both of solemn and of simple vows. It also settles controversies which arise both between bishops and regulars and between regulars themselves and religious families. Finally, it grants dispensations from common law to religious.
5. The Congregation for the Propagation of the Faith exercises jurisdiction in mission regions and has the right and power of treating all business of the missions. Nevertheless it must defer to other particular congregations those matters which touch either faith or marriages or sacred rites. Those things which pertain to religious as missionaries this congregation treats; but those things which pertain to them as religious are to be remitted to the Congregation of Religious.
6. The Congregation of the Index must watch lest anything be propagated among the faithful by published books which may harm faith and good morals. For this reason it must diligently examine books denounced to it and, if it is necessary, condemn them; it must inquire opportunely into writings of any kind to be condemned; and it must warn ordinaries that they themselves either condemn pernicious writings or denounce them to the Holy See according to the norm of the constitution *Officiorum* (January 25, 1897).

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220. Cf. Holzmann, *Theologia moralis* I, n. 292.

221. Cf. Constitution *Sapienti consilio* of Pius X, June 29, 1908.

7. The Congregation of Sacred Rites decrees all those things which concern the sacred rites and ceremonies of the Latin Church. Therefore it watches that rites and ceremonies be diligently observed in offering the sacred rite, in administering the sacraments, in discharging the divine offices, etc. It grants opportune dispensations. Finally, it must execute all those things which are referred to the beatification and canonization of saints or to sacred relics.

To these must be added the Sacred Apostolic Penitentiary: for since this tribunal has power of resolving doubts which concern the forum of penance, its responses must often be cited in moral theology.

134. Declarations. a. In this place the discussion is not of doctrinal decrees, but only of disciplinary decrees, which in the matter of morals either establish a new law, or interpret a law already existing, or declare law in particular causes, or grant a grace.

b. Decrees of the Roman congregations are signified by various names and are called declarations, decisions, resolutions, responses, or decrees. Although in the strict sense decrees contain a new law, but declarations an interpretation of a law already constituted, and resolutions or decisions a judicial sentence in a particular cause, nevertheless these names are ordinarily used indiscriminately.[222]

c. The power which belongs to the sacred congregations has been granted to them by the supreme pontiff, who nevertheless has not conferred equal power upon all. For the Sacred Congregation of Rites has legislative power, so that even without a special mandate and approval of the supreme pontiff it can establish general decrees having the force of universal law.[223] But the other congregations do not have legislative power, not even the Congregation for the Propagation of the Faith for mission regions.

d. Since the other congregations besides the Sacred Congregation of Rites lack legislative power, their decrees do not have the force of universal law unless they have been issued by mandate of the supreme pontiff and confirmed by him with special approval. But each congregation can establish particular decrees concerning the object committed to it. Today these decrees are customarily approved by the supreme pontiff in common form; nevertheless they do not seem to need this approval in order to exercise their force, for the congregations have been instituted and furnished with the necessary power for dispatching certain business.

e. A twofold approval is distinguished: in specific form, by which decrees are absolutely confirmed after diligent examination; and in common form, by which decrees are not subjected to rigorous examination and are confirmed only conditionally (if they are not repugnant to the sacred canons).

This latter approval does not change the nature of the decrees, but leaves them in their own species, namely decrees which the congregation establishes in its own name and by its own authority; therefore it attributes only a certain external authority to it. The former changes the decree into a law of the supreme pontiff, which he establishes in his own name and by his own authority.

f. In order that decrees of the sacred congregations have the force of obliging, they must be authentic; but they are recognized as authentic by the fact that they have been formally issued, that is, subscribed by the prefect and secretary of the congregation and furnished with the seal of the congregation. The authenticity of decrees of the sacred congregations can be established for us either from authentic collections[224] or from the report of trustworthy writers.

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222. Cf. Wernz, I, n. 143.

223. Sixtus V, establishing this congregation by the constitution *Immensa* of January 22, 1588, conferred legislative power upon it; the congregation itself declared that its decrees formally issued have the same authority as if they proceeded immediately from the supreme pontiff himself (May 23, 1846, n. 2916), which declaration Pius IX confirmed on July 17, 1846.

135. On the authority of congregations. 1. General decrees which are established for the universal Church and duly promulgated have the force of universal law: decrees indeed of the Sacred Congregation of Rites, even if they have not received special approval from the supreme pontiff; but decrees of other congregations, if they have been issued by mandate of the supreme pontiff and approved for the whole Church.

2. Particular decrees and responses certainly have the force of a particular precept for those to whom they are directed, and per se for them alone: for the sacred congregations have been furnished with a special faculty for establishing decrees of this kind. Nevertheless, because they are not directed to the universal Church, proximately and per se they cannot have the force of universal law, because the legislator does not intend to oblige all by them.

Therefore particular decrees and their obligatory force are not per se to be transferred to similar cases of other places or persons, especially because particular decrees regard the particular circumstances (of custom, of avoiding scandal, of a right acquired by a third party, etc.) of those to whom they are directed. Hence it happens that the decrees themselves sometimes seem to contradict one another. But if the adjuncts of places and persons are the same, particular decrees and decisions supply a probable norm for judging and acting safely even for others, since the questions proposed are resolved by theologians eminent in knowledge and prudence.

3. If, however, particular responses exhibit an interpretation of an already existing universal law independent of particular adjuncts, under certain conditions they can have the force of universal law.

a. That an absolute interpretation independent of particular adjuncts is exhibited is gathered both from the words of the decree and especially from this: that when the congregation has been asked repeatedly, it always returns the same response.

b. One must first note the distinction between comprehensive and extensive declarations. They are called comprehensive if the declared sense does not depart from the proper use and received signification of the words; they are called extensive if they contain something beyond that which the words, taken properly and according to common use, denote.[225] Extensive declarations establish new law; but comprehensive declarations declare what is already contained in the law.

c. Comprehensive declarations are of two kinds: either they explain a law clear enough in itself because of the doubts of particular persons; or they explain a law obscure and doubtful in itself, yet without departing from the proper sense of the words.

d. Comprehensive declarations have the force of universal law without further promulgation, provided that they are issued in authentic form.

e. This indeed holds of all congregations, but especially of the responses of those congregations which authentically interpret and declare ecclesiastical decrees pertaining to morals and discipline.

f. According to the opinion of many, these declarations do not need promulgation, because they do not contain a new law, but only interpret a law already existing and already promulgated; nevertheless some authors require promulgation even of decrees of this kind, if the decrees explain a law obscure and doubtful.

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224. S.C.R., April 8, 1854 (n. 3023).

225. Cf. Schmalzgrueber, *Ius ecclesiasticum*, preliminary dissertation, n. 373.

g. Extensive declarations do not have the force of universal law (but only of particular law), unless they have been issued in authentic form and after the supreme pontiff has first been consulted (excepting decrees of the Sacred Congregation of Rites), and have been duly promulgated. For since these declarations contain a new law, they must proceed from legislative power and be duly promulgated.

Therefore particular decrees which do not contain a universal declaration can indeed be followed by all in similar adjuncts as a probable norm, whether they establish something as licit or illicit; but by those decrees the sacred congregations do not intend to settle controversies existing among authors concerning the sense of the law, nor to declare the opposite opinion improbable.

Second Article

On The Object Of Human Law

The object of law is whatever the law can command or prohibit; and since law is the means by which public power procures the end of the community, the object of law can be whatever is necessary or useful for obtaining the end of the community. From this general principle it follows that for the validity of a law it is required that its object be marked by these four properties: it must be honorable, just, possible, and useful.

136. Honorable: for every legislative power is from God; but God cannot give the power of obliging to that which is dishonorable.

a. From this it follows that a law which commands a dishonorable thing is not to be obeyed; but in doubt whether that which is commanded by law is good, generally it must be presumed to be honorable and licit.

b. Nevertheless even actions indifferent in themselves can be the matter of law: for even indifferent actions can be useful or harmful to the good of the community. Actions of this kind, by the fact that they are the matter of law, are ordered to the good of subjects and, because of the motive from which they are commanded or prohibited, become the object of some virtue; for example, to abstain from meats on a certain day becomes an exercise of mortification, to stand while praying an exercise of religion.

137. Just; law is called just from a threefold head: a. by reason of the end, because it is referred to the common good; b. by reason of the matter, because burdens are imposed upon subjects while the proportion of equality is preserved between the burdens and their faculties; c. but chiefly by reason of the author, because it does not exceed the power of the legislator. But if that is commanded which in some way is repugnant to justice, the subject per se is not held to obey.

Just and unjust law are ordinarily taken in a broader sense, so that both that law which exceeds the competence of the legislator and that law which does not exceed competence but commands what is illicit are called unjust. Therefore unjust laws are of two kinds: some which exceed the competence of the legislator, although that which is commanded is licit; others which command that which is illicit. A subject is sometimes held per accidens to obey laws of the former kind, namely when disobedience brings greater evils either to a particular person or to the community, as if political power establishes impediments of marriage or imposes unjust taxes. It is not licit to obey laws of the second kind. Concerning these are the words of Sacred Scripture: "It is necessary to obey God rather than men,"[226] and "it is better to die than to be defiled."[227]

138. Whether human law can command merely internal acts:

Notes

226. Acts 5:29.

227. 2 Macc. 7:2.

a. Merely internal acts are called both internal acts which have no external act joined to them, and internal acts which per accidens are joined with an external or rather mixed act. For mixed acts are of two kinds: some in which the internal act, either per se and by its nature or certainly by moral law, is required for the external act to be duly performed, for example the intention of invoking God as witness in an oath, of sorrow in confession, of attention in prayer; others in which the internal act is joined with the mixed act only per accidens, which would be duly done even without it, as a determinate intention in reciting prayer. Internal acts joined per accidens with external acts are to be referred to merely internal acts.

b. Internal acts which pertain to mixed acts either essentially or morally, not only per accidens, can be commanded in two ways: directly, if the internal act itself is commanded in itself; and indirectly, if only the external act is commanded in itself and the internal act because of its conjunction with the external act, which by another law must be duly done.

1. It is certain that human law (even civil law) can command mixed acts, namely internal acts which are so joined with external acts that the external acts would not be duly done without them. And indeed the Church commands worthy Paschal communion and fruitful reception of penance, and civil power commands an oath.

These internal acts necessarily joined with external acts are commanded, according to some, even by ecclesiastical law, only indirectly; but according to others, not only by ecclesiastical law but also by civil law, directly.

2. It is certain that civil power cannot command merely internal acts: for these directly contribute nothing to the end of civil society, since this can be sufficiently obtained even without them.

3. They dispute whether the Church can command merely internal acts. The opinion of many authors indeed teaches that merely internal acts cannot be commanded by human law, but that internal acts necessarily joined with external acts are commanded only indirectly. Nevertheless the affirmative opinion is altogether to be preferred, namely that the ecclesiastical legislator can directly command not only mixed acts, but even merely internal acts.

a. St. Thomas, Suarez, St. Alphonsus, to whom the negative is more probable (n. 100), and most others with them hold the negative opinion; Cardenas, Elbel (n. 332), Holzmann (n. 314), Ballerini-Palmieri (n. 308), Bouquillon (n. 114), to whom some others join themselves, defend the affirmative. Practically this question is not of great moment, because it rarely happens that it is expedient to command merely internal acts; but the Church, with all conceding, can command mixed acts at least indirectly. But if an ecclesiastical superior commands merely internal acts, even if his power is said to be doubtful, nevertheless one must presume for the validity of the precept and obey it. Hence if spiritual exercises are enjoined, the one upon whom they are enjoined cannot excuse himself from performing them integrally under the pretext that the superior cannot command merely internal acts.

b. Those who deny argue in this way: that cannot be commanded or prohibited by human law whose execution cannot be urged by human means and whose omission cannot be punished; for such a law would be imposed in vain. Besides this, the Church is a visible community; but the matter of laws by which a visible community is governed is only external and sensible acts. Finally, the Church never commands merely internal acts; but what the Church never does, she is judged unable to do. But those who affirm say thus: a. the Church can command whatever conduces to her end; but although the Church is a visible society, she is nevertheless also a spiritual society intending a supernatural end, to which merely internal acts are well consonant. b. Legislative power was granted to blessed Peter without limitation (“whatever you shall bind”); therefore it is not to be restricted to external acts unless this is proved by manifest arguments. c. The first argument of the prior opinion proves too much: for from it

would follow that neither mixed acts nor hidden external acts can be the matter of ecclesiastical law. Besides this, merely directive power and power both directive and coercive at the same time must be distinguished. But it is not necessary that the Church command merely internal acts by power directive and coercive (external) at the same time; it suffices that she command them by directive power, even if she cannot punish their transgression. For the rest, she can punish even merely internal acts, namely by a penalty to be incurred by the very fact. Finally, d. the Church not only exercises power concerning merely internal acts, as is clear from those things which are said soon (under c.), but in fact commands merely internal acts. For example, priests celebrating Mass are commanded, after the reception of the body of Christ, to rest somewhat in meditation on the most holy sacrament, and this meditation certainly is a merely internal act; and the supreme pontiff under penalty of suspension commands that clerics to be ordained at Rome perform spiritual exercises, which are composed of mixed acts and merely internal acts (meditations, examinations).[228] The same power of prescribing spiritual exercises to the clergy of his diocese belongs also to the bishop.[229]

c. In the following cases all concede this power:

d. A confessor in the sacramental forum can impose merely internal acts, for example pious meditation.

e. The Church can interpret natural and divine law, which is concerned with merely internal acts; thus she can determine how often an act of faith or charity is to be elicited; how often the sacrifice of the Mass is to be applied for the people by pastors of souls.

f. She can prescribe merely internal acts as a condition for obtaining a grace; thus she prescribes meditation on the mysteries of the life and passion of the Lord for gaining the indulgence of the Way of the Cross.

g. Regular superiors can enjoin internal acts upon their subjects by reason of the vow of obedience, by which they have subjected themselves to superiors also in relation to these acts, for example mental prayer, examination of conscience.

139. Possible, not only physically, but also morally: for no one is held to the impossible. Certainly, law must redound to the common good; but it would not redound to the common good if it were not morally possible. For a law which exceeds the ordinary powers of subjects is not observed by the greater part of the community; but a law which is not observed by most redounds rather to the detriment of the community. Therefore by common consent the principle is admitted: an affirmative law does not oblige with a proportionately grave inconvenience which per accidens is joined with the observance of the law.

a. That is called morally impossible which can be done only with great difficulty, namely one which in the judgment of prudent persons surpasses human powers. But since precepts, both divine and human, are of diverse necessity and gravity, the same difficulty does not excuse from observing a precept in all cases; rather, the graver the precept is, the greater must be the inconvenience to be undergone in its observance in order that one be excused from the precept.

b. The shame to be undergone in confessing one's own sin and one's own defamation to be incurred before the confessor from the accusation of sin are per se and intrinsically joined with confession of sin; therefore they do not excuse from confession. But defamation to be incurred before others because of the confession of sins is joined with confession per accidens and extrinsically; therefore it can excuse from confession.

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228. Constitution *Apostolicae Sedis*, V, 7.

229. S.C.C., September 20, 1878. Cf. *Acta Sanctae Sedis* XII, p. 609 ff.

140. Whether law can command heroic acts, namely acts which are of extraordinary difficulty.

a. Positive divine law can command heroic acts: for on the one hand God is the absolute lord of men, and on the other He can increase the powers of men, by which the observance even of a most difficult law becomes morally possible. Nevertheless, since it is not to be presumed that God wills to oblige Himself to performing miracles in the moral order, positive divine law is not judged to command heroic acts; therefore in a case of great difficulty the law is rather said to cease.

b. Human law per se cannot command heroic acts, unless either the common good demands this, or acts of this kind are enjoined upon a determinate group, because it would command what is morally impossible and therefore would furnish occasion for innumerable transgressions.

Nevertheless sometimes even human law can command very difficult acts. a. If the law is imposed upon a determinate group of men, which each one freely enters; thus nuns are obliged to perpetual enclosure, priests to perfect chastity, some religious to the service of the sick who are infected with plague. b. If the common good demands this: for the common good prevails over private good; thus soldiers are commanded, even with danger of life, to attack the enemy and not desert their station, and pastors in time of contagious disease are commanded to remain in the parish. There are, however, those who say that in this case natural law rather than positive law commands the difficult act, namely the law that the common good is to be preferred to private good.

141. Useful to the community, which must be understood in such a way that not only the matter of the law, but also the mode in which the law is commanded (whether merely penal or preceptive, prohibiting or also invalidating, obliging under grave or under light obligation), must be useful to the community: for the power of making laws has been granted for the common good.

Hence a law which was not useful to the community or which redounded only to the utility of the prince or of a few would not be a valid law, since it regards only a private good. And therefore a law loses the force of obliging when it begins to become useless or harmful to the community.

Whether law extends itself to past acts.

This must be denied: for since law is the rule of things to be done, by its nature it regards future acts. Therefore the axiom arose: law does not look backward. Nevertheless, if a new law contained a (comprehensive) declaration of a prior law, it without doubt would affect all acts placed from the time when the prior law was issued.

Fourth Question

On The Subject Of Law

First Article

On The Subject Itself Of Law

142. The subject of law generally is only the subjects of the legislator: for to make law is an act of superiority and jurisdiction; but jurisdiction cannot be exercised except over subjects.

The subject of law can be obliged in two ways: either only habitually, or in first act; or habitually and at the same time actually, or in second act. Obligation in first act is called imperfect, but obligation in second act perfect. One who is actually obliged by law and does not observe it sins formally; one who is held by law only habitually and transgresses it sins materially.

143. The subject of law in species. 1. All men are held by natural law by this very fact, that they have rational nature, even if they have not attained the use of reason; for this law is referred to those things which per se and necessarily agree or disagree with rational nature.

Those who have attained the use of reason are held by the law of nature in second act; those who have not attained the use of reason, in first act. Therefore it is not licit to incite children or the perpetually insane to something which is prohibited by natural law, for example to blasphemy, impurity, etc.; for even children, acting against the law of nature, sin materially. But one who induces a child to violating the law of nature, as the principal cause of the violation, sins formally. As soon as children have the use of reason, in transgressing the law of nature they themselves sin formally.

2. By positive divine law which was given by Christ for all men, all are held; but by law which was made for the faithful, only the faithful are held, as soon as they have attained the use of reason. Therefore all are held to enter the Church and receive baptism; but none are held to confess and receive the Eucharist except the faithful.

Therefore if there are divine laws which already fit the age of children, children are held to observe them; thus children too who have committed mortal sin are held to confess, and in death all who have attained the use of reason are held to receive Viaticum.

3. By human law are held all and only subjects who have come to the use of reason, that is, have completed the seventh year and are still habitually self-possessed in reason. The reason for the first: only subjects can be bound by laws made by a superior. The reason for the second is that it belongs to positive law to direct the actions of subjects to the end of the community; but the actions of those who are not yet self-possessed in reason cannot be directed.

a. Unbelievers or the non-baptized are not held by the laws of the Church, because they are not subjects of the Church; therefore per se it is licit to enjoin servile works upon them on feast days.

b. Infants and the perpetually insane are not subject to the laws of the Church, because they do not use reason even habitually; therefore it is licit to provide meats to them on prohibited days.

c. The insane who have lucid intervals, the drunk, those delirious (for a brief time), are subject to the laws of the Church, because they use reason habitually; therefore it is not licit to provide meats to them on prohibited days. For although by eating meats they do not sin formally because of defect of knowledge, nevertheless they sin materially, because they are held by law, since they are habitually self-possessed in reason and only here and now lack its use.

144. Whether heretics are held by the laws of the Church. There is no doubt that heretics, schismatics, and apostates per se are held by the laws of the Church: for through baptism they have been made subjects of the Church. Nevertheless they are for the most part excused from sin, because most are ignorant that they are held by the laws of the Church.[230]

There are, however, authors who think that heretics who are born in a sect already established for a long time are not held by those laws which tend immediately to the sanctification of the soul, such as the law concerning sanctification of feasts and fasting; for they judge that the Church does not will to urge these laws, because this would redound more to destruction than to edification. But they are held by laws which

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230. Greek Catholics are not bound by pontifical laws except in a threefold case: a. in the matter of dogmas; b. if they are implicitly extended to them, namely where the matter itself shows that they are comprehended, because there is question not of a merely ecclesiastical law, but natural and divine law is declared; c. if the laws are explicitly extended to them also.

intend the protection of public order, such as laws concerning impediments of marriage.[231] Nevertheless, from the fact that heretics are not held by these laws, it is not licit to infer that Catholics can advise or enjoin the violation of laws upon them, because the Church does not permit them to be induced by Catholics to acting against the law.

Now it is asked in what way the following are held by human laws: a. the legislator himself; b. children; c. clerics; d. regulars; e. travelers; f. vagi.

145. On the legislator.

a. First of all, a twofold force of law must be distinguished: preceptive or directive, which obliges only to observing the law and to incurring fault in conscience; and coercive, which also obliges to undergoing the penalty established for transgressors. Besides this, one preceptive force is called direct, if the obligation arises from the law itself and the will of the legislator; another indirect, if the law is only the occasion which, once posited, causes obligation to proceed from another source, for example from natural law. Now it is asked whether a legislator is held by laws made by himself.

b. The legislator is either a college of several persons, which alone can exercise legislative power, as in a republic the college of deputies, or a provincial synod, or a general chapter in certain religious orders; or he is a singular person, as the Pope, a bishop, an emperor, who alone can establish laws.

1. Those who compose a college marked with legislative power are held by laws made by themselves: for the individual members are truly subject to the college which possesses legislative power. Therefore the president of a republic is held by the laws of the republic, a metropolitan by the laws of a provincial synod, a regular prelate by the laws of a general chapter.

The singular relation by which the supreme pontiff is referred to an ecumenical council, namely that he is above the council, brings it about that he himself is not subject to laws made in an ecumenical council.

2. A legislator who alone can make laws is not held by his laws with regard to coercive force, but only with regard to preceptive force, yet only indirectly.

The reason for the first is that no one can oblige himself by coercive force, which all concede; therefore neither the Pope nor a bishop incurs censures made by himself. The reason for the second is that by natural law the legislator is held to conform himself to his subjects in the observance of laws which he himself has established: for the common good, which he is held to procure, is most greatly promoted by good example; besides this, it befits the head of the community to conform himself to the community over which he presides. The reason for the third is that only an inferior can be truly and directly obliged by his superior, but no one by himself, which is commonly conceded by authors.

3. But a legislator who without cause does not observe a law made by himself, with scandal excluded, does not sin gravely; and when a reasonable cause is present, he is altogether excused from the law, even if subjects violating it sin gravely. For he himself is obliged by another law and from another end, namely that he conform himself to the community over which he presides, which equity and fittingness demand.

146. On children.

It must be noted that those are called infants who have not yet completed the seventh year of age; after the seventh year has been completed, they are called impubescent: boys indeed until the completed fourteenth

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231. G. Marc, *Institutiones morales Alphonsianae*, 10th ed. (Rome: Guggiani, 1906), I, n. 198. Genicot, *Casus conscientiae* (Louvain: Polleunis and Ceuterick, 1901), p. 22.

year, but girls until the completed twelfth year of age. When this age has been completed, they are called pubescent.

1. Children before the completed seventh year are not held by ecclesiastical laws, even if they have already attained the use of reason. For human laws do not oblige except those self-possessed in reason; but because human laws attend to things which commonly happen, and it does not commonly happen that children before the completed seventh year have the use of reason, therefore by ecclesiastical law they are not judged to be obliged before the completed seventh year, even if it is established that they already have the use of reason.

a. If it is certain that after the seventh year has been completed they have not yet come to the use of reason, they certainly are not held by laws; likewise, if it is doubtful whether they have arrived at it, they are not held.

b. Therefore children who before the completed seventh year eat meats on prohibited days or do not hear Mass on feast days do not sin, not even materially, even if they have already attained the use of reason. Parents, however, are to be admonished to accustom children even before the seventh year to observing the laws of the Church: for afterward, already accustomed, they will observe them more easily.

2. Children after the completed seventh year are held by ecclesiastical laws which fit their age: for at this age they are capable of obligation; therefore obligation affects them unless the Church determines otherwise. Therefore they are held to hear Mass, to abstain from meats, and to confess at least once in the year; but they are not held to fast, nor immediately after the completed seventh year to receive Paschal communion.

3. The impubescent do not incur ordinary ecclesiastical penalties: for although they can be punished by ecclesiastical penalties, nevertheless they are not yet judged subject to those which are *latae sententiae*, because at this age they do not yet understand ecclesiastical penalties and their reason. Therefore they do not incur censures, with one exception which is specially expressed in law.[232]

147. On clerics subject to civil laws.[233] 1. The supreme pontiff, even if he were not a secular prince, as the supreme head of the Church of Christ, which is a perfect society diffused through all the kingdoms of the earth, by divine law is immune from any jurisdiction of civil authority, unless he freely wills to subject himself to it for a time, just as the supreme pontiffs of the first centuries were subject to the Roman emperors in fact, not in law.

2. To the supreme pontiff belongs the right of exempting both bishops and clerics from civil jurisdiction. There are some who teach that bishops as princes of the Church are already exempt by that very fact from civil jurisdiction.

The Council of Trent teaches that the immunity of ecclesiastical persons has been constituted by the ordinance of God and by canonical sanctions.[234] For since the Church from divine institution is a perfect society and, by reason of its end, divine institution, and means, a much nobler society than civil society, it follows that ecclesiastical persons and things sacred to God must be immune from the power of civil princes.

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232. The censure made against those violating the enclosure of nuns is signified. Cf. *De poenis ecclesiasticis*, n. 78. From incurring reserved cases the impubescent are not ordinarily exempted; nevertheless in this diocese of Brixen, from a special disposition of the ordinary, they do not incur reserved cases.

233. The things established here cohere with the doctrine of law concerning personal ecclesiastical immunity. Cf. Suarez, *De legibus*, l. 3, c. 34. Lehmkuhl I, n. 130 f.

234. Sess. 25, c. 20, *De reformatione.*

Therefore by divine law clerics are exempt from secular power and are subjected solely to ecclesiastical power. At the same time the power has been given to the Church of extending and determining the clerical order, who and in what matters ought actually to be immune from secular jurisdiction.[235]

3. Clerics are held to observe civil laws which are not opposed to the dignity of the clerical state, with regard to directive force.

a. All agree that clerics are held in conscience to the observance of civil laws, but not all derive the obligation from the same source: for some judge that it descends from the law of nature, others from the civil law itself, and finally others from the will of the Church. In our time Wernz (I, n. 108) defends the second opinion, Lehmkuhl (I, n. 140) the third.

b. Clerics are not held to observe laws which do not befit the clerical state, such as military laws: for the Church does not exact their subjection toward these laws, but rather rejects it; but against the will of the Church civil power cannot subject clerics to its laws. If nevertheless they are forced to observe even laws of this kind against the will of the Church, after a protest against the force inflicted has been premised, if it is judged necessary for preventing scandal, they must yield to force and observe the law.

4. Clerics are not held to observe civil laws with regard to coercive force: for by the privilege of the forum the Church has in fact constituted clerics immune from laws decreeing punishment. Since today, however, civil power no longer recognizes this exemption of clerics, but subjects clerics equally with laymen to all civil laws, it must be seen whether the Church permits or at least tolerates the subjection of clerics under certain penal laws, either expressly through concordats or tacitly through a certain agreement.

148. On regulars subject to the laws of the bishop. 1. Exempt regulars per se are not held by the laws of the ordinaries in whose dioceses they exist: for the privilege of exemption consists in this very thing, that regulars are exempted from the ordinary jurisdiction of bishops and are immediately subject only to the Roman Pontiff.

2. Nevertheless there are many cases in which exempt regulars are subjected to the jurisdiction of bishops, whether ordinary or delegated.[236]

Sometimes per accidens they must also subject themselves to bishops in those matters in which they are per se exempt, namely when subjection is necessary either for avoiding scandal or for promoting the common good.

3. Churches and monasteries of regulars can probably be considered as exempt places, so that non-exempt persons are not subject to diocesan laws so long as they remain in them.[237]

149. On travelers.

a. A traveler is called one who has a domicile or quasi-domicile somewhere, but is outside it with the intention of remaining there only for a brief time.

b. The principle from which the individual questions pertaining here are solved is this: in order that law oblige, besides knowledge of the law two things are required: a. that someone be a subject of the legislator; b. that he be in the territory which is affected by the law.[238]

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235. Ballerini-Palmieri IV, n. 521.

236. Ballerini-Palmieri VII, n. 51 f., enumerates these cases.

237. Cf. St. Alphonsus, l. 1, n. 156. Ballerini-Palmieri I, n. 346 ff.

1. Travelers are not held by the particular laws of their domicile: for laws are territorial, that is, affixed to the territory in such a way that they do not extend themselves outside it; but the traveler is outside the territory which is affected by the law.[239]

a. One who on the day of a particular fast is outside his territory is not held to observe the fast. One who, leaving in the morning from a place where there is no fast, returns to the place of his domicile, where a fast must be observed, can there in the morning fully refresh himself with meats, even if he knows that at noon he will already be in the place of his domicile; nevertheless at home he must abstain from meats and observe the fast insofar as it can still be observed, namely as to abstinence. One who in the morning leaves his domicile, in which there is a fast, knowing certainly that in the evening he will be in a place in which there is no fast, can already in the morning fully refresh himself, because the fast is commanded as an undivided thing; but in his domicile he must abstain from meats, because abstinence prohibits individual meals.[240]

b. Nevertheless one who leaves the territory only after the time useful for fulfilling the law has elapsed, and has not satisfied the law, sins against the law; as if someone leaves a place in which a particular feast is celebrated after the time of the last Mass has elapsed, without having heard Mass. But one who leaves it in such a way that before the time of the last Mass he has arrived outside the place where the feast is celebrated does not sin if he hears no Mass; for if he had remained in the place where the precept obliged, he could have deferred fulfillment until that time, but when he arrives at another place, the obligation ceases.[241]

2. They do not enjoy the privileges of their domicile: for privileges are in like manner territorial, and therefore travelers lose them by departure from the place of domicile.

One who comes from the place of his domicile where on ember days it is licit to eat meats and stays in a place where this privilege does not exist cannot licitly eat meats.

3. They are not held by the particular laws of the place in which they are staying: for laws oblige only subjects; but only one who has domicile or quasi-domicile in the territory of the legislator is a subject. But if the same law is in force in each domicile, some, adhering more closely to the principles expounded above, declare travelers immune from the law; others, however, from a certain equity probably oblige them to observing the law.[242]

One who leaves the place of his domicile, in which there is a particular fast, and comes into a place where likewise there is a special fast, is not held to fast: not by reason of the precept of his domicile, because he is outside the territory; not by reason of the precept of this place, because he is not a subject of the legislator.

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238. If ever elsewhere, certainly in this place it must be warned that moral theology, which by its office treats of licit and illicit things, does not primarily teach to what the spirit of the law moves and induces, but chiefly must determine that which the letter of the law strictly demands from us.

239. Laws and statutes of regular superiors oblige even outside the territory, because the jurisdiction of regular superiors affects subjects not by reason of territory, but by reason of the vow of obedience, by which they are personally subjected to superiors.

240. What is said of a traveler, namely that he stays outside the territory, holds also of one who is found in an exempt place: for an exempt place can be considered as a place positioned outside the territory of the legislator. Moreover, exempt places certainly are parishes or towns which are subject to another ordinary, and probably also churches and monasteries of regulars. Hence if a bishop under excommunication prohibited dice-playing to clerics, clerics playing in an exempt place would not incur the excommunication. Cf. *De praeceptis*, n. 663, n. 670.

241. St. Alphonsus, n. 157.

242. By precept of the Church, prayers (collects) commanded by the bishop of the place must be recited by absolutely all priests celebrating Mass in the diocese, both by regulars and by travelers. S.C.R., April 3, 1821, n. 2613; March 5, 1898, n. 3985.

4. Travelers enjoy the privileges of the place in which they are staying: for they would have to undergo too great an inconvenience if they themselves were held to observe laws which others in the same place do not observe.

One who during the time of Lent is staying in the diocese of Brixen can eat meats twice in a day on days on which the indult has been granted, even if this privilege does not exist in the place of his domicile.

5. Nevertheless travelers are held by common laws which are in force in the place where they are staying, even if in their own domicile they have been abrogated. Thus Germans at Rome must fast on the days of Holy Week according to the Roman manner: for the law affects the territory, and the traveler himself is subject to the common legislator. Besides this, they are held to observe: a. local laws which regard contracts, for concerning these the axiom holds: place (that is, local law) rules the act; b. local laws whose transgression would turn to the detriment of the place in which they are staying, as if it were prohibited to export goods, or, by reason of security, to carry weapons; c. laws which have been made specially for travelers.

For preventing damages and for warding off transgressions of universal laws, it is commanded that travelers produce testimony of their domicile and their state, and that traveling priests who wish to celebrate produce testimony of the state of priesthood and of immunity from irregularities and censures.

6. One who has already satisfied a common law in his own territory is not held to satisfy it again if he comes to a place where the same precept urges later, because there does not exist an obligation of fulfilling the same precept twice.

Thus an Italian who fasted at home on the vigil of St. Peter is not held to fast again in France on the following Saturday, to which the fast is there transferred. If, however, he would be a scandal to others because he does not observe the law from which he is immune, by reason of scandal he would be held to observe it.[243]

150. On vagi. A vagus is called one who has neither domicile nor quasi-domicile anywhere. a. There are some (Suarez, Sanchez, and others) who say that vagi are held to the laws of the place in which they are staying. But others (Lessius, Laymann, etc.) teach that they are not held to any particular laws of places, except in the threefold case of which above (5) it is said, but only to the universal laws of the Church. Since this opinion is probable, it is licit to follow it. b. All concede that vagi can be punished where they commit offenses, lest their crimes remain unpunished.

Note. A personal precept, likewise a personal privilege, follows the one to whom it has been given everywhere. Therefore everywhere he can use the dispensation, just as everywhere he is bound by the precept.

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243. Case. In place S., the feast of the holy Apostles Peter and Paul has been transferred to the following Sunday, and on Saturday the fast of the vigil is to be observed; in place U., the feast of the princes of the Apostles is kept on the very day, June 29, and on the preceding day the fast is observed, which day in this year is supposed to fall on Wednesday. a. If a citizen of place S. is staying on Wednesday in place U., knowing certainly that on the next Saturday he will be in the place of his domicile, in rigor of law he must fast in U., because the obligation of the universal law urges. If, however, he had a just cause of fasting rather at home on the following Saturday, he can transfer the fast to this day, provided that he observes the universal law of the Church once. But if in place U. he is not legitimately excused from the fast, he is held to fast at home on Saturday. b. If a citizen of place U. is staying on Wednesday in S., and on Saturday, the day on which they fast in S., is again found at home, in rigor of law he must fast once: for no dispensation from the fast is granted, neither in place S. nor in place U.; therefore he cannot use the privilege of dispensation which is granted nowhere. Nevertheless, since in place S. there exists the privilege of deferring the fast to the following Saturday, he can use this privilege. But if by fasting on that day on which otherwise no one fasts he must undergo great inconvenience, per accidens in that year he is excused from the fast because of this inconvenience.

Article Second.

On Ecclesiastical Domicile.

151. Notions. 1. Someone becomes the subject of a particular legislator by the fact that he acquires domicile or quasi-domicile in his territory. Therefore in this place, as far as can be done, it must be accurately determined: a. how someone acquires and loses domicile in a parish; b. how he acquires and loses quasi-domicile in a parish.[244] Domicile in a diocese can be acquired only by means of domicile in some parish of the diocese.

2. Domicile is habitation in a parish with the intention of remaining there perpetually, if nothing calls one away from there; quasi-domicile is habitation in a parish with the intention of remaining there for the greater part of the year.

3. A twofold domicile is distinguished: voluntary domicile, which is acquired of itself, i.e. by one's own choice, and legal or necessary domicile, which is acquired through another or from the disposition of law.

It is clear that one must attend not to civil laws, but to the statutes of ecclesiastical law, where there is question of acquiring or losing ecclesiastical domicile. Therefore the place of domicile is the parish, not a city or town, and the conditions required for acquiring or losing domicile are to be sought from canon law, not from civil law, unless canon law adopts them.

152. How it is acquired or lost.

I. On acquiring domicile.

1. For acquiring voluntary domicile two things must concur at the same time: a. the fact of habitation, i.e. that someone actually begins to dwell in some place; and b. the intention of remaining there perpetually, unless some new reason calls him away.

a. Domicile is acquired from the day on which these two are present at the same time; it is not necessary that someone already have dwelt there for some time.

b. If the intention of remaining there perpetually is not established, it must be concluded from various indications which produce moral certitude. Indications of this kind are: constant habitation, the transfer of the greater part of one's goods, the acquisition of immovable goods, an assertion especially confirmed by oath.

c. By ecclesiastical law nothing prevents someone from having several domiciles; however, it is required that he dwell in those places in an almost equal manner, e.g. in wintertime in one place, in summertime in another.

2. The persons determined in law acquire legal domicile: a. a wife acquires the domicile of her husband and, if she has become a widow, retains it until she has acquired another; b. children have the domicile of their parents, so long as they are under their power; a son of the family who has become of age retains domicile in the paternal (maternal) house until, having left it, he has acquired another; c. wards have the domicile of their guardians.

a. Where minors and wards have domicile must be taken from civil law (provincial, not Roman), since canon law disposes nothing concerning this matter. Now by civil law minors and wards can acquire

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244. Cf. Laurin, *Wesen und Bedeutung des Domizils* (*Archiv f. k. Kirchenrecht*: Bd. 26. S. 165).

quasi-domicile, but they have and retain the domicile of the father (and, he being deceased, of the mother) or of the guardian.[245]

b. The distinction between minor and adult children as regards domicile in the paternal house is this: minors have necessary domicile there, so that they cannot abandon it by their own will, whereas adults have free domicile, so that they can abandon it at will.

II. On losing domicile:

Domicile is lost if these two things concur at the same time: a. actual departure from the place of domicile; and b. the intention of not returning. Just as departure alone from the place of domicile does not suffice for losing domicile, so neither does the intention alone of no longer remaining in that place suffice.

Domicile is lost from the day on which these two things are present at the same time, nor is it necessary that domicile or quasi-domicile have been acquired elsewhere.

III. On acquiring quasi-domicile.

Quasi-domicile is acquired if these two things concur at the same time: a. the fact of habitation in some place; and b. the intention of remaining there for the greater part of the year, i.e. for six months.

a. Quasi-domicile also is acquired from the day on which these two things are present at the same time, nor is it required that someone already have dwelt there for some time.

b. Authors do not agree how long it is necessary, for acquiring quasi-domicile, that someone wish to remain in the place: for some say that it is required that he have the intention of remaining for the greater part of the year and therefore for six months; others judge it sufficient if he have the intention of remaining there for a notable part of the year and therefore for four or five months. Nevertheless, the more recent decrees of the sacred congregations require habitation for the greater part of the year.[246]

c. For acquiring quasi-domicile in some place, true and properly so-called habitation in that same place is required; it does not suffice that someone migrate in some region, after the manner of an itinerant, from place to place.

d. Therefore public officials, judges, professors, students, male servants, female servants, etc., who by reason of office, study, or business to be carried on stay in some place with the intention of remaining there for a longer time (six months), have quasi-domicile in that place. If the intention of remaining for a longer time in some place is not established, it must be presumed from various indications.

IV. On losing quasi-domicile.

Quasi-domicile is lost if these two things concur at the same time: a. actual departure from the place of quasi-domicile; and b. the intention of not returning.

Question Fifth.

On the Promulgation and Acceptance of Law.

153. The notion and necessity of promulgation. 1. Promulgation is defined as the external proposal of the law, solemnly made by the legislator to the community.

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245. German Code § 8. 11.

246. S. Officium, 7 June 1863.

a. Promulgation must be made by the legislator, because law must have from the legislator all those things which are required for fully constituting it. It must be solemn, or made by a public act at the command of the legislator (by the voice of a herald, by affixing in a public place), so that it may be certain to subjects that the law is promulgated.

b. The promulgation of a law differs from the dissemination of the same law, by which, once promulgation has already been made, it is spread among subjects in different places, so that it may come to the knowledge of all. It is clear that dissemination is not necessary for the validity of the law. It also differs from notice or knowledge of the law: for notice of a law not yet promulgated does not introduce obligation; but once promulgation has been made, the law obliges (in first act) even those who still are ignorant of the law. Therefore he who has private notice of a law not yet promulgated does not sin if he acts against the law; but he who acts against a law already promulgated sins materially, even if he is ignorant of it.

c. Bishops are bound to obtain for themselves the authentic text of a promulgated law and to communicate it to their subjects and, if there is need, to explain it.

2. Promulgation is necessary for a law to obtain the force of obliging: for law cannot oblige subjects unless the will of the legislator to oblige the subjects has been intimated to them; but it is intimated through promulgation; wherefore law before promulgation does not oblige.

Those who affirm that promulgation is not only a necessary condition for inducing the obligation of a law, but a constitutive element of the law itself, argue thus: law formally is a public rule of morals issued by the prince as he is a public person; but a rule is constituted public by publication; therefore law is formally constituted law by publication.

154. The manner of promulgation. By the law of nature that manner of promulgation is required and suffices by which subjects can know the law as promulgated by the prince. Since diverse modes exist for obtaining this end, it belongs to the legislator to choose that one which seems suitable to him for the end; but the mode chosen by the legislator must be considered entirely sufficient.

a. Now for several centuries the Roman pontiffs have considered that promulgation sufficient by which ecclesiastical laws are affixed in public places at Rome, nor is it necessary that they be promulgated in individual provinces or dioceses, unless in a particular case the legislator himself has established otherwise. But from the beginning of the year 1909, only those ecclesiastical laws, decrees, and acts of the holy see are judged duly promulgated which have been inserted in the official commentary *Acta Apostolicae Sedis* and published to the public.[247]

By the will of the Council of Trent, the law concerning the clandestinity of marriages had to be promulgated in individual parishes in order to introduce obligation. Leo XIII willed that the constitution *Romanos pontifices* (8 May 1881) should not be obligatory except after promulgation made in England. Pius X willed that the decree *Ne temere* (2 August 1907) concerning betrothals and marriage should be promulgated through its transmission to ordinaries.

b. Episcopal laws are judged sufficiently promulgated if they are published in the episcopal city (because, for example, they are publicly read in the cathedral church or affixed to its doors), or if they are inserted in the diocesan paper.

c. The reason why several authors, and those not undistinguished, have thought that pontifical laws must be promulgated in individual provinces is this: Roman law establishes that new laws must be promul-

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247. Constitution *Promulgandi*, 29 September 1908.

gated not only in the principal city, but also in individual provinces; but pontifical law has issued no particular statute concerning the manner of promulgation. Now from the canon commonly received in the doctrine of authors, where ecclesiastical law establishes nothing specifically about some matter, it is judged to accept the dispositions of Roman law. - But from the declaration of the Roman pontiffs this disposition of civil law is not to be accepted. Thus also both pontifical constitutions, *Apostolicae sedis* (12 October 1869) and *Officiorum ac munerum* (25 January 1897), by the will of the supreme pontiff obliged all the faithful after promulgation made at Rome,[248] and indeed by the explicit will of Pius X laws and decrees have the force of obliging by the fact that they have been published in the official commentary. From this doctrine it follows that the obligation of ecclesiastical laws cannot be impeded by the *placetum regium*, since their promulgation made at Rome suffices for them to obtain the force of obliging everywhere.

d. In fact, ecclesiastical laws promulgated at Rome are sometimes communicated, in order that knowledge of them may be disseminated, through the apostolic nuncio or through the archbishop to the bishops, by whom they are then made known throughout the diocese. To introduce obligation it is not necessary that bishops promulgate ecclesiastical laws, e.g. decrees and decisions of the Roman congregations, in their dioceses: for as soon as certain knowledge of some decree or decision, e.g. through trustworthy public journals, has come to us, we are obliged to observe it.

155. When law begins to oblige. Once promulgation has been made, a law to which no term has been prefixed for the beginning of obligation obliges all to whom knowledge of it comes; but after a two-month period has elapsed, this knowledge is judged to have come to all: for, in the judgment of prudent men, in the space of two months a law duly promulgated can be known by all. But if a term has been prefixed to the law from which it begins to have the force of obliging, just as before that term it obliges no one, so after the term has elapsed everyone is presumed to know the law.

a. Not only the laws of inferior prelates, but also pontifical laws of themselves oblige all immediately after promulgation, unless something else has been established by the legislator himself. Nevertheless, during the two-month period after promulgation, before it has yet elapsed, as regards a penal and invalidating law, in the external forum at least outside the Roman curia an excuse of ignorance is more easily admitted; but once the two-month period has elapsed, knowledge of the law is presumed.[249]

b. The probable opinion of St. Alphonsus is to be noted, by force of which pontifical (disciplinary) laws, during the two-month period after promulgation, before it has yet elapsed, oblige no one either in the external forum or in the internal forum, even if he has knowledge of the law. This opinion is strengthened by this argument: where a disposition of canon law is lacking, one must stand by Roman law; but in Roman law laws began to oblige two months after promulgation.[250] Wherefore it is lawful to wait for two months until the disciplinary decrees of the holy see are mandated for execution.

c. Nevertheless ecclesiastical laws which contain definitions of faith or declare divine law immediately oblige in conscience all who have received knowledge of the law in any way whatsoever: for laws of this kind, since they have already been promulgated, need, for inducing obligation, not promulgation, but knowledge alone.

156. On the acceptance of law.

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248. Cf. Ballerini-Palmieri I. Appendix. II. De promulgatione legis pontificiae.

249. Cf. Wernz, I. n. 101.

250. St. Alphonsus n. 96. q. 2.

A law is said to be accepted by the fact that it begins to be observed by subjects; a promulgated and known law which is not observed by subjects is said not to be accepted.

1. The acceptance of the people is not required for a law to obtain the force of obliging: for a superior has the power and will of obliging subjects independently of the acceptance of the people, nor could true legislative power consist in the prince, if the value of laws depended upon the acceptance of the people.

a. This is so true concerning civil law that the contrary proposition was condemned;[251] but to affirm the contrary concerning ecclesiastical law would even savor of heresy: for it is certain by faith that the supreme pontiff has received legislative power, and indeed one altogether independent of the people, immediately from Christ.

b. Nevertheless it can happen that somewhere a law issued is not received by right, namely if a contrary custom is in force there, which is not removed through a derogatory clause added to the law.

2. If a law duly promulgated is not observed, a contrary custom can arise immediately. In this case those who in the beginning transgress the law generally sin; but when the contrary custom has been legitimately prescribed, subjects who do not observe the law no longer sin. It is clear that the effect of this contrary custom is the same as if the law had not been accepted.

3. If some disciplinary law seems to the people too difficult or less suitable to the circumstances of things, an appeal can be made to the legislator; meanwhile, however, the obligation of the law is suspended from the presumed consent of the legislator. But if thereafter the legislator does not urge the obligation, he is judged to revoke it.

a. Wherefore bishops of themselves are bound to accept pontifical laws and to promulgate them to their subjects; yet if they have judged some law less suitable or even harmful to their diocese, they can and must set forth their reasons to the holy see; meanwhile the supreme pontiff is judged not to wish to oblige; afterward, however, obedience must be given to his definition. But if nevertheless the law certainly seems harmful to his diocese to the bishop, he is not bound to urge its observance.

b. The common opinion of canonists that a law not received does not oblige[252] admits a twofold true sense: a. a law not received does not oblige when it has been abrogated by legitimate custom; b. a law not received because of excessive difficulty does not oblige.

Question Sixth.

On the Interpretation of Law and Epikeia.

157. Definition. Interpretation is defined as the genuine explanation of a law. Interpretation must be made according to the mind of the legislator and the words of the law: for the whole of interpretation tends to this, that the will of the legislator, which he had when he established the law, be sought and determined. But the mind of the legislator is sought which is contained in the words of the law (with their context, object, end, and other circumstances considered); therefore a mind of the legislator which is contained in the words of the law in no way is not to be attended to.

158. Division of interpretation. a. By reason of the author it is divided into authentic, which is made by the legislator himself or by another to whom the legislator has given the power of interpreting; into usual,

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251. "The people does not sin, even if without any cause it does not receive a law promulgated by the prince." Proposition 28 condemned by Alexander VII.

252. In c. *Treugas* 1. *De treuga et pace* (I. 34).

which is made by subjects through the manner in which they observe the law; into doctrinal, which is made by learned men according to the rules of genuine interpretation. Because law is to be interpreted according to the manner in which it is observed, the adage has arisen: custom is the best interpreter of laws.

b. By reason of the mode, interpretation is divided into comprehensive or declarative, which explains the law from the proper and customary signification of the words, as if it is said that under the name of son even an illegitimate son is understood; and extensive, which extends the law beyond the customary sense of the words, as if it is said that under the name of son even a grandson is understood.[253] This is not properly an interpretation of law, but rather an extension of law and a new legislation; therefore this interpretation also needs a new promulgation.

Authors do not agree whether comprehensive interpretation, in order to obtain the value of law, needs a new promulgation. The disagreement seems to arise from this, that not all define comprehensive interpretation in the same manner. Some call that interpretation alone comprehensive which exhibits the sense of a sufficiently clear law; but others also comprehend under this interpretation that which declares a law that is obscure and plainly doubtful[254] (n. 135, 3).

c. Comprehensive interpretation is distinguished into strict, by which the sense of the law is restricted to the proper signification of the words alone, as if the word son is understood only of one begotten; and broad, by which the sense of the law is extended as much as is permitted by the words and end of the law, as if the word son is taken even of an adopted son.

For sometimes it happens that the words of a law can be understood in a twofold sense, each of which is a proper sense, but one is broader than the other. Thus the term clerics, if it is taken strictly, signifies only those who have been initiated by clerical tonsure; but if the same term is taken broadly, it designates all ecclesiastical persons. Likewise the term religious strictly signifies only regulars, broadly all who exist in some congregation even of simple vows, and indeed also novices.

159. On authentic and doctrinal interpretation. 1. Authentic interpretation has the force of law, because it proceeds from the same power as the law itself.

Of the Roman congregations only two have the power of interpreting laws authentically: the congregation of the council, which can interpret the disciplinary decrees of the Council of Trent, and the congregation of sacred rites, which can interpret liturgical laws authentically (n. 133).

2. Doctrinal interpretation does not have the force of law, because it does not proceed from legislative power, but it has that value which the weight of reasons and the authority of doctors procure for it; wherefore, where the consensus of doctors is had, the interpretation is morally certain; but where the doctors disagree concerning the sense of the law, the interpretation is held only as probable. Canonists hand down the rules of doctrinal interpretation.[255]

160. On epikeia. 1. Epikeia (equity) can be defined as a restrictive interpretation of law, by which it is judged that the law does not extend to some particular case on account of special circumstances, although it is clearly contained in the words of the law; as, if a law prohibits carrying arms at night, by epikeia he who is about to encounter an enemy seeking him for death can judge that it is licit for him to carry arms. The reason for admitting epikeia is that the legislator cannot foresee the most diverse circumstances in which

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253. Cf. Schmalzgrueber, *Ius ecclesiast.* Dissert. prooem. n. 373.

254. Cf. Wernz I. n. 100.

255. Laymann, *De legibus* c. 18. Reuter, *De legibus* n. 252-258. Wernz I. n. 127-133.

men can be found, and if he did foresee them, he could not comprehend them by his law, which regards only things that happen commonly; and therefore he is rightly judged not to have wished to comprehend cases of this kind by his universal law.

Epikeia differs both from interpretation and from presumed dispensation from the law. For by interpretation it is declared that some case is not contained in the words of the law; and by presumed dispensation it is judged that a case is indeed contained in the law, but that the legislator would except it if he were asked; but through epikeia it is judged that this case, from the mind of the legislator, is not comprehended in the law; therefore by interpretation the words of the law are explained, but by epikeia the mind of the legislator is judged.

2. When it is lawful to use it. As often as on account of special circumstances it can prudently be judged that the legislator did not wish to comprehend some case by his law, it is lawful to employ epikeia; but specifically it is lawful to use it in a threefold case:

a. If observance of the law would be evil or pernicious, as if someone should leave a gravely sick person in order to hear Mass.

b. If observance of the law would be too difficult and burdensome, as if a sick person should fast.

c. If from the circumstances it can prudently be judged that the legislator in this case, in which the law is not too difficult, did not wish to oblige, even if he could have done so, because he is rightly presumed not to wish to oblige with all rigor and in every case in which he can.[256] Thus David, using epikeia, ate the loaves of proposition.[257]

The last case is that in which epikeia properly has place: for in the former cases the law ceases, because we judge that the legislator could not have comprehended them by his law; but in the last it ceases because from a certain equity we judge that the legislator did not wish to comprehend it, even if he could have done so. In the former cases it is lawful to use epikeia, even if the legislator is not asked, who could be approached, because it is established that he cannot oblige; but in the last case he must be asked, if he can be approached.

3. Although every human law of itself admits epikeia, nevertheless from the practice of the civil forum it is not always admitted in civil law. If, e.g., a parish priest, because of an urgent cause of death, joins two persons living in concubinage in marriage without a preceding civil marriage, where the law prescribes civil marriage, the parish priest, having used legitimate epikeia, acts rightly; nevertheless the civil judge would sometimes declare the parish priest guilty of having violated the civil law.

Question Seventh.

On the Obligation of Law.

Article First.

On the Obligation of Law in General.

161. Existence of obligation. 1. Any law whatever induces obligation in conscience or under sin: for the first and essential effect of law is the obligation of observing the law; wherefore a law which in no way obliges in conscience, not even to undergoing punishment, is not a law.

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256. Cf. Suarez, *De legibus* l. 6. c. 7. n. 11.

257. 1 Reg. 21, 6.

Therefore it is established also that the civil legislator establishes laws obliging in conscience. This is clear a. from the nature of the power conferred by God Himself, in which there is the office of preserving the common good and warding off an anarchic condition from civil society; b. from Scripture: *There is no power except from God . . . Therefore he who resists the power resists the ordinance of God. Be subject not only because of wrath, but also because of conscience.*[258]

2. It depends upon the prudent will of the legislator what obligation he wishes to impose, whether to fault, or to fault and to punishment, or only to punishment.

This will of the legislator is discerned:

a. From the nature of the law: for civil laws in which the end intended by the legislator cannot be obtained short of obligation to fault are judged to oblige to fault; but those whose end can be obtained even short of obligation to fault are judged to oblige only to punishment.

b. From custom, which is the best interpreter of laws: namely if even subjects who are of timorous conscience practically hold the law as penal, it can be judged such.

c. From the declaration of the legislator himself, such as is had concerning the rules of certain religious orders.

d. From the words of the law itself: if the law prescribes only a punishment ("he who has done this, let him undergo this punishment"), it will be penal; if it commands and at the same time imposes a punishment, it will be mixed; likewise if it does not contain preceptive words, ordinarily it will be penal, but if it contains such words, ordinarily it will be preceptive. For although the lack of commanding words is not a certain sign of a penal law, nevertheless ordinarily, if a law is issued merely assertively, it is judged to be penal, and if it is issued by way of precept or prohibition, it is judged to be preceptive.

e. From the gravity of the punishment: for if to a civil law there is added a most grave temporal punishment which has no proportion with the transgression, it is established that the law is penal. Certainly the legislator is not judged to wish to oblige to both, to incurring fault and at the same time to incurring an exorbitant punishment, unless there is question of a law of very grave moment.

162. The quality of obligation. The obligation of a law can be grave or light; but what obligation is imposed in individual laws depends both upon the matter, and upon the circumstances and end of the law, and upon the will of the legislator.

a. A legislator can impose grave matter under light obligation: for obligation depends upon the will of the legislator, who can reasonably prescribe even grave matter under light obligation, namely where the end of the law is sufficiently obtained even by a light obligation.

Wherefore, in order that a law oblige under grave sin, two things are required: grave matter and the intention of the legislator wishing to oblige under grave sin. That the matter is grave is gathered from the nature of the thing, from the end of the law, and from the circumstances. That the obligation of grave matter is grave from the intention of the legislator is discerned especially: a. from the words of the law, which, if they have great force ("we strictly, rigorously prescribe; we command in virtue of holy obedience; we command under threat of divine judgment"), signify grave obligation; b. from the gravity of the matter: for in grave matter, namely that which contributes much to obtaining the end intended by the law, the legislator is judged to have wished to oblige under grave sin, unless the contrary is established; c. from the

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258. Rom. 13, 1. 2. 5. Cf. 1 Pet. 2, 13.

gravity of the punishment: for if a grave spiritual punishment is added to the law, e.g. an excommunication *latae sententiae*, it is a sign that the law obliges under grave sin; nevertheless in civil law an extraordinarily great punishment generally signifies a penal law; d. from the interpretation of doctors; e. from custom or from the sense and practice of subjects.

Concerning the intention of the legislator, however, note these things: just as it is not necessary that the legislator explicitly intend to impose obligation in conscience in order that the law oblige in conscience, so it is not necessary that he explicitly intend to impose grave obligation in order that the law oblige under grave sin; for just as the intention of obliging is judged to be contained in the very use of legislative power, so in like manner the legislator is generally presumed to wish to enjoin grave matter also under grave obligation. Wherefore it must altogether be held that even an infidel legislator establishes laws obliging in conscience. Yet if it is established that an atheist legislator, making nothing of obligation before God and in conscience, acknowledges only an obligation to punishment to be inflicted on transgressors, it is rightly supposed that his laws are merely penal, unless they absolutely require obligation in conscience.

b. A legislator cannot enjoin light matter under grave obligation, because light matter is not capable of grave obligation: for an obligation which is not proportioned to the matter would be an intolerable burden, and therefore would fall rather to the detriment of subjects, because sins would be multiplied too much.

Hence if the matter is simply light, the transgression is not mortal, even if the legislator had wished to oblige under grave sin; and if a law obliging under grave sin is violated in light matter, the transgression likewise is only light. Yet if matter light in itself becomes grave from the end or from the circumstances, without doubt it can be imposed under grave sin: thus it is grave if a celebrant omits to pour a little water into the chalice.

163. To what a law obliges. The obligation which a law induces contains in itself several elements either explicitly or implicitly; it obliges:

1. To the observation of itself; this is the chief and essential efficacy of law, in which the other obligations are contained implicitly and virtually.

2. To knowledge of itself: for since law cannot be observed unless it is known, therefore, lest legislation become useless, it must first prescribe knowledge of itself. But by that very fact it also obliges to employing the ordinary means which conduce to knowing the law.

a. Hence voluntary or vincible ignorance of some precept obliging here and now is a sin against that very precept which is unknown, and indeed grave, if the ignorance has proceeded from grave negligence.

b. If somewhere statutes to be observed by clerics are promulgated and disseminated by the bishop in the diocesan paper, clerics are bound to buy the paper or at least sometimes to inquire from others who read it what has been established by the bishop: for this is the ordinary means of knowing the statutes of the bishop, which all are therefore bound to employ.

3. To employing the ordinary means which are proximately necessary for the observance of the law itself: for he who is bound to the end is by that very fact also bound to the means which are proximately necessary for obtaining the end. But to employing extraordinary and remote means the law does not oblige, because this obligation would be too burdensome and difficult.

He who is bound to recite the divine office is bound to procure and preserve for himself a breviary by which he can recite it; and he who foresees that on the very day of fasting he will not be able to have fasting foods is bound to procure them the day before, so that he can observe the fast.

4. To removing or forestalling impediments which render its observance proximately impossible, if this can be done without grave inconvenience: for he who is bound to the end is by that very fact also bound to removing or not placing impediments which proximately obstruct the obtaining of the end.

He who on the very day of fasting goes out hunting without just cause, foreseeing that because of fatigue he cannot fast on that day, sins against the precept of fasting; and he who on a feast day in the morning makes himself drunk, foreseeing that on that account he cannot be present at Mass, commits an offense not only against temperance but also against the precept of hearing Mass.

5. To avoiding the danger of sinning against the law: for the law which commands avoiding sin by that very fact commands also avoiding that which is morally joined with sin, namely the danger of sinning.

Therefore he who without just cause exposes himself to the danger of sinning sins against the same precept of whose violation he seeks the danger: for to will the danger of sinning is the same as to will the sin itself, which is greater the greater the danger is.

Article Second.

On the Obligation of Special Laws.

§ 1. On Penal Law.[259]

164. What it is. 1. A penal law is that which does not oblige in conscience to doing or omitting something, but only to undergoing punishment if, in a case of transgression, it has been inflicted. And this indeed is called a merely penal law, so that it may be distinguished from a mixed law, which is preceptive and at the same time penal (n. 110. 4).

Therefore penal laws do not strictly oblige to doing or avoiding what is established through the law, but only to accepting the punishment as just, if the action or omission intended by the law has not taken place. A merely penal law is not a law which in no way obliges in conscience, but is a law which induces no other obligation of conscience except to undergoing punishment.

2. That the legislator can establish merely penal laws is not doubtful: for a merely penal law has the character of true law, equally as a preceptive law does; but it depends upon the will of the legislator what kind of law he wishes to establish. Besides, the common good sometimes does not require any law other than a penal one, because subjects are sufficiently impelled to observe the law from fear of punishment alone.

a. There are indeed some scholastic doctors who deny that there can be a merely penal law. One or another of the more recent theologians accedes to them.[260] Their arguments are these: a. It belongs to the nature of law that it oblige in conscience; but a merely penal law is an arbitrary law (*ein blosses Willkurgesetz*), namely one whose existence is attributed to the choice of the prince and whose observance is permitted to the choice of subjects. b. Punishment supposes fault; but he who transgresses a penal law does not commit fault, since it does not oblige in conscience.

b. But the common opinion of doctors, that there can be merely penal laws, must altogether be held. Certainly every law intends some act either to be placed or to be omitted; now, in order that a law may attain that which it intends, either it commands the act itself and obliges to it in conscience, or it proposes the act and hypothetically commands the punishment, namely if the act is not done or is not omitted.

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259. Suarez l. c. l. 5. c. 3 ss. Biederlack, *Die Lehre von den Poenalgesetzen* (*Zeitschr. f. k. Theol.* 1899. S. 155 ff.).

260. Cf. *Tubinger theol. Quartalschrift* 1898 S. 655 ff. 1900 S. 204 ff. 1902 S. 575 ff.

Therefore the proper object of a penal law is the punishment hypothetically to be undergone, which in this law is not the sanction of the law nor the vindication of fault, but the means by which the legislator urges subjects to the act proposed and intended by the law.

c. To the arguments of those who deny it, it must be noted: a. It does not belong to the nature of law that it oblige in conscience to the act which it intends, but it is enough that it oblige to punishment if the intended act is not done. b. Punishment supposes either moral or civil fault, but not always moral fault. Or better thus: punishment properly so called supposes fault, but not punishment broadly so called, which supposes only a just cause on account of which it is inflicted. For punishment broadly so called is any inconvenience whatever which is imposed by a superior from a just cause, which in this case is the omission of the act intended by the law.

165. Whether and what laws are penal. Therefore it is asked whether merely penal laws have in fact been established and exist.

1. Although the Church can issue merely penal laws, nevertheless in fact, if the rules and statutes of certain religious orders are excepted, scarcely any merely penal ecclesiastical laws exist;[261] but merely penal civil laws do exist.

2. Merely penal civil laws in general are all those whose end can be sufficiently obtained by the fact that subjects are compelled to their observance by fear of punishment alone, unless the legislator has declared otherwise. But specifically these are judged penal: a. statutes which refer to the external order of the community (*die Polizeiverordnungen*); b. laws concerning the cutting of wood, concerning hunting, fishing, grazing in the forests, pastures, or marshes of the community, where this is prohibited under punishment. Whether, besides these, there are other laws (laws of taxes and of military service) will be said in their places.

3. Universally, laws are preceptive whose end cannot be sufficiently obtained unless subjects are compelled to their observance also by fear of fault; of this kind are: a. laws which confirm the natural or positive divine law; b. laws which immediately contribute to the common good, such as laws which refer to contracts, to public offices, etc.; c. laws which define rights, such as a law which attributes to the father the usufruct of the goods of children, a law which from paternal goods attributes a legitimate portion to the children, etc.

This principle, that civil laws can be held as penal which by their nature do not require that they be preceptive, especially holds concerning laws which are established in great number by modern governments; a. because governments as they now are employ only external means for urging the observance of laws, but make little of the obligation of conscience, and therefore implicitly declare that they do not urge internal obligation; b. because the common persuasion of citizens, even of those who are of timorous conscience, has prevailed that these laws do not oblige in conscience.

§ 2. On Invalidating Law.

166. Notion. 1. An invalidating law is said to be that which renders invalid acts which, considered in themselves by the law of nature alone, would be valid.

a. Invalidations are chiefly concerned with contracts, marriage, vows, oaths, religious profession, elections, and benefices.

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261. Cf. Wernz, *Ius decretalium* n. 112.

b. The reason for this law is that frauds, dangers, and other inconveniences may be warded off from society, and in this way the common good may be promoted.

c. From these things it is clear that an invalidating law of itself is not penal; but because the invalidation of an act falls to the burden of the agent, it can be imposed as a punishment for a delict.

2. A twofold invalidation must be distinguished:

a. Moral invalidation, by which an act is deprived of the natural value which it has by the law of nature in the forum of conscience, and civil invalidation, by which an act is deprived only of the positive value which it has from civil law in the external forum. An act civilly invalid produces no right which the political power acknowledges and protects; but in the forum of conscience it produces its right just as if the invalidation were not present.

b. Moral invalidation is either *lata*, if the effect is produced by the law itself, or *ferenda*, if the effect is produced through the sentence of a judge. An act of this kind has and retains its natural value unless it is invalidated through a sentence.

167. Division. Invalidating laws are divided: a. Into laws which render an act invalid by the fact itself, and into laws which make an act rescindable through the sentence of a judge.

b. Into laws which prohibit and at the same time invalidate an act, such as diriment impediments of marriage, and into laws which only invalidate an act and do not prohibit it, such as the formalities of wills.

The former oblige in conscience to omitting the act; but the latter of themselves do not oblige to omitting the act, but only to undergoing the effects of the invalidation either already before or at least after the sentence of the judge. Therefore it is not lawful, e.g., to enter marriage with a diriment impediment, but of itself it is lawful to make a will without legal form.

c. Into merely invalidating laws, which are established only for the common good, which postulates that certain acts be invalid, as the law invalidating marriages which are celebrated without the form having been observed; and into penal invalidating laws, which are established as a punishment of the agent, as the impediment of crime, which diriments marriage. The former suppose no fault in the agent.

168. Principles. 1. All concede that both ecclesiastical and civil legislators have the power of issuing invalidating laws, because this is useful, and sometimes even necessary, for the common good. Therefore they can establish invalidating laws, not indeed at will, but as the common good requires.

Nor should it be said that this doctrine supposes something that is false, namely that positive law prevails over natural law: for the law of nature itself requires that social power be furnished with this faculty for the common good. Wherefore natural laws of this kind, e.g. concerning the value of donations, are not absolute but conditioned, namely unless they are invalidated by positive law.

2. Ecclesiastical invalidating laws render the act itself invalid naturally and in conscience; but civil invalidating laws before the sentence of a judge of themselves render the act invalid only civilly and in the external forum, unless something else is certainly established either from the object or from the words of the law.

For where the end intended by the legislator can be obtained even if he does not touch the forum of conscience, he is judged to employ only external means for the end. And this indeed must be conceded the more readily because modern legislators rather often do not acknowledge obligation of conscience properly so called. But after the sentence of a judge the act must be held invalid even naturally and in conscience, because the sentence is founded upon the presumption of common danger.

3. A purely invalidating law obtains its effect even if it is invincibly unknown or the act is placed from grave fear: for it is required by the common good that the law should not cease on account of invincible ignorance or grave fear of the agent; therefore a marriage contracted in good faith with an invalidating impediment is null. A penal invalidating law, which joins the invalidation of the act as a punishment for the violated law, does not invalidate the act where ignorance or grave fear excuses from fault: for when fault, which is the cause of punishment, is lacking, the effect or punishment also is lacking.

If fault is committed, but the punishment of invalidation is unknown, some with Suarez[262] judge that the invalidation remains, because ignorance which does not excuse from fault also does not excuse from the punishment added to the fault, even if it is unknown; but others with Sanchez[263] teach that the invalidation does not remain: for delinquents indeed incur ordinary punishments proportioned to the delict, even if they are ignorant of them, but they do not incur extraordinary or exorbitant punishments if they are ignorant of them; but the invalidation of an act is an extraordinary and exorbitant punishment. Therefore they judge that crimes which otherwise diriment marriage do not induce a diriment impediment if the punishment of invalidation is unknown. This opinion indeed is probable.

4. An invalidating law indeed ceases in a case of common impossibility or of most grave common inconvenience, but it is not certainly established that it ceases also in a case of private impossibility or of most grave private inconvenience.[264]

§ 3. On Law Founded on Presumption.[265]

169. Preliminary notions. 1. Presumption is a prudent judgment in an uncertain matter from circumstances frequently connected with the thing or fact.

It is called presumption because, before all other proofs, something is taken as true from the circumstances.

2. Presumption is divided: a. into presumption of man, which is formed by a prudent man, without being found expressed in law; and into presumption of law, which is expressed in the law.

If Gaius at night, in the presence of Titius his enemy, is found killed, Titius is presumed to have killed him. Laws presume anyone to be good until he is proved bad, and one who is once bad always to be bad in the same kind of delict.

b. Into presumption of universal danger, e.g. of fraud, sins, etc., and into presumption of a particular fact, e.g. of fault, fraud, negligence, etc.

3. A law or precept is said to be founded on a presumption of common danger when the law forbids or prescribes something in order to forestall a danger which is found to be frequently connected with some action or omission; and it is said to be founded on a presumption of fact (of sin), when a law or precept is established from a supposed fact which is held as certain, because it usually happens thus.

The law which prohibits the reading of bad books is founded on a presumption of danger; the law which prohibits mixed marriages; the law which prescribes the proclamations of marriages. The law which holds the father of an infant to be him whom the marriage indicates is founded on a presumption of fact; the law which holds one born of Christian parents and raised among Christians to have been baptized; the sentence of a judge condemning someone to paying a fine.

Notes

262. Cf. *De legibus* l. 5. c. 22. n. 4.

263. Cf. *Opus morale in praecepta decal.* l. 1. c. 16. n. 15.

264. Cf. Ballerini-Palmieri I. n. 318 ss.

265. Cf. Reuter, *Theolog. moralis* p. I. n. 155 ss.

170. The force of this law. A law which is founded on a presumption of fact does not oblige in conscience if the fact does not in reality subsist; but a law which is founded on a presumption of danger always obliges in conscience, even if in the particular case the danger were not present.

a. The reason for the first is that in this case, since the presumption is false, the foundation of the law or precept is lacking, and therefore also the obligation; hence the axiom: presumption yields to truth. Hence if someone is condemned by the sentence of a judge to pay a fine because of damage inflicted by his animal, he is not bound to pay it if the damage was not inflicted; and if he is compelled to pay, he can use occult compensation.

b. The reason for the second is that a law does not cease unless the end of the law has adequately ceased: for otherwise the evils which the law intends to forestall would not be efficaciously impeded, because many would falsely persuade themselves that no danger is present. Hence even he to whom no danger threatens from the reading must abstain from the reading of a prohibited book. Likewise one condemned by the sentence of a judge is bound to repair damage caused by his animal, even without his own moral fault, because the law intends not only to punish moral fault but also juridical fault, and thus to render men more cautious for forestalling damages.

Article Third.

On the Manner of Fulfilling Obligation.

171. Principles. 1. A negative law is satisfied by the omission of the prohibited act without a contrary will: for a negative law prescribes nothing other than the omission of the act.

Therefore he who on a prohibited day does not eat meat because he does not have it fulfills the precept of abstinence, even if he does not even think of the precept, provided there is no contrary intention.

2. For satisfying an affirmative law, different things are required in different cases.

a. If the law prescribes a real performance, only the performance of the thing prescribed is required, which can also be done through another; the intention of performing the thing due is not required.

b. Laws of this kind, e.g. of paying a debt, of paying a tax, by their nature prescribe nothing except the performance of the thing; once this has been exhibited, even ignorantly, indeed even reluctantly, the law is fulfilled and the end of the law obtained, since the law intends nothing other than the external effect, which can be sufficiently obtained through a merely external action. Therefore even a drunk or coerced person satisfies a law of this kind. Nevertheless, in order that these laws be fulfilled formally and meritoriously, the intention of placing the prescribed work is required.[266]

c. Through another the thing due can be performed, because a thing can be transferred to another, provided that he to whom it is transferred, or for whom it is performed, consents in some way (tacitly or at least interpretatively), according to the adage: another's thing can become mine.

d. If the law prescribes a personal action, it is required and suffices that the prescribed work be placed in a human manner, i.e. with the intention of doing it, and indeed by the very one who is bound by the law.

e. Laws of this kind, as imposed upon men, require human acts, namely acts placed knowingly and voluntarily. But nothing else is required, because the end intended by the legislator can be obtained sufficiently

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266. Cf. Struggl, *Theologia moral.* tract. 3. q. 2. n. 14. Schindler I. p. 226.

in this way. These laws cannot be fulfilled through another, because actions cannot be transferred to another: another's action cannot become mine.

f. As regards the observance of law, the axiom must be noted: a little is reckoned as nothing; for laws must be observed in a human manner; but in the moral estimation of men a law is not judged violated which is injured only moderately. Thus he who in reciting the office or in hearing Mass omits some slight thing does not violate the law. Nevertheless those laws must be excepted in which the physical manner of observing them is determined by nature or by law or by human will, as in the natural fast to be observed before communion, or in the age required for religious profession or for sacred orders.

g. The will to place the prescribed work is indeed required when the work itself, and not only the effect of the work, is prescribed; but the intention of satisfying the precept is not required, and much less the intention of obtaining the end intended by the legislator. Wherefore the axiom has prevailed: the end of the precept does not fall under the precept. The intention of satisfying the precept is not required, because laws do not tend to this, that subjects through their observance testify their subjection and obedience toward the law, but that through them the end of the common good may be promoted. But the end intended by the legislator is obtained through the prescribed acts themselves fulfilled by subjects, even if it is not intended by them.

h. Hence he who, sleeping or unwilling and only coerced, assists at Mass does not satisfy the precept of hearing Mass, because he does not act in a human manner; and he who goes to church while Mass is taking place there only in order to wait for a friend likewise does not satisfy the precept, because he does not have the intention of doing the prescribed work; but he who is present at Mass from fear satisfies the precept. - He who, ignorant that it is a feast day, assists at Mass satisfies the precept; and he who pays the work due from a vow or imposed for penance without the intention of fulfilling the obligation satisfies it, provided he does not apply the work to another end which cannot be combined with the end of the precept: for anyone is judged to have the intention of satisfying debts before placing supererogatory works. - He who observes the form of fasting satisfies the precept, even if he eats sumptuously and neither intends (and accidentally) nor obtains mortification of the body, because the end of the precept does not fall under the precept.

3. For satisfying a law it is not required that the law be fulfilled in the state of grace, unless the state of grace pertains to the substance of the work; indeed it can even be fulfilled through an act sinful from the circumstances, provided the sin does not impede the substance of the prescribed act: for the law prescribes only the substance of the act, and in no way its mode, unless it pertains to the substance of the act.

a. If the prescribed work is an external act, it suffices that it be placed in a human manner, e.g. the hearing of Mass with the intention of hearing it; and if the prescribed work is a mixed act, it is required that the whole moral substance of the prescribed act, i.e. the external act with the due internal act, be placed. Therefore through a sacrilegious confession or communion the precept of the Church is not satisfied.[267] But it is satisfied through an act sinful from the circumstances, as if someone assists at Mass in a determinate church so that there he may have an occasion of stealing. He who abstains from food satisfies the precept of fasting, even if he does it from avarice; likewise he who fasts or confesses from vainglory.

Notes

267. "He who makes a voluntarily null confession satisfies the precept of the Church." Prop. 14 of Alexander VII. "He satisfies the precept of annual communion through a sacrilegious eating of the Lord." Prop. 55 of Innocent XI.

b. He who notices that he did not recite the hours, did not fulfill the penance, did not assist at Mass with that devotion with which he had wished and ought, and therefore proposes to repeat the work in order to satisfy the precept, but afterward does not repeat it, satisfies the precept, even if he does not revoke the will of repeating the work, because he has already placed the prescribed work, although with a defect.

Whether one satisfies the precept who indeed places the prescribed work, but with the intention of not satisfying the precept.

It must be distinguished: if the obligation of the law depends upon the intention of the legislator, he satisfies it; therefore he who hears Mass with the intention of now satisfying devotion and afterward fulfilling the precept is not bound to hear another Mass: for he has already placed the whole of that which the legislator prescribed. But if the obligation depends upon the intention of the agent, as in a vow or promise, he does not satisfy it: for just as it depends upon the intention of the agent that the obligation exist, so it depends upon the same intention of the agent that it be extinguished or remain.

4. He who cannot fulfill the whole law is bound to nothing if the prescribed matter is indivisible, as a pious pilgrimage; but he is bound to a part if the matter is divisible and the reason of the precept is preserved in the part which can be fulfilled. The reason of the precept is judged to be preserved if the part which can be performed contributes something to the end of the precept.

a. He who cannot make the whole way for a pilgrimage to be undertaken from a vow is bound to nothing, because the prescribed matter is indivisible. - He who cannot recite the whole office, but can recite one or another hour, is bound to these parts; but in a few verses or even in one psalm the reason of the precept is not preserved, and therefore he is not bound to their recitation. - He who cannot fast in Lent is bound to abstain from meat, if he can.

b. If someone cannot fulfill the whole law, but doubts whether he can fulfill a part, he is generally excused also from fulfilling the part, as, e.g., a sick person who doubts whether he can recite part of the office: for otherwise occasion would be given to many scruples and anxieties.

172. 1. By the same act several precepts can be satisfied, unless it is established that the mind of the legislator was different: for by one act the whole work can be placed which is prescribed by diverse laws. But that the mind of the legislator is not contrary is rightly conjectured if the precepts which refer to the same matter are enjoined from the same motive.

He who must recite the office by reason of order and by reason of benefice satisfies by one recitation; he who receives viaticum in paschal time satisfies both precepts, of communicating at Easter and of communicating at death. But one to whom the giving of alms for pious causes was enjoined as penance does not satisfy if he gives it for alms due from a vow; and if hearing Mass was imposed on someone as penance, he cannot fulfill it on a feast day by at the same time hearing the Mass due from the precept of the Church, unless the confessor has expressly permitted it, because the motive of each precept is different.

Note. In these things there is contained a certain norm for rightly conjecturing concerning the mind of the legislator, unless something else is established from the circumstances. Thus the matter of justice is always to be excepted: for he who from several obligations owes another a hundred does not satisfy if he once gives a hundred, because in debts of justice the equality of thing to thing is attended to; but by one payment of a hundred the debt of several hundreds cannot be equalled; therefore in these matters the intention of the legislator is different. - Likewise he who has emitted a vow of communicating once in honor of some saint cannot by one communion satisfy the obligation of the vow and of annual communion, although the motive of each is the same, because the intention of the one vowing is judged to have been different, apart from the fact that he had intended to oblige himself to paschal communion by a new bond of religion. -

On the contrary, Mass on 2 November, which is to be said for the departed from the precept of the Church (from the motive of religion and mercy), can also be said for an accepted stipend (from justice), because it is established that the legislator permits this.

173. 2. At the same time several precepts can be satisfied: a. unless the prescribed works impede one another; b. unless the legislator intended the works to be placed at a different time.

a. Hence at the same time someone can hear the prescribed Mass and recite the hours or fulfill an enjoined penance.

b. One to whom two or three Masses have been imposed as penance can absolutely hear them at the same time, while they are celebrated simultaneously at several altars, because he can attend to several at once; nevertheless ordinarily the mind of the confessor will be that the penitent hear the Masses successively, not at the same time.

174. When it must be fulfilled. 1. If a determinate time has been set for a law to be fulfilled, it must certainly be observed; but if the law has not been observed at the prescribed time, the obligation ceases if the time was determined for ending the obligation, but it does not cease if it was determined for urging the obligation. Whether the time was determined for ending the obligation or rather for urging it depends upon the intention of the legislator, which is drawn from the end or from the words of the law or from custom.

He who did not fast on the day of the vigil is not bound to fast on another day; he who did not hear Mass on Sunday is not bound to hear it on the following day, because the determination of time was added for ending the obligation. But he who in paschal time did not receive holy communion is bound to receive it afterward; he who did not pay a debt on the appointed day is bound to pay it afterward, because the determination of time was not added for ending the obligation.

2. At the time when the precept urges, a. it can be observed at any time, e.g. holy communion can be received throughout the whole paschal time; b. but he who, when the law is already urging, foresees an impediment to fulfilling it afterward, must satisfy the law earlier, unless he foresees that while the obligation is still enduring he will be exempt from the law; c. finally, he who, when the law is not yet urging, foresees an impediment to fulfilling it, is not bound to anticipate the time of the law, even if he can fulfill it.

Therefore he who in paschal time cannot receive holy communion later is bound to do so earlier; but he who cannot during paschal time is not bound to communicate before paschal time. - He who cannot recite the hours later is bound to do so earlier; but he is not bound to anticipate, even if he foresees that on the following day he cannot recite the office. - He who on a feast day after the sixth hour cannot be present at Mass is bound to hear it before the sixth hour, provided occasion is offered. - He who on the day on which a particular feast is celebrated has come, before the time suitable for hearing Mass, into a place where the feast is not celebrated, is not bound to hear Mass beforehand.

3. A precept cannot be fulfilled at the time when it itself does not urge, unless the precept is of such a kind that a little before the obligation the whole prescribed work can be placed.

He who hears Mass on Saturday cannot fulfill the Sunday precept, because Mass is prescribed to be heard on Sunday. - He who in the morning before ordination recites the office to which he is bound only after ordination satisfies the obligation, because the office is prescribed to be recited on that day. Likewise he who hears Mass in a place where no feast is celebrated and afterward goes to a place in which a universal feast of precept is celebrated is not bound there to hear Mass again, because he has already satisfied the

obligation of hearing Mass on that day.[268]

Question Eighth.

On the Cessation of Obligation.

The obligation of a law, while the common law itself remains, can cease in a particular case in three ways: a. through causes de-obliging from the law; b. through dispensation; c. through privilege.

Article First.

On Causes De-obliging from Law.

175. Notions. Causes de-obliging from law are some exempting, others excusing or impeding. Those are called exempting through which someone ceases to be the subject of the law, as if someone betakes himself outside the territory which is affected by the law, or if through a privilege he is exempted from the law; therefore exempting causes render one altogether immune from the obligation of the law. Those are called excusing or impeding causes on account of which someone, although he remains the subject of the law, nevertheless is not bound to observe it, as if someone is excused from fasting because of infirmity or because of arduous labor. A twofold question must be treated here: a. concerning causes excusing from law, and b. concerning the placing of causes de-obliging from law.

176. On causes excusing from law. The causes excusing from the observance of law are ignorance and impotence, both physical and moral. That invincible ignorance and physical impotence excuse from the obligation of law is manifest: for no one is bound to the impossible. Indeed from the nature of law it is established that moral impotence also, or grave damage or inconvenience which is accidentally joined with the observance of the law, excuses from its obligation (n. 139). But since laws are of diverse species, it is now asked whether in any law grave fear or grave damage or inconvenience excuses from its observance.

1. From the negative law of nature not even danger of death excuses: for this law prohibits what is evil in itself and intrinsically; but it is not lawful, even for avoiding death, to do what is evil in itself, such as to blaspheme, to perjure oneself, to lie.

2. From an affirmative law, whether divine or human, not even danger of death excuses if its violation would fall a. to common damage; b. to the extreme spiritual damage of a particular man; c. to hatred of God or religion or to contempt of the Church.

The reason for the first is that the common good is to be preferred to the good of the life of a private man; therefore a parish priest in time of plague is bound, even with danger to life, to be present to his parishioners.

The reason for the second is that ordered charity requires that the supreme spiritual good of one's neighbor be preferred to one's own temporal good of life; therefore we are bound, with danger to life, to confer baptism on a dying child not yet baptized.

The reason for the third is that he who does what is demanded in hatred of God and religion or in contempt of the Church by that very fact consents to the intention of the one commanding and contemns God or the Church, which is evil in itself. Therefore it is not lawful to eat meat on a prohibited day if this is demanded in contempt of the Church, even under threat of death.[269]

Notes

268. Cf. Lugo, *De euchar.* disp. 16. sect. 2. n. 39 s. Tamburini, *De communione* c. 5. § 2. n. 4 ss.

269. Cf. 2 Mach. 6, 18 ss.

3. With these cases removed, proportionally grave damage or inconvenience excuses from a law, whether natural affirmative, positive divine, or human.

The reason for the first is that since these laws are not absolutely necessary in individual cases, God is not judged to wish to oblige with most grave inconvenience. Therefore we are not bound, with danger of life or of grave evil, to preserve a deposit, to fulfill a vow, to succor a neighbor suffering extreme bodily necessity, or to restore a thing unjustly taken away.

The reason for the second is that since the matter of these laws is not necessary for preserving order, God is not judged to require their observance with such great rigor, although He could require it. Therefore Christ Himself excuses David, who in danger of grave evil ate the loaves of proposition prohibited to laymen by divine law.[270] Likewise we are not bound with most grave external inconvenience to confess integrally.

The reason for the third is that a human law morally impossible does not oblige; indeed it does not even belong to a human legislator to have the power of issuing laws of this kind that are too difficult (n. 139).

But in individual precepts it must be determined how great the damage or inconvenience must be for someone to be excused from their observance, because diverse precepts are of diverse gravity and diverse rigor. In general it can be affirmed that negative laws oblige more gravely than affirmative laws, divine laws more gravely than human laws.

177. On the placing of causes de-obliging from law. Notions. a. Causes de-obliging from law are said to be placed directly if they are placed solely or at least principally with that intention, that someone de-oblige himself from the observance of the law; and they are said to be placed indirectly if they are placed for another end, although the impossibility of fulfilling the law is foreseen.

b. Besides, a cause is called proximately impeding if the law already actually urges or will urge after a short time, and it is called remotely impeding if it urges only after a notable time. But when a cause must be judged proximately impeding and when remotely impeding must be determined not by a general rule but rather from the judgment of prudent men and from the practice of those of timorous conscience, with account taken of the gravity of the law and the frequency of the obligation.

He who on Saturday evening or on a feast day already begun places an impediment to hearing Mass places a proximately impeding cause; he who does this on Friday places a remotely impeding cause. An impediment which precedes the obligation of a law by the space of several days is ordinarily judged remotely impeding.

178. Principles. 1. It is lawful to place exempting causes even directly and proximately against a law: for the law indeed obliges to the observance of itself so long as we are its subjects, but it does not oblige that we remain subjects of the law.

Therefore anyone can transfer himself into that state or place in which the law does not oblige, except in the single case in which this is expressly prohibited, as regards the reservation of sins. Therefore each one can licitly go from a place where there is fasting into a place where there is no fasting, lest he be obliged to fast.

2. It is not lawful to place against a law directly an impeding cause, whether proximate or remote: for he who directly places an impeding cause against a law explicitly intends to violate the law; but an express will of violating the law is never licit so long as one is subject to the law.

Notes

270. Matth. 12, 3. 4. coll. with 1 Reg. 21.

3. It is always lawful to place against a law indirectly a remotely impeding cause, because the legislator is not judged to wish that subjects already long before the obligation of the law be bound to foresee and omit everything which would impede the observance of the law: for this would be an inconvenience too grave. Wherefore no special reason is required for someone to be able to undertake a journey, e.g. on Thursday or Friday, even if he foresees that he cannot hear Mass on the following Sunday.

4. Without a just cause it is not lawful to place against a law indirectly a proximately impeding cause: for he who is bound to the law is also bound to beware of proximately impeding impediments. But from a proportionately grave cause it is lawful to place against a law indirectly a proximately impeding cause: for he who does this does not violate the law, but permits its violation; but this is lawful from a just cause. It is said: from a proportionately grave cause; therefore:

a. The graver the law is, or the more rarely its obligation returns, the sooner the obligation begins of not rendering the future observance of the law impossible. Thus someone can on Saturday morning, but not on Saturday evening, much less in the very early morning of the feast day, undertake a journey for recreation's sake or go out hunting, if he foresees that for this reason he cannot hear Mass.

b. The graver the law is and the nearer it urges, the graver must be the cause on account of which an impediment can licitly be placed against its observance. Thus it is not lawful on the very day of fasting to hunt for recreation's sake and thus render oneself unable to fast; but it is lawful to do this from a graver cause; yet on the day before a day of fasting it is lawful even for recreation's sake to engage in hunting with the foresight that on the following day the fast will be impossible.

c. A much graver cause is required for someone frequently or continuously to render himself unable to observe the law than for this to happen only once or rarely. Hence it is certainly not lawful throughout the whole autumn season to go out hunting on Saturday morning with the foresight that on the following day the hearing of Mass will be impossible, although this may be lawful once or again.

Article Second.

On Dispensation from Law.[271]

179. Notion. 1. Dispensation is defined as the relaxation of a law in a particular case made by legitimate authority. Therefore through dispensation, while the obligation of the law remains as regards the rest, by the will of the superior its obligation is removed as regards certain particular persons.

a. Dispensation is an act of jurisdiction which is exercised by an act of the will; wherefore a superior cannot grant a dispensation unless knowingly and willingly. But a dispensation extorted by fear is valid, provided the superior had the will of dispensing, because fear does not take away the voluntary, nor does positive law declare a dispensation of this kind invalid.

b. It differs from permission, by which the law is not relaxed but rather fulfilled: for permission has place when the law prohibits some matter not absolutely, but only under a condition, namely that it not be done without the consent of the superior. Thus if a law prohibits a religious from leaving the house without the superior's permission, he who asks permission does not ask for the relaxation of the law, but observes the law. It differs from a declaration, by which it is judged that some particular case is to be excepted from the law. A declaration can be made by any private person without any power; thus a physician can declare that someone is excused from fasting, if he rightly judges that fasting can harm

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271. Stiegler, *Dispensation, Dispensationswesen und Dispensationsrecht im Kirchenrecht* (Mainz. Kirchheim. 1901).

him on account of weakness. It differs from a privilege, which of itself is perpetual and is not always against the law; dispensation, on the contrary, of itself is granted for a time and always is against the law.

c. The distinction between dispensation and permission is especially perceived in this, that presumed dispensation is never valid, but presumed permission is valid. Suarez assigns this reason for the matter. Where something is prohibited from being done without permission, the action is not simply prohibited, but only prohibited from being done without the consent of the superior, which consent can also be presumed from common usage. But where dispensation is required, the action itself is prohibited and therefore evil; wherefore through an act of the will of the superior himself the prohibition and malice must be removed.[272]

2. Dispensation of itself obtains its effect at the moment at which it is granted to the petitioner; nevertheless, in order that he may licitly use the dispensation, it must be notified to him either by letters or through an intermediary, lest, presuming that a dispensation has been made, he expose himself to the danger of breaking the law if perhaps it had not been granted.

180. Division. Of the many divisions of dispensation, only one must be noted, since others, e.g. due and not due, valid and invalid, are understood from the terms themselves, namely that by which it is divided into obreptitious, if in the petition something false is asserted, and into subreptitious, if something is kept silent which had to be manifested. But often these words are used indiscriminately.

No necessity exists in a petition of alleging a dispensation previously denied by the same superior or by another superior, predecessor or inferior. Whether the petition is subreptitious if a dispensation denied by the supreme pontiff is not alleged in a petition directed to the bishop is indeed disputed; but it must be denied, unless the supreme pontiff expressly restricts the faculty of the bishop in some case: for of itself delegated power is not restricted from the fact that the superior, from whatever cause, was unwilling to give a dispensation.[273]

§ 1. On the Power of Dispensing.

181. Who can dispense. 1. A legislator by proper power can dispense in his own law and in the law of his predecessors: for just as the obligation of a law is induced through the will of the legislator, so through the same will it is also removed.

2. An inferior cannot dispense in the law of a superior unless he has received vicarious power from him. But the superior is judged to communicate this power only on this condition, that the dispensation be made for just causes.

3. The power of dispensing, since it is a favor, is to be interpreted broadly; but a dispensation, at least a particular one, since it is odious, is of strict interpretation; nevertheless, a dispensation granted to an entire community is sometimes judged favorable and therefore of broad interpretation.

He who has received the power of dispensing from fasting can also dispense from abstinence, because fasting accepted in the full sense comprehends both; but he who has been dispensed from fasting has not likewise been dispensed from abstinence, because this is not necessarily contained in that.

182. In what laws one can dispense. 1. The supreme pontiff can dispense: a. by proper power in all ecclesiastical laws, both general and particular, whether they were issued by a council or by another pontiff or by the apostles; b. by vicarious power in certain divine laws, namely in those in which the obligation of

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272. Cf. *De legibus* l. 6. c. 13. n. 20.

273. Cf. Lehmkuhl, *Casus consc.* I. n. 125.

divine law depends upon the human will, as in vows, in oaths, in a ratified but non-consummated marriage, and in religious profession. But in other divine laws he can only interpret or declare the will of the supreme legislator.

2. A bishop by proper power can dispense in all laws and statutes of his diocese; by ordinary vicarious power also in certain universal laws of the Church, but only in a particular case, therefore neither with the whole community nor without limit in perpetuity; finally by delegated vicarious power in those matters for which he has received a special faculty from the supreme pontiff.

a. By ordinary power he can dispense in the following cases:

b. In doubts whether the matter needs dispensation: for in these he can either dispense as a precaution or declare that the law does not oblige; for properly a dispensation is not required, since the use of a probable opinion is licit.

c. In frequently occurring cases, as in fasting, abstinence, canonical hours, feasts, and indeed also in vows and non-reserved oaths: for it would be too hard for the faithful if in such frequent cases they always had to recur to the holy see; custom confirms this power.

d. In cases of urgent necessity, when there is danger in delay, as in impediments of marriage, in irregularities, in reserved vows: for the common good requires this.

e. If in the law it is said indefinitely that dispensation can be given: for thus the faculty of dispensing is implicitly handed over.

f. If in the law the faculty of dispensing is expressly conceded, as in the proclamation of banns and in occult irregularities (except homicide).[274]

g. Besides these ordinary faculties bishops generally have other extraordinary faculties delegated from the special concession of the supreme pontiff for three, for five, for ten, or for more years.

Bishops can delegate their ordinary faculties to others; the same seems to be said concerning extraordinary faculties, unless this power has been taken away from them in the indults, both because they are delegates of the supreme pontiff, and because they are delegated for a universality of causes.

3. A parish priest by ordinary vicarious power can dispense in the lighter and frequently occurring universal laws of the Church, as in fasting, in abstinence, and in works prohibited on a feast day, even if recourse to the bishop would be easy, but only in particular cases. Nevertheless, since this power of dispensing is derived from custom, for determining its extent in individual regions attention must be given to the usage of the diocese.

Parish priests can also delegate this power of theirs, as ordinary, to others; therefore, e.g., a chaplain can be delegated to grant a dispensation from abstinence, from servile works, etc.

4. Regular prelates by ordinary vicarious power can dispense with their subjects in some universal laws of the Church: of reciting the office, of fasting, of abstinence, of servile works, of prohibited books, and of irregularities, but only in particular cases,[275] because they have quasi-episcopal power over their subjects.

Notes

274. Cf. Council of Trent, sess. 24. c. 1. 6.

275. S. C. C. 17 December 1725.

a. Those are called regular prelates who exercise jurisdiction in an exempt order; of this kind are the superiors of an entire order, of individual provinces, and of individual houses (local superiors): priors, guardians, rectors.

b. Because they have quasi-episcopal power over their subjects, they can generally exercise over them that power which bishops exercise over their own diocesans by ordinary right (not likewise by force of special faculties). Generally: because in some cases they have a broader power, in others a stricter power, than bishops, as will be indicated where there is discussion of individual precepts.

5. Confessors cannot dispense unless they have received delegated power for this. But where a sufficient cause exists, they can doctrinally declare that penitents in their peculiar circumstances are not bound to observe the law.

If the delegated faculty of dispensing is conceded to a confessor to be chosen by the petitioner, nothing prevents the petitioner from being able to change and, once one has already been chosen, to choose another, who may either confirm or correct the disposition of the first. For this is judged to be the intention of the sacred Penitentiary granting the faculty, because power granted for the forum of conscience follows the nature of this forum, in which the penitent can freely approach another confessor.[276]

183. Whom bishops can dispense. Since dispensation is an act of jurisdiction, it is clear that no one can be dispensed by them except a subject. But specifically these things must be noted:

1. A bishop can dispense: a. with his own subjects, even if they are staying outside the diocese; b. with those who have quasi-domicile in the diocese; c. with vagi, so long as they are staying in the diocese; d. with pilgrims, who in a case of necessity cannot recur to their own bishop, and this from the tacit consent of the proper bishop of the pilgrims.

a. Pilgrims of themselves cannot be dispensed in common laws, in vows, or in oaths by the bishop of the place in which they are staying, because they are not his subjects, over whom he therefore cannot exercise jurisdiction; therefore, if they are validly dispensed, this can be done only from delegation of the proper bishop of the pilgrims. But he is not judged to delegate the power of dispensing as he delegates the power of absolving, except in the case in which recourse cannot be had to the proper bishop, because the presence of the penitent is required for absolving, but an absent person can also be dispensed. Wherefore in a case of necessity, namely where they need a dispensation but cannot recur to their own bishop, he is judged tacitly to consent.

b. Parish priests also can exercise the power of dispensing with pilgrims, i.e. with the faithful who are not their own parishioners, in those things in which they themselves enjoy the right of dispensing, as in abstinence and fasting.

2. Bishops cannot properly dispense with exempt religious, since they are not their subjects; nevertheless, with the consent of superiors, religious can use episcopal dispensations, e.g. in abstinence or fasting.

3. A dispensation can be granted to an absent person, and indeed also to one who is ignorant of it and, absolutely speaking, even to one unwilling; but ordinarily for a valid dispensation the consent or acceptance of him with whom dispensation is made is required: for grace and benefit is not granted except to one willing, which especially holds concerning matrimonial dispensations. Anyone is judged to accept a dispensation asked for, unless the contrary will is established.

Notes

276. Cf. Schmalzgrueber, Titl. XVI. n. 243. Sanchez, *De matrimonio* l. 8. disp. 27. n. 40.

a. A confessor having the power of dispensing can also dispense with pilgrims, whether he has the power from the supreme pontiff or from the bishop: for neither is judged to delegate power restricted to certain persons, but power which extends to all whom the delegators themselves can dispense.

b. A faculty of dispensing which is granted to someone as confessor is valid only for those over whom he has jurisdiction; and a power which is granted to someone as missionary is valid for the whole time during which he has been destined for giving missions, even if he is not actually occupied in giving a mission.

184. Whether one having the power of dispensing with others can dispense with himself. He who has a general power (not for a particular case), whether ordinary or delegated, of dispensing with others can also dispense with himself, and this directly: for dispensation is not an act of contentious jurisdiction nor of voluntary jurisdiction by which an obligation is enjoined, but of voluntary jurisdiction by which a grace is granted; but for acts of this jurisdiction a distinct person is not required.

He who has a general faculty of dispensing, by the consensus of all, can also dispense with himself. Yet not all explain this dispensation in the same manner. Some judge that the superior can dispense with himself only indirectly, and this in a twofold manner. For either he dispenses with the whole community; but if the whole community is released from the law, equity postulates that the head of it also be released from it. Or the superior grants to someone the faculty of dispensing, and then he himself asks dispensation from him. They are led to embracing this opinion by this argument: dispensation is an act of jurisdiction; but no one can exercise jurisdiction upon himself, because the exercise of jurisdiction requires a subject and therefore a distinct person. Nevertheless others more rightly contend that a superior can dispense with himself directly, because for conferring a grace a distinct person is not required.

§ 2. On the Causes of Dispensation.

185. Necessity of a cause. If a dispensation is sought, the causes of the dispensation must be alleged. These causes must be proportionate to the gravity of the law; but which causes are sufficient must be left to the prudent judgment of the one dispensing. Nevertheless they must not be so grave that of themselves they excuse from the law: for in this case there would be no need of dispensation.

It can happen that a law, on account of some impeding cause, either certainly or probably no longer obliges; not only in the first case, but also in this second case, there is no need of dispensation, since the obligation of the law ceases without dispensation. But if impeding causes stand in the way of the law which indeed of themselves do not excuse from the obligation of the law, but which nevertheless certainly or at least probably suffice for the superior to be able to dispense, there is need of dispensation.

Whether a superior, when a just cause exists, ought to dispense.

1. Dispensation, when a just cause exists, is sometimes due either from precept or from justice.

The cases in which dispensation is due are usually enumerated as these: a. if common law or a particular precept requires that dispensation be given on account of that cause; b. if it is necessary for the common good, in which case (legal) justice requires that dispensation be given; thus on account of the necessity of the Church, dispensation from interstices can be due; c. if it is necessary for the spiritual good of the petitioner, for which cause dispensation in vows can be due; d. if it is necessary for averting grave damage or public scandal; thus dispensation from the proclamations of marriage can be due.

2. Once dispensation has been denied, even if this was done unjustly, it is not lawful to act against the law. But if it has been denied by an inferior, recourse to the superior is clearly open; and if the superior also has denied it, the law must be observed, unless the difficulty of observation is so great that it excuses of itself from observing the law.

186. Distinction of causes. 1. The causes of dispensation are some internal, which arise from the difficulty of observing the law itself, as if persons are dispensed from fasting on account of weakness;[277] others external, which arise from circumstances of the person to be dispensed or of the person dispensing, or from the common good.

Some laws, as e.g. the law of integrity in confession, are so constituted that by their nature they have great difficulty; this difficulty in a particular case does not excuse from the observance of the law. Other laws, as e.g. the law of fasting, likewise by their nature have some difficulty, but not so great. But if in a particular case this difficulty is great, it is joined accidentally with the observance of the law, even if it is internal, and therefore it excuses from the observance of the law (n. 139).

a. External causes of dispensing are the dignity of the petitioner or of the superior, common or private utility, the payment of money for the utility of the Church. And certainly dispensation is customarily granted to reward the merit of some person, so that a person may be bound to the Church, to provide for the necessity or utility of a person, to show liberality or benignity on the part of the legislator, etc.

b. But if sometimes a dispensation is said to be granted without cause, this must be understood without an internal cause, or without another external cause besides the payment of money. Namely, where another external cause of dispensing seems to be lacking, for the dispensation an alms is imposed to be spent on a pious work, by which the good of the Church is promoted. In this case the utility of the Church is the cause of dispensing.

2. The causes of dispensation are some motive (final), which of themselves suffice for granting a dispensation, others impulsive, which of themselves do not suffice for granting a dispensation, but nevertheless help the motive causes, so that the dispensation may be granted more easily. Therefore if the former did not exist, the superior would not have dispensed; but if the latter did not exist, he nevertheless would have dispensed.

187. Principles. 1. He who dispenses by proper power can validly dispense even without a cause, because the obligation of the law depends altogether upon his will; but he who dispenses by vicarious power cannot validly dispense without a cause: for the superior is not judged to concede to an inferior the faculty of dispensing without a just cause (n. 181).

2. For dispensing licitly, a cause certainly or at least probably sufficient is always required. He who dispenses by proper power without cause commits the vice of acceptance of persons, and therefore does not sin gravely unless perhaps by reason of scandal or damage to others; but he who dispenses by vicarious power without cause can sin gravely in grave matter, because he abuses the power conceded to him. In doubt whether the cause suffices, not only the legislator himself but also the legislator's inferior grants the dispensation both validly and licitly; otherwise too great a burden would be imposed on the superior.

If an inferior dispensing in the law of a superior through error thinks that the cause is sufficient, the dispensation is valid: for in doubtful cases concerning the sufficiency of a cause the power of dispensing validly has been conceded, even if the cause in reality is not sufficient, lest scruples concerning the value of dispensations be able to arise. But if through error he thinks that a cause is present when in reality none is present, the dispensation is invalid.

Notes

277. Cf. St. Alphonsus n. 195.

3. In order that a dispensation be valid, it is required that at least one motive cause be true, and indeed at the time at which the dispensation is granted; for the dispensation is granted on this condition: if the prayers rest upon truth, because the superior is not judged to wish to dispense without cause, even if of himself he could do so. Nevertheless, the exaggeration of a cause otherwise true does not render the dispensation invalid.

a. It suffices that the cause be true at the time at which the dispensation is granted, even if it is not true at the time at which it is sought: for the prayers rest upon truth when the dispensation is granted. Whether it must also be true at the time at which the action is placed, for the licit placing of which the dispensation was obtained, depends both upon the law itself and upon the intention of the one dispensing, as will be clear from what is to be said below.

b. A dispensation is invalid if the cause is indeed true at the time at which it is sought, but not at the time at which the dispensation is granted, because the prayers do not rest upon truth. It makes no difference whether falsehood has crept into the petition in good or bad faith.

c. Likewise a dispensation is invalid if the cause is not true at the time at which it is sought and granted, but is true at the time at which the dispensation is communicated: for what does not subsist from the beginning is not strengthened by the passage of time.

4. Not only he who dispenses without cause, but also he who seeks dispensation without cause, acts illicitly, because he induces the one dispensing to an illicit thing; nevertheless he who uses a valid dispensation illicitly sought does not sin: for he who has been validly dispensed is not bound to observe the law. In doubt whether the cause suffices, it is lawful to seek dispensation; otherwise too great a burden would be imposed on subjects, since doubts of this kind, which cannot be solved, frequently occur.

§ 3. On the Cessation of Dispensation.

A dispensation already granted can cease: a. by revocation of the one dispensing; b. by cessation of the cause; c. by renunciation of the one dispensed; d. by the death of the one granting.

188. By revocation of the one dispensing. a. He who has dispensed by proper power can validly revoke the dispensation even without a just cause: for the obligation which he removed by dispensing he can always again validly impose.

A dispensation by which, by a single act, an incapacity or impediment, e.g. an irregularity or an impediment of marriage, is wholly removed, if once granted absolutely, cannot be revoked.

He who has dispensed by vicarious power can revoke the dispensation from a just cause; without a just cause the revocation is invalid: for he who dispenses by vicarious power, just as he can grant dispensation only according to the will of the superior, so also can revoke dispensation only according to the will of the same; but revocation without a just cause is judged to be against his will.

A dispensation in a vow once absolutely granted can validly be revoked by no superior.

b. For licitly revoking a dispensation a just cause is always required; nevertheless a revocation made without a just cause does not exceed venial fault.

189. By cessation of the cause. A twofold case must be distinguished:

1. If the motive cause ceases totally before the concession of the dispensation, the dispensation is not valid.

2. If the motive cause ceases totally after the concession but before at least the complete use of the dispensation, a distinction must be made. If the superior intends to dispense absolutely, the dispensation does not cease; but if the superior intends to dispense under the condition: if the cause endures, the

dispensation ceases. To discern whether the superior dispensed absolutely or under condition, authors hand down this rule.[278]

Let Bertha be an example in this question, who seeks dispensation from a vow of chastity for contracting marriage from a twofold cause: that conceived offspring may be legitimized, and that Bertha's aged mother may be more easily supported. Now imagine that either the mother or the offspring, or both, have died before the marriage has been contracted. - A cleric who has received dispensation from the title of ordination on account of poverty remains dispensed, even if before ordination a rich inheritance comes to him. - Gaius has been dispensed on account of illness from the recitation of the office and from the Lenten fast; now imagine that the illness has entirely ceased during Lent.

It is required, however, that the cause certainly have ceased; therefore he who has been dispensed from abstinence or from the divine office on account of infirmity can use the dispensation until he has perfectly recovered.

a. If a dispensation has a successive effect, as in the law of abstinence, in the law of reciting the divine office, when the cause ceases the dispensation ceases, since the superior cannot be supposed to wish to dispense without cause.

b. If a dispensation has an effect wholly at once, as in irregularities, in impediments of marriage, when the cause ceases the dispensation does not cease, because the law once removed through dispensation cannot revive except through the will of the legislator; but no indication of this will can be assigned.

c. There are some who except this case: if someone obtained dispensation from a vow of chastity so that he could enter marriage for legitimizing offspring, and the offspring dies before the marriage; for if the legitimation of offspring is the sole cause of the dispensation, marriage cannot licitly be entered unless dependently upon that cause existing at the time of the marriage.[279] But others judge that the dispensation is valid even in this case: for even if the offspring dies after the dispensation has been made, nevertheless the impediment or obligation of the vow once removed does not revive.[280]

d. If the cause and the use of the dispensation cease at the same time, e.g. if someone was dispensed from a vow of chastity so that he could enter marriage for legitimizing offspring, and a little after the marriage has been entered the other party dies, he can enter another marriage, unless the dispensation was given for one marriage only: for if the dispensation was made without limit, through it the obligation of the vow is simply removed, and with that removed nothing stands in the way of a further marriage.

190. By renunciation of the one dispensed. a. Anyone can renounce a dispensation made, unless the renunciation falls to the damage of others; but in order that the dispensation granted may cease through renunciation, it must become known to the superior and be accepted by him: for the obligation removed through the will of the superior cannot arise anew except through the will of the same superior. b. Non-use of a dispensation of itself is not a sign of renunciation: for non-use can exist together with the will of using the dispensation afterward; therefore he who has been dispensed from fasting or from the divine office can use the dispensation, even if after the dispensation has already been obtained he has for some time recited the office or fasted.

Notes

278. Cf. Suarez, *De leg.* l. 6. c. 20. n. 18.

279. Lehmkuhl II. n. 173.

280. Laymann l. 1. tr. 4. c. 22. n. 15.

Nor is a contrary act of itself a sign of renunciation; thus if someone dispensed for entering marriage with Bertha marries Sempronia, by this very fact he does not renounce the accepted dispensation.

191. By the death of the one dispensing a dispensation then alone ceases if it was granted with this or a similar clause: *at our discretion* or *until it shall please us*, because by the death of the one granting every good pleasure and discretion of his ceases; but it does not cease if it was given absolutely or with this or a similar clause: *until it is revoked*, because it is a grace made; but a grace made does not expire by the death of the one granting, even if it has not yet been mandated for execution, unless something else is established from the terms of the concession.

Concerning the formula *at our good pleasure*, however, it must be noted that it is often employed as equivalent to the formula *until revocation*, and in this sense the S. C. of Bishops and Regulars, 19 June 1866, decided in a particular case that faculties given under this formula did not cease by the death of the bishop granting them.[281]

Whether it is lawful to use a dispensation outside the diocese. It is not lawful to use a dispensation which has been granted in a common law by a general indult for the whole diocese: for this, equally as a common precept, is territorial. But a particular dispensation which has been granted to an individual person from a special cause can be used everywhere on earth, because it inheres in the person to whom it has been granted and accompanies him.

Article Third.

On Privilege.

192. Definition. 1. Privilege considered objectively is a private law conceding a special favor against or beyond common law.

a. Privilege has the character of law, because it is a norm according to which someone, from the concession of a superior, can operate permanently against or beyond common law, and especially because the whole community is bound to acknowledge the privilege and not to impede the privileged person from using it.

b. It is called a private law because it is not conceded to the whole community, but either to one person or to a part of the community which is bound by the law itself.

2. Privilege considered subjectively is a special and permanent faculty conceded by a superior in favor, against or beyond common law.

a. It is called permanent because it is not given for a passing act or for a short time, as dispensation or faculty generally accepted is, but because by its nature it has a certain stability, even if it is not always perpetual. It is said to be conceded by a superior because a private person cannot concede privileges, but can only give permissions, and not against the law.

b. Privilege differs from dispensation: a. dispensation is only against the law; privilege can also be beyond the law; b. dispensation is generally conceded for a passing act, but privilege is a stable and permanent faculty; c. dispensation can be conceded either to an entire community or to an individual person, whether physical or moral; privilege is conceded only to an individual person, whether physical or moral. Therefore a dispensation granted to an individual person generally does not differ from a privilege against the law.

Notes

281. Cf. Ballerini-Palmieri V. n. 355.

193. Division. Privileges are divided: 1. By reason of the matter: a. into privileges against the law, if through them some law is derogated, as is exemption from paying taxes; and beyond the law, if through them no law is derogated, as is the power of dispensing; b. into favorable privilege, which brings advantage to the privileged person but inconvenience to no one, as the privilege of saying Mass in a private oratory; and odious privilege, which brings advantage to one but inconvenience to another, as exemption from paying taxes, from the jurisdiction of the ordinary.

2. By reason of the subject to whom it is conceded, into personal and real privilege. A personal privilege is conferred directly and immediately on some person by reason of himself, on account of knowledge, dignity, etc. This follows the person and expires with him, as the power of absolving from censures. A real privilege is directly and immediately conferred not on the person but on a thing, from which it redounds to the person. This privilege adheres to the thing, passes with it to the person to whom the thing pertains, and also expires with the thing.

By the name of thing is understood not only a corporeal thing, as a church or monastery, but also an incorporeal thing, as a moral person (college, community), office, dignity, state, a quality separable from the person, as a doctorate, etc. To this class belong, e.g., indulgences annexed to a church, altar, cross, rosary, etc.; besides these, privileges conceded to various communities (religious orders, confraternities) or diverse states (clerics, bishops, etc.).

3. By reason of the cause on account of which it is conferred, into gracious privilege, which is conceded from mere grace; remunerative privilege, which is conceded in consideration of some merit or service performed by the privileged person or by others, e.g. parents; and onerous privilege, which is conceded through the intervention of some pact for obtaining services.

4. By reason of the mode in which it is conceded, into a privilege given *motu proprio*, which is conceded without petition, and one given at instance, to conceding which the superior is induced by the prayers of the supplicant.

5. By reason of the end on account of which it is conceded, into common privilege, which is conceded to a community first and of itself for the good of the community, so that its use falls to the good of the community, as the privilege of the canon, which has been conceded to clerics, or of exemption, which has been conceded to religious orders; and into private privilege, which is conceded to a private person or even to a community, but for the good of individuals.

194. On the concession of privilege. 1. Only the legislator, or his successor, or the superior of both, can concede a privilege, whether it is a privilege against the law or beyond the law. For if it is against the law, only the legislator can exempt a subject from the law; and if it is beyond the law, only the legislator can impose on the community the obligation of not impeding the privileged person in the use of the privilege.

2. Privilege can be conceded either directly by a legitimate superior, or indirectly through communication of privileges, namely when a privilege conceded to one is also extended to another; thus communication of privileges exists among certain religious orders.

3. A privilege against the law can be conceded only to a subject, because this concession is an act of jurisdiction, which can be exercised only upon subjects; but a privilege beyond the law can also be conceded to others who are not subjects, provided the matter is subject to the legislator conferring the privilege, because this concession has the character of a donation, of which even one who is not a subject is capable.

4. In order that a privilege be valid, a just cause for conceding it is not required, because it depends merely upon the will of the legislator whether he wishes someone to be exempt from the common law; but in

order that a privilege be licit, a just cause is required. For a privilege against the law conceded without a just cause injures legal and distributive justice; and a privilege beyond the law conceded without a just cause is an act of prodigality, which is illicit.

195. On the use of privilege. 1. Everyone is bound to use a common privilege, namely one which has been conceded principally for the common good, nor can he renounce it, because it is not lawful to do anything against the common good; of this kind are the common privileges of clerics, bishops, regulars, etc.

2. A private privilege which has been conceded to a private person for private good of itself binds no one to use it, just as no one is bound to use his own right, because a privilege is given as a favor, not as a burden; nevertheless, accidentally the privileged person is bound to use it if non-use would fall to the damage of another, as if someone were unwilling to use the faculty of absolving from reserved cases.

If a sick priest, who cannot leave the house to celebrate, has received the privilege of establishing a private oratory, he is not bound to establish it so that he can celebrate on Sundays and feast days: if he has erected the oratory, in strictness he is not bound to celebrate on days of precept, but is excused from hearing and celebrating Mass.[282]

3. A private privilege which has been given to a community for the good of individuals cannot be renounced by individuals, but the community alone can renounce it; but individuals of themselves are not bound to use it, although accidentally they can be bound to this, both if a legitimate superior enjoins the use of the privilege on individuals, and by reason of conformity with others.

196. On the interpretation of privilege. 1. A favorable privilege is to be interpreted broadly; yet it is never lawful to interpret it so broadly that the interpretation becomes unjust or, on account of similarity of reason, is extended to persons or causes in no way comprehended in the privilege.

2. An odious privilege, insofar as it is odious, is to be interpreted strictly; nevertheless the restriction must not be so great that the privilege is rendered useless.

Yet an odious privilege is to be interpreted broadly: a. if it was conceded by the superior *motu proprio*; b. if it was given in favor of divine worship; c. if it was given to some order or religious community. The reason for this last is that such a privilege is judged to be remunerative for services performed and therefore most favorable.

3. In the interpretation of any privilege whatever the propriety of the words must always be preserved, even if they are to be taken now according to a broader, now according to a stricter signification: for privileges do not operate more than the words signify.

197. On the cessation of privilege. Privilege, equally as dispensation, ceases when the cause on account of which it was given ceases. Besides:

1. A privilege ceases by the fact itself: a. by the destruction of the person to whom a personal privilege has been conceded, or by the destruction of the thing to which a real privilege has been attached; but it is required that the thing be wholly destroyed: for if a church or altar or confraternity is transferred to another place, the privilege also is transferred. b. By the lapse of time, if the privilege was given for a time, and by the cessation of the condition, if the privilege had been given under a condition.

2. A privilege which is opposed to the right of others ceases by non-use or contrary use, and indeed by the space of time which suffices for prescription. For those things which have been established by

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282. Cf. Lehmkuhl, *Casus consc.* I. n. 128 ss.

law concerning the loss of right by means of prescription are valid also concerning privileges which are a burden to others. But other privileges, which confer favor only on the privileged person without redounding to the burden of others, as the privilege of celebrating before dawn, do not cease even through non-use of the longest time.

Privilege is lost also through abuse. He is said to abuse a privilege who takes from it an occasion of sinning. Yet by abuse a privilege is not lost of itself and by the fact itself, but generally only insofar as a just cause is provided to the one granting for revoking it.

3. By free and express renunciation on the part of the privileged person.

a. In order that renunciation be valid, it is required that he be able to renounce the privilege. But anyone can renounce a privilege which has been conceded only in his favor; but a particular person cannot renounce a privilege which has been conceded principally in favor of the Church or of some community. Therefore a cleric cannot renounce the privilege of the canon, not even for himself.

b. Renunciation is either tacit or express. The former is made by non-use or contrary use. In order that express renunciation be valid, it must be known to the one granting and approved by him: for since only the legislator can impose a law, the privileged person otherwise would not again be affected by the obligation of the law.

4. By express or tacit revocation of the one granting, or of his successor, or of his superior.

a. Express revocation is made through revocatory clauses inserted in a law, in which manner the revocation of many privileges was made by the Council of Trent.

Derogatory clauses are of two kinds, general: *notwithstanding privileges*, and special: *notwithstanding any privileges whatever*, *notwithstanding privileges even worthy of special mention*, and the like. By a general clause these are not revoked: a. remunerative privileges, such as the privileges of religious are judged to be; b. privileges conceded with a clause that they not be revoked unless special mention of them is made; c. privileges conceded by a general council. But by a special clause even these are judged revoked.

b. Tacit revocation is made through a new law, by which all contrary privileges contained in common law are revoked, even without a revocatory clause.

In order that a privilege be revoked by a new law, the legislator must be presumed to know the privilege; now he is judged to know privileges which are contained in common law; but he is judged to be ignorant of special privileges which are not contained in common law. Therefore privileges contained in common law are revoked through a new law, but special privileges are not revoked unless special mention of them is made.

5. Privilege does not cease by the death of the one granting: for by the general rule a grace made is not extinguished by the death of the one granting. Therefore by the death of the one granting a privilege ceases in a twofold case: a. if it was granted for the time of the life of the one granting or with the clause *at our good pleasure*; b. if it contains a grace to be made and the matter is still intact.

Question Ninth.

On the Cessation of Law.

The law itself can cease in three ways: a. through abrogation or derogation; b. through cessation of the end; c. through contrary custom.

198. On abrogation. 1. Abrogation is the total removal of a law made by the legislator himself; derogation is the partial removal of a law.

2. No one can altogether abrogate a law or derogate from it in part except the legislator himself, or his successor, or his superior: for just as the existence of the law depends upon the will of the legislator, so also its cessation.

3. A law can be abrogated either by declaring that some law already lacks the force of obliging, or by issuing a new law which is entirely contrary to a preexisting law.

199. On the cessation of the end. 1. Declarations. a. The end or motive cause of a law can cease adequately if the whole reason which moved the legislator to issue the law ceases, or inadequately if only one reason ceases while another remains.

b. The adequate end of a law can cease universally or for the greater part of the community, or particularly, or for an individual person only.

c. The end of a law is said to cease contrarily when its observance is harmful or too difficult or altogether useless; and it is said to cease negatively if the end of the law does not exist in a particular case, but nevertheless the observance of the law is neither harmful nor impossible nor altogether useless (for the community).

If, e.g., the prohibition of reading a bad book cannot be observed without detriment to faith, because faith cannot be defended unless the book is read, the end of the law ceases contrarily; it ceases negatively if the reading brings no damage only to the reader.

2. Principles. a. When the motive cause ceases adequately and universally, the law itself ceases: for if the end of the law ceases, the law becomes useless and therefore null; when the motive cause ceases inadequately, the law does not cease, because the law is not yet useless.

b. If the end of the law ceases contrarily in a particular case, the law ceases; but if the end of the law ceases only negatively, the law does not cease.

The reason is: if the end of the law ceases contrarily, in reality we can use epikeia; but if the end of the law ceases only negatively, the common good requires that a law which has been issued for the common good be observed by all: for unless it must be observed by all, it soon loses efficacy, because many, thinking that the end of the law has ceased for them, would not observe the law and by their example would seduce many others. Besides, if it is permitted to the judgment of individuals whether in a particular case the danger of damage ceases, laws of this kind would be useless for most people on account of the danger of hallucination.

The opinion which holds that a law ceases when its end ceases merely negatively, and which some authors (Tamburini) hold as probable, is not brought into practice, because it seems to lack probability. Thus the proclamation of marriage is never omitted, even if there is no danger of an invalid marriage; likewise the reading of a prohibited book is not permitted where no danger of perversion is feared for the particular person.[283] The reason of that opinion is this. Just as a law ceases universally if the end of the law ceases for the whole community, because the law has become useless, so the law ought to cease particularly where the end of the law ceases for a particular person, because the observance of the law is useless for this person. But this reason lacks probability, because the observance of a law which is useless for a particular person is useful, indeed even necessary, for the community; therefore the legislator is judged to urge the law whose end ceases only negatively.

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283. Cf. St. Alphonsus n. 199.

Question Tenth.

On Custom.

200. Definition. The word custom is taken in two ways: a. causally, for acts frequently repeated by a community; b. formally, for the right which, with the consent of the legislator acceding, arises from those acts. Hence custom formally can be defined as a certain right or law introduced by long-standing use of a community, with the approval of him who has care of that community.

The distinction which intervenes between (derogatory) custom and prescription of right, with which custom is sometimes confused, must be carefully noted: for some principles govern custom, others govern prescription; wherefore the same conditions are not required in both. Especially, however: a. good faith is required for prescription; it is not required for custom; b. for prescription the consent of him against whom prescription is made is not required, but for custom the consent of the legislator is required; c. for prescription a time, sometimes longer, sometimes shorter, determined by law is required; for introducing custom, time is indeed ordinarily required, but to be determined by the judgment of prudent men, which nevertheless is not extended beyond ten years.

201. Division. 1. By reason of extension, custom is divided into universal or most general, which is in force in the whole Church; into general (in itself it is particular), which is in force in some whole province; into special, which is in force in smaller societies, but nevertheless perfect ones, i.e. societies capable of laws; and into most special, which is observed by private persons and imperfect societies, namely those which are not capable of law. It is clear that this last does not have the character of law, but after the manner of a privilege is only a faculty of doing or omitting something.[284]

2. By reason of relation to law, custom is divided into custom against law, which removes an existing law either altogether or at least in part; custom beyond law, which introduces a new law; custom according to law, which confirms or interprets an existing law by use itself.

a. From this division it is clear that the effect of custom is threefold: a. of interpreting law; b. of introducing a new law; c. of abrogating an existing law.

b. Only a twofold custom must be treated here: a. derogatory custom or custom against law, and b. obligatory custom or custom beyond law.

Article First.

On Derogatory Custom.

202. Its derogatory force. 1. That ecclesiastical custom, concerning which alone there is question here, has the force of abrogating law is established from canon law, which expressly attributes this efficacy to custom.[285] And indeed the force of custom and of law is the same; but a later law can abrogate an earlier one; therefore custom also can do this, provided it is clothed with the due conditions.

2. Custom cannot abrogate natural law, because this is immutable, nor positive divine law, because the force of custom is derived from human authority, namely from the consent of the human legislator; but human authority can do nothing against divine law. Rather, custom can abrogate only ecclesiastical law.

Notes

284. Cf. Wernz I. n. 187.

285. C. *Quum tanto* (11) fin. *De consuetud.* (I. 4), whose final words are these: "although the authority of even long-standing custom is not worthless, nevertheless it will not be valid to such an extent that it ought to generate prejudice even against positive law, unless it has been reasonable and legitimately prescribed."

Although custom does not have the force of abrogating divine law, it can nevertheless interpret it, i.e. indicate how the law, according to the mind of the legislator, is to be understood and observed. Yet this custom, interpreter of divine law, must be governed by the infallible judgment of the Church, which alone is the authentic interpreter of the institutions and commands of Christ.

3. There is no ecclesiastical law which cannot be abrogated by contrary custom; for the texts of law proving custom are altogether universal.

Therefore legitimate custom can abrogate even:

a. A law expressly prohibiting contrary custom.

Indeed while the same circumstances remain on account of which the custom was prohibited, this custom cannot obtain force, since it would then be unreasonable; but once these circumstances have changed, nothing prevents the contrary custom from receiving the force of law, because it can be reasonable and can be approved through the consent of the legislator.[286]

b. An invalidating law: for an invalidating law can be abrogated by another law; therefore also by custom, which is of the same authority. Therefore even the invalidating impediments of marriage of human right can be abrogated by legitimate contrary custom.

c. Some existing custom.

Therefore universal custom can abrogate universal custom, and particular custom can abrogate particular custom; but a particular custom can derogate in part from universal custom, namely in that place in which the particular custom has prevailed.

203. Conditions which are required in order that custom abrogate law:

1. The consent of the legislator; but legal consent suffices.

a. For law cannot be introduced except by legitimate authority, which indeed cannot be the will of the people exercising the custom, but only the will of the legislator himself.

From this it is clear that the consent of the legislator is the true efficient cause of custom which has legitimate value.

b. In order that custom obtain the force of law, personal consent is not required, but legal consent suffices: for nothing prevents the legislator from establishing by a universal law that custom endowed with due qualities have the force of law; but if the legislator has done this, custom receives the force of law without further consent; and this has been established by the law itself.[287]

c. Consent can be personal, by which the superior himself approves the custom, or legal, by which the right or universal law approves it. Personal consent supposes knowledge of the custom; legal consent does not require it. Personal consent is express if the legislator gives permission of introducing the custom, and it is tacit if the legislator, conscious of the custom, does not resist it, although he could easily resist. Wherefore a custom which the legislator merely tolerates with prudent silence cannot obtain the force of law through personal consent.

Notes

286. The doctrine of a few theologians, that against the disciplinary decrees of the Council of Trent no custom is admitted, cannot be demonstrated by sufficient arguments. Cf. Biederlack, *Die Gewohnheiten gegen die Disciplinardekrete des Trienter Konzils* (*Zeitschrift f. kath. Theol.* VI (1882) S. 438 ff. Wernz I. n. 194.

287. C. *Quum tanto* (11) fin. *De consuetud.* (I. 4).

d. Legal consent is customarily defined as a previous approbation made through a universal will expressed in law, of approving any custom whatsoever clothed with due conditions.

e. If personal consent is had for custom, even only tacit consent, legitimate time for introducing the custom is not required, but the obligation of the law immediately ceases.

2. On the part of the matter, that the custom be reasonable.

In order that it be reasonable, it is not required that it be begun without sin: for those who introduce a custom contrary to law generally sin in the beginning. Nor is it required that it be positively reasonable, i.e. that it be commended by a special reason or that it be better and more perfect than the contrary law, but it suffices that it be negatively reasonable, i.e. that for no reason (neither by natural right nor by divine right) it be reproved, nor offer license and occasion of sinning, nor contain corruption of morals, and therefore in some way contribute to the common good.

3. On the part of the community: a. that the custom be introduced by a community on which a law can be imposed, such as a kingdom, province, city, diocese (but not a parish, family, or private person), a religious order, and probably also a province of a religious order; b. that it be exercised by the greater part of the community: for custom is introduced by the community from the consent of the prince; but only the greater part morally represents the community.

4. On the part of the acts: a. that they be free, i.e. that they proceed neither from fear nor from error or ignorance: for without the consent of the people a law cannot be established through custom; but this consent is lacking if the acts are not free; b. prescribed for the legitimate time: for the law itself requires a certain duration of custom in order that it have legal value: *unless it has been legitimately prescribed*; c. made with the intention of de-obliging oneself from the law. For this it is not required that the community know the law at least in the beginning and nevertheless not observe it, but it suffices that with the opinion that the law does not exist, it in good faith does not observe it. Wherefore that which the faithful omit from lack of consideration or levity can never obtain the force of legitimate custom.

a. How much time is required for introducing custom is nowhere found defined. In order that obligatory custom obtain the force of law, ten years is required and suffices; but in order that derogatory custom have value, forty years are required, although several of the more recent theologians think that ten years suffices.[288]

b. Supposing a positive doubt concerning custom, so that on the one side it is truly probable that all things are had which are required for introducing legitimate custom, and in like manner on the other side it is probable that something of those things is lacking which are required for legitimate custom, the following distinction must be made: a. in doubt concerning custom beyond law, the custom does not yet oblige: for it is doubtful whether the custom has obtained the force of law; but a doubtful law does not oblige; b. in doubt concerning custom against law, the law no longer obliges: for by the fact that the contrary custom probably de-obliges from the law, the law itself has become doubtful; but a doubtful law does not oblige.

Notes

288. Cf. Benedict XIV, *De synodo* l. 13. c. 5. n. 4. Wernz I. n. 190. IV.

Article Second.

On Obligatory Custom.

204. Its force of obliging. 1. That custom has the force of introducing law is established by the fact that from the law cited above, reasonable and legitimately prescribed custom has the force of law.

A law introduced through custom is called unwritten law, so that it may be distinguished from written law, which is constituted and promulgated by the express ordinance of the legislator.

2. Custom can impose any law whatever: preceptive, invalidating, indeed even merely penal; for custom can effect what law itself effects; but law can impose any obligation whatever.

It is established that the law obliging all clerics constituted in sacred orders to the recitation of the office, and some diriment impediments of marriage, as the impediment of disparity of cult, were introduced by custom.

205. Required conditions. In order that obligatory custom receive the force of law, the same conditions are required which are required for abrogating law through custom:

a. the consent of the legislator, at least legal consent, without which obligation cannot be imposed;

b. reasonable matter, namely matter which contributes to the common good and therefore can be prescribed by the legislator in an enacted law;

c. a community capable of having a law imposed upon it;

d. acts freely exercised by the community, i.e. neither from fear nor from error or ignorance, but with knowledge that no law exists concerning this matter;

e. acts exercised with the intention of obliging oneself; wherefore those things which are exercised by the faithful from mere devotion, as the triple Angelic Salutation, cannot obtain the force of obligatory custom.

Nevertheless even acts of mere devotion can acquire the force of law through custom, provided the faithful, knowing that there is no obligation of it, have the intention of obliging themselves to that act. This intention must be gathered from the circumstances, e.g. if it is constantly observed even with some inconvenience, if transgressors are punished, if pious men commonly judge so.[289]

f. acts legitimately prescribed.

Whether a new law removes contrary customs in force.

Clauses by which contrary customs are reprobated are customarily added to pontifical constitutions; but concerning these clauses it must be noted: a. A universal law removes a contrary universal custom, but it does not remove particular customs unless a clause is added which reprobates a contrary custom in force. b. This clause: *notwithstanding any custom whatever* removes all customs except immemorial customs,[290] but it does not impede the origin of a new contrary custom. c. The clause: *notwithstanding any custom whatever, even immemorial*, removes altogether all contrary customs, but neither does it impede the origin of a new contrary custom. d. The clause added to a law: *with any contrary custom whatsoever excluded for the future*

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289. St. Alphonsus l. 1. n. 107. IV.

290. An immemorial custom is one of whose beginning there exists no memory. It is not said: one of whose beginning there exists no knowledge; therefore a custom can be immemorial even if its beginnings are quite well known from history, provided its existence transcends the memory of men now living (about one hundred years).

indeed renders more difficult a custom contrary to the new law, but it does not altogether impede its origin: for this clause itself is a disciplinary law; but it belongs to the nature of a disciplinary law that it admit contrary custom.[291]

Question Eleventh.

On the Collision of Duties and Rights.

205*. Notions. To duties on one side correspond rights on the other side, and indeed in such a way that the right of one extends as broadly as the duty of the other.

1. Duties, according to the diversity of laws from which they arise, are:

a. affirmative duties, which arise from precepts, and negative duties, which arise from prohibitions;

b. absolute duties, which oblige simply and without exception, and hypothetical duties, which oblige only under certain suppositions;

c. natural duties, which are founded in the law of nature, and positive duties, which are founded in positive law, whether divine or human;

d. higher and lower duties, according as they refer to preserving greater or lesser goods, to averting greater or lesser evils;

e. duties of justice, from whose violation an obligation of restitution of itself arises, and duties of charity, from whose violation an obligation of restitution does not arise.

2. Since rights cohere with duties, they are distinguished in the same manner as duties; specifically these are to be noted:

a. connate rights, which are founded in the law of nature, and acquired rights, which are founded in positive law or in contracts.

b. inalienable rights, which can in no way be renounced, and alienable rights, which can be renounced: for what is necessary for man either for attaining the ultimate end or for fulfilling a moral obligation cannot be abdicated.

3. Collision of duties is the concurrence of several obligations which cannot be fulfilled at the same time.

Thus in the case of an unjust aggressor, two obligations collide: preserving one's own life and preserving the life of another. Since the obligation of preserving one's own life is more excellent, the other obligation loses its force.

a. So many and various are the relations of man, whether toward God or toward himself or toward other men, and consequently so manifold are the obligations which arise from them, that not rarely duties which are opposed to one another urge at the same time. But the collision of duties is only apparent, because of the colliding obligations only one in reality exists and requires that it be fulfilled; the rest lose their force or are suspended as long as the collision lasts: for their fulfillment is impossible; but no one is bound to the impossible. Certainly the supreme reason of all obligations is the will of God; but God, whose will is wisdom, cannot wish that at the same time we place actions of which one excludes the other.

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291. Cf. Aichner, *Compendium iuris eccles.* (Brixinae. Weger. 1900) p. 81 ss.

b. Wherefore in a case in which duties collide, this is chiefly at issue: that the collision be solved, or that it be determined which obligation among the colliding ones, while the others cease, requires that it be fulfilled. Several rules are established for determining this.

205. Rules for solving collision.** The supreme principle in this matter is this: a higher obligation is to be preferred to a lower; but that obligation is judged higher which arises from a law which is of greater moment. Hence the following rules are inferred.

a. Precepts of the law of nature are to be preferred to precepts of positive divine law, these to precepts of positive human law; among these latter, precepts of ecclesiastical law prevail over precepts of civil law, which is drawn from the diverse end of these laws, one of which is nobler than the other.

The law which requires that we aid a needy neighbor is higher than the law of abstaining from servile works; the law of preserving health is to be preferred to the law of fasting or abstinence.

b. Negative precepts prevail over positive precepts; therefore in general the obligation of avoiding prohibited things is greater than that of doing prescribed things: for that which is prohibited is evil and pernicious in itself; but that which is prescribed is simply fitting and useful.

It is not lawful to lie nor to exercise a shameful business in order to aid one in need.

c. Precepts of justice in general prevail over precepts of charity.

If at the same time the obligation of paying a debt and of giving alms concur, the former, which is of justice, prevails over the latter obligation, which is of charity. Nevertheless, if someone must pay a debt by which, once paid, the debtor casts himself into grave necessity, he can defer payment, although it is an obligation of justice.

d. Precepts (negative and positive) which protect greater goods prevail over laws which protect lesser ones; therefore precepts which refer to spiritual goods, internal goods, common goods, are to be preferred to precepts which refer to bodily, external, private goods.

Thus a citizen is bound to serve as a soldier, even if his own life or his own family suffers damage. - A priest or physician is bound to help the sick, even if his own health or his own family is endangered. - It is not lawful to defect from the faith in order to preserve life; nor to deny the faith in order to avoid persecution. - A servant for whom service is an occasion of sin which can be removed by no means is bound to leave the service, even if the temporal damages would be most grave. - It is not lawful to expose life to danger on account of some slight temporal good.

e. But if in a case of colliding duties, after diligent examination, it cannot be determined which obligation prevails, and at the same time the necessity of acting urges, the choice can be made at will. An error which perhaps is committed in this case is involuntary and is not imputed to the agent.

Notes

292. St. Thomas I-II q. 19. St. Alphonsus l. 1. 1. tr. 1. n. 1-89. Sporer-Bierbaum, *Theologia mor. decalog.* (Paderbornae. Typographia bonifac. 1897) I. tr. 1. n. 1-109. Reuter, *Theolog. mor.* pr. 1, tr. 2. n. 59 ss. Bouquillon l. c. pr. 2. n. 243 ss. Lehmkuhl I. n. 41 ss. Ballerini-Palmieri, *Opus theolog. mor.* (Prati. Giachetti. 1898) I. n. 130-235. Simar, *Das Gewissen und die Gewissensfreiheit* (Freiburg. Herder. 1902). Cathrein, *Das Gewissen und die Gewissensfreiheit* (Freiburg. Herder. 1906).

Book Fourth.

On Conscience.[292]

Question First.

On the Nature of Conscience.

Article First.

On Conscience in General.

206. Conscience. 1. The existence of moral conscience is a universal fact: for all men, cultivated as well as barbarians, perceive the voice of conscience within themselves.

The authors cited above have diligently collected testimonies of this matter, especially Cathrein. Sacred Scripture everywhere supposes conscience, since it everywhere describes its various activities. Cf. Schindler p. 195.

2. By the name of moral conscience (*synteresis*) is signified first of all the habit of the first moral principles, which the Greeks call synteresis. Therefore synteresis is a certain property of the intellect by which it knows with great facility and evidence the most universal moral principles or supreme principles of the natural law. Then, however, synteresis also signifies these principles themselves.

a. Principles of this kind are, e.g.: good is to be done, evil is to be avoided; what you do not wish to be done to you, do not do to another; the supreme deity is to be worshiped; promises are to be kept; precepts are to be fulfilled; and other supreme principles of the natural law. From these universal principles moral science deduces the truths which it itself teaches, e.g. good is to be done; but to aid the wretched is good; therefore the wretched are to be aided; evil is to be avoided; adultery is evil; therefore adultery is to be avoided.

b. There is in man an innate disposition for leading a moral life (*eine sittliche Anlage*), which disposition comprises two things: a disposition of the intellect for knowing the moral law, and a natural propensity of the will for following the moral laws proposed by the intellect as the norm of free activity. Since each disposition is signified by the name conscience (synteresis), it is clear that conscience in this sense designates the whole moral life insofar as it proceeds from intellect and will, as when we call a man religious or lacking religion (*gewissenhaft, gewissenlos*).

c. Conscience, since it is a disposition and habitual quality of the intellect and will, can and ought to be cultivated and perfected: as regards the intellect, by the fact that by learning the laws to be observed we acquire moral science for ourselves; as regards the will, by the fact that we promptly obey moral laws. The same conscience, although it can never be entirely extinguished, can nevertheless by negligence, and especially by vices and pleasures, be obscured, weakened, indeed even vitiated. Hence we speak equally of an enlightened and vigilant conscience, and of a cauterized and sleeping conscience.

207. Conscience (*syneidesis*). Moral conscience in the other sense is a judgment of the mind concerning the morality of an action, proximately practical, which judgment is customarily called a dictate (of conscience).

a. Conscience puts itself forth in a twofold manner: before an action it manifests that the action is good and to be done, or evil and to be omitted; after an action (or omission), if following the voice of conscience we have done good and omitted evil, it praises and approves, from which joy and tranquility of heart follow; but if we have acted against conscience, it censures us, whence anguish and pain of heart follow.

b. A judgment of the mind which has as its object the morality of a human action is one thing if remotely practical or speculative, which regards actions in the abstract and in general, as that theft is to be avoided, that one in need is to be assisted; another if proximately practical or simply practical, which is referred to moral actions in the concrete and in particular, to be placed here and now, together with all the circumstances in which they are found, and immediately directs the will of the agent, e.g. that this thing is not to be taken away by me as belonging to another, that this man in need is now to be aided by me. Not the former, but the latter, is called conscience.

c. Judgments concerning the goodness and malice of actions in general are either most universal, namely truths which constitute synteresis or the first moral principles, or less universal, which are so many conclusions deduced from the first principles: evil is to be avoided; theft is evil. These deduced truths constitute moral science. For deducing these judgments the intellect can acquire a habit, which is likewise called moral science. In forming the principles of synteresis the intellect does not err; in forming the principles of moral science it can err and sometimes does err.

d. The truths both of synteresis and of moral science are universal; conscience, on the contrary, is concerned with a singular action now to be placed, and therefore its dictates are particular, yet deduced immediately from the truths of moral science, mediately from the truths of synteresis. Therefore the dictate of conscience is always the conclusion of some syllogism, whose major contains the moral law, whose minor contains the action to be placed here and now, to which the law is applied, and whose conclusion exhibits the agreement or disagreement of the action with the law, e.g. theft is illicit; this action is theft; therefore this action is illicit.

208. The force of conscience. 1. Conscience is the proximate and internal norm of moral actions: for the will, since it is a blind power, needs suitable direction; but the will can receive direction only from conscience: for that power upon which the will naturally depends in its operations is reason; but reason which in a particular case dictates that this is to be done because it is good, that is to be omitted because it is evil, is conscience. It is called the proximate rule because it is nearer to the will than law is, and it is called the subjective and internal rule, so that it may be distinguished from law, which is the objective and external norm.

Therefore, and this must be carefully noted, human actions do not take their moral (formal) goodness or malice from the norm of morality or from law as it is in itself, but from law as proposed to the will through the dictate of conscience, or from conscience; wherefore those are distressed without reason over past actions placed in good faith who afterward hear that they were sinful.

2. The force of obliging truly belongs to conscience: for the force of obliging belongs to law truly and properly so called; therefore also to conscience, which is nothing other than law applied to individual human actions. Therefore the obligatory force of conscience is the same as that of law; and since every obligation of law must be derived from the will of God, conscience is commonly and not unsuitably called both the will of God and the voice of God.

But since God manifests His will to us through our reason, which can be deceived, the dictate of conscience can be erroneous; hence it can happen that we are bound to follow a conscience commanding evil.

209. Division. Conscience is divided in many ways:

1. By reason of the acts to which it is referred, into antecedent and consequent, according as the acts are either soon to be placed or already placed; the former judges what is good or evil, what is to be done or omitted, but the latter approves or accuses the past, or even, if this can be done, excuses it.

Antecedent conscience is given to us by God as guide and moderator of our moral life, which we are bound to follow in order that we may arrive at the end of eternal life; consequent conscience acts as judge of our actions, praising and approving if they are good, admonishing, reproving, censuring, terrifying, and chastising if they are evil. The approving judgment is called the testimony of a good conscience; the accusing and reproving judgment, remorse or the worm of conscience. The testimony of a good conscience brings consolation and reward, the gift of internal peace; the remorse of conscience brings anguish and punishment: *There is no peace for the impious.*[293] Hence conscience greatly helps man to attain his end.

Note. Antecedent conscience is the proximate rule of morals, concerning which alone we speak here, and to which therefore the divisions that follow pertain.

2. By reason of the obligation which it manifests, into prescribing, prohibiting, and permitting conscience.

3. By reason of assent, into certain and doubtful conscience. Certain conscience is that by which the mind firmly judges, without fear of erring, that an action is good and licit or evil and illicit; doubtful conscience is that by which the mind suspends judgment concerning the honesty of an action, or indeed forms it, but with fear of erring.

4. By reason of conformity with the object, into true and erroneous conscience.

a. True (right) conscience is that which dictates the matter as it is in itself; erroneous conscience is that which dictates otherwise than the matter is in itself.

Properly speaking, a distinction intervenes between true and right conscience. Ordinarily, indeed, right conscience will also be true. For that is called true which is consonant with the objective order of things, and therefore says good of that which in reality is good, and evil of that which in reality is evil. But the dictate of conscience is, as it were, the conclusion of a syllogism, whose major proposition is a moral principle, and whose minor proposition is a human action to which that principle is applied, so that from this it can be concluded that the action is licit or illicit. Further, conscience is called right when it has been duly deduced according to logical laws from a moral principle. Now it can happen that the reasoning proceeds from a false moral principle; whence it can happen that the conclusion or conscience is indeed right, but false.

b. Erroneous conscience is either invincible and inculpable, whose error cannot morally be overcome; or vincible and culpable, whose error can be laid aside by employing moral diligence, but through carelessness is not laid aside.

Erroneous conscience can be invincible in two ways: either because not even a suspicion or doubt concerning the error comes into the mind of the agent, or because a doubt concerning the error has indeed arisen, but not even by employing moral diligence can the error be laid aside and the truth found. Thus he also errs invincibly who, doubting whether on such a day there is abstinence, after employing moral diligence is ignorant that abstinence is in reality prescribed. Nevertheless, the principle which follows is valid only concerning the former mode of invincibly erroneous conscience; concerning the other mode there will be discussion below.

5. Erroneous conscience is divided into lax and narrow conscience.

a. Lax conscience is called that which for a slighter cause either denies or diminishes the character of sin. To lax conscience is also reduced cauterized conscience (*das abgestumpfte Gewissen*), which, arising from a

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293. Is. 57, 21. Printed as "Is. 22, 57"; corrected as a clear printer's error.

long-standing habit of sinning, makes light even of grave sins, and pharisaical conscience, which makes little of great precepts, but much of small and external observances.

b. Narrow conscience is called that which for a slighter cause affirms or increases the character of sin. To narrow conscience is reduced scrupulous conscience, which increases the character of sin too much, and perplexed conscience, which apprehends sin on both sides.

Article Second.

On the Obligation of Following Conscience.

210. Principles. 1. We are bound to follow a certain conscience where it prescribes or prohibits.

For certain conscience is the law itself certainly known by us and applied to a particular action, if conscience is supposed true; but we are bound to follow law certainly known; therefore we are bound to follow certain conscience, at least if it is also true.

2. We are bound to follow a certain conscience where it prescribes or prohibits, even if it is invincibly erroneous, and we can follow the same without sin where it permits something.

The reason for the first is that the will, since it is a blind faculty, in order to act rightly is bound to follow the guidance of the intellect certainly prescribing or prohibiting; therefore it is bound to follow true conscience equally as conscience invincibly erring, provided it is certain. The reason for the second is that one following a permitting conscience wills an action which he judges licit, which cannot be sin.

It is asked whence erroneous conscience receives the force of obliging; for since it obliges insofar as it announces the divine law, erroneous conscience, inasmuch as it does not in reality announce divine law, seems unable to oblige. It must be said that erroneous conscience draws the force of obliging from the universal principle of law: good is to be done, evil is to be avoided, as far as can be done, i.e. as it is manifested to us through conscience; whence we are bound always and in every case to obey certain conscience. Therefore erroneous conscience does not oblige by force of the particular precept which it announces, but by force of the universal precept by which we are bound to do good and avoid evil insofar as we can.

a. The affirmation supposes that he who acts with invincibly erroneous conscience preserves freedom. For in those things which cannot be avoided, sin cannot be committed from erroneous conscience, because the action or omission is altogether involuntary. He who thinks that dishonest or blasphemous thoughts already are sins does not sin, even if he has thoughts of this kind, because he cannot bring it about that they do not enter the mind. Likewise an imprisoned person who erroneously thinks that he sins because he omits Mass does not in reality sin.

b. "Hence if conscience dictates to someone that he is bound to lie in order to aid a neighbor in danger, he sins against charity if he does not lie." - "He who thinks there is a fast when there is not, because of erroneous conscience sins if he does not fast."[294]

c. He who places a work evil in itself, which from erroneous conscience he thinks to be good, not only does not sin, but according to the opinion of many exercises a good work and, with the suppositions to be supposed, also merits through it.

d. Sin committed from erroneous conscience is of the same gravity and species as if it had been committed from true conscience. He who, erroneously thinking that Mass must be heard, omits it, sins gravely

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294. Gury, *Compendium theologiae mor.* I. n. 38.

against the precept of the Church, and in confession it suffices to say: I omitted Mass. He who strikes a man, erroneously thinking that he is a priest, commits sacrilege just as if in reality he had struck a priest. Yet if the confessor notices that the penitent has sinned from erroneous conscience, let him ask him whether he really judged that he was sinning gravely, and let him instruct him concerning the truth of the matter.[295]

e. If, therefore, conscience dictates that it is licit to steal in order to aid a poor man, theft from invincibly erroneous conscience would not be a sin.

3. A vincibly erroneous conscience, whether it prescribes or permits, may neither be followed nor acted against; rather, we are bound to lay aside the error before the action: for one acting thus would expose himself to the danger of sinning. Yet if there were question of a good act which someone thinks to be prescribed, he could follow a vincibly erroneous conscience and would not be bound to lay aside the error.

"He who thinks, but with doubt, that he must steal from a rich man in order to aid one in need, sins whether he steals with a conscience of this kind or does not steal. Therefore before the action, if it can be done, he must lay aside the error by inquiring into the truth."[296] - But he who with doubt thinks that today he must hear Mass and goes to hear Mass is not bound, by inquiring into the truth, to lay aside the error.

Note. In order that a confessor may discern whether conscience was invincibly or vincibly erroneous, let him ask the penitent: a. whether he noticed some indecency in the act or at least doubted concerning its liceity; b. whether conscience dictated to him that someone should be asked about that matter. But if he denies each, the error was invincible; if he affirms either one, the error was vincible and culpable, and indeed gravely culpable if he apprehended the matter under discussion as a matter of great moment.

211. On lax conscience. Lax conscience sometimes denotes a habit, namely that disposition of soul which tends to extending moral liberty more than is right; if it signifies an act, it is a judgment which from a slighter motive judges that to be licit which is illicit, or that to be a light sin which is grave. And consequent lax conscience is a judgment which from a slight motive judges that there was not grave sin where in reality grave sin was committed.

Principles. a. Ordinarily those who, knowing that they have a lax conscience, transgress a precept in a grave matter, sin gravely: for either they have a confused knowledge of grave sin, or if they do not have this, those who in a grave matter knowingly follow a lax conscience knowingly expose themselves to the danger of violating a grave precept. Nor does the error by which they judge that there is no sin excuse them, because the error is voluntary in its cause.

Those who do not know that they are of lax conscience and do not notice the malice of the action even confusedly are excused from sin because of ignorance. Indeed even he who knows that he is of lax conscience can be immune from mortal sin, namely where he notices neither the malice of the action nor the obligation of investigating its malice more accurately, not even confusedly.

b. In doubt concerning full consent to sin, it must be presumed that they fully consented, just as those who are of timorous conscience, in doubt, are presumed not to have consented: for from things ordinarily occurring a conclusion is rightly made with moral certitude to a particular fact.

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295. Cf. Lugo, *De poenit.* disp. 16. n. 499 ss.

296. Gury, l. c. n. 38.

c. He who labors under lax conscience is bound under grave obligation to lay it aside, because he is bound to lay aside the habitual danger in which he is situated of sinning gravely.

212. On perplexed conscience. The rules to be observed by him who has a perplexed conscience, from St. Alphonsus (n. 10), are these:

a. If without grave damage he can defer the action, he is bound to defer it until he has consulted wise men, e.g. a confessor: for anyone is bound to avoid what he thinks is sin.

b. If he cannot defer the action, he is bound to choose that which seems to him the lesser evil: for he ought rather to avoid a greater evil than a lesser, e.g. transgression of the natural law than of positive law, if he cannot avoid each.

c. If he cannot discern the lesser evil, whatever he chooses, he does not sin; and this indeed even if through error he thinks that he sins, because the act which he places is not voluntary.

Let the example be a man who on a feast day, assisting a sick person, thinks that he sins if he remains, and likewise that he sins if he goes to church; or a priest who, making the sacrifice, thinks that he will sin if he repeats the form of consecration, and likewise that he will sin if he does not repeat it; or a confessor who fears that he will sin by denying absolution, because he wholly frightens the penitent away from the sacraments, and that he will sin by granting absolution, because he administers the sacrament to an unworthy person. Let him do what he wills: for no necessity of sinning exists.

Article Third.

On Scrupulous Conscience.[297]

213. Notions. 1. A scruple is fear concerning sin arising from an empty apprehension. Therefore a scruple by its nature is not a judgment of a sound mind, but is fear concerning sin arising from an empty apprehension of a disturbed mind.

Scrupulous conscience sometimes signifies a habitual disposition of soul prone to empty apprehensions of this kind, sometimes an act. In this sense scrupulous conscience is an apprehension which from an empty reason, whether before or after the fact, fears that sin is present where it is not.

Scrupulous conscience differs a. from tender conscience, which also knows even the smallest defects as such and makes much of them from reverence toward the divine majesty, while nevertheless carefully retaining the distinction between mortal and venial sin. It differs b. from erroneous conscience, which is a judgment of the mind, although false.

2. A scruple can exist together with a certain conscience concerning the honesty of an action: for since it has arisen from an empty motive, it does not take away certain persuasion. Therefore it is lawful to act with a scrupulous conscience, or it is lawful to act against scruples, provided the agent knows that he has scruples and that they are to be contemned.

a. It is not indeed lawful to act against conscience; but scrupulous conscience, since it is an empty apprehension and vain doubt, is not conscience in the proper sense.

b. It is not lawful to act with a practical doubt; but a doubt arisen from scruples is not a practical doubt but a vain fear, which is to be spurned.

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297. St. Alphonsus l. 1. n. 11-18. Reuter, *Neoconfessarius* n. 255 ss. Stoz, *Tribunal poenit.* l. 1. pr. 5. n. 171 ss. Laymann, *Theologia moral.* l. 1. tract. 1. c. 6. Lacroix, *Theologia moral.* l. 1. n. 519 ss. Scaramelli, *Director. ascet.* l. 2. n. 421 ss. St. Ignatius, *Exercitia spiritualia*, Rules on scruples.

214. Causes of scruples are various, some internal, others external.

a. Natural disposition either of soul or of body: a melancholic disposition, a disposition prone to fears and suspicions, weakness of the head especially in women, and badly affected functions of organic life easily produce scruples. Scruples which arise from this source are accustomed to last for a long time and to manifest themselves in various ways; besides, they show themselves not only in moral matters, but also in other actions of human life.

b. God permits scruples by the counsel of wise providence for obtaining a determinate end: for God intends either a. that men be preserved from sin, or b. that the soul be purged from sins, or c. that it conceive fear of sin, or d. that it be prepared for performing great things for the glory of God. Scruples which are permitted by God cease after some time, procure horror of sin, and join the soul more intimately with God.

God cannot properly and directly be called the author of scruples, since they contain error and constitute an evil of the soul. Directly they proceed either from human nature vitiated by sin or from the evil demon, but God admits them and by His wisdom so moderates and directs them that they produce a good effect of the spiritual life.

c. The evil demon, God permitting, excites scruples in order to harm man, but especially in order to turn him away from divine things, from prayer, and from the use of the sacraments. Scruples which come from the demon do not manifest themselves in the same way; they draw man back from virtue and cast him into tepidity and desperation.

d. The reading of books that are too rigid, and the instructions and counsels of confessors and preachers who are prone to exaggerations and rigor, can produce scruples.

In young men and girls of timorous conscience, scruples concerning the matter of the sixth precept not rarely come from mere ignorance. Scrupulous persons of this kind are frequently healed of the disease by prudent instruction concerning those things which it is necessary for them to know.

215. Signs of scrupulous conscience: a. If someone thinks that he sins in those matters in which pious men and men of timorous conscience find no sin. b. If someone does not acquiesce in the judgment of the confessor, repeatedly seeks counsel concerning the same matter, and nevertheless does not obey, consults several and acquiesces in none. c. If someone exceeds measure in examining his actions, attends to the most minute circumstances, not only to those which were present, but also to those which could have been present, and therefore in confession explains even the least things. d. If someone always tries to repeat confessions anew. e. If someone pays prayers anxiously, continually begins anew and repeats them rather often. f. If someone uses inopportune external signs for repelling temptations.

216. Remedies for scruples. a. To consider scruples as a disease of the soul, which they truly are, and to conceive a firm proposal of laying them aside and employing remedies by which they may be removed. b. To commend oneself by prayers to God for obtaining this threefold grace: of attaining the end on account of which God sends scruples or permits them to be sent; of patiently bearing the cross of scruples, which consists in fears and internal anxieties; of obtaining liberation from this evil, if it shall please God. c. To contemn scruples, to act against them, i.e. not to do or omit what the scruple suggests; not to foster them by thought. d. To acquiesce in the judgment of the confessor and promptly obey his admonitions; obedience is the chief remedy of this infirmity. e. Before an action, not to judge that something is sin unless without deliberation one certainly and evidently knows it to be sin; after an action, not to judge that one has committed sin unless without examination one certainly and evidently knows that he has consented. f. Never to judge that an obligation rests upon oneself unless one perceives it certainly and evidently. g.

Never to be idle, but always to be occupied with labor, especially external labor; not to be solitary, so that the mind may be distracted from thoughts which foster scruples; not to use austerities which weaken the powers of the body, but in all things to preserve temperance.

217. The manner of acting of the confessor. a. Scrupulous persons are to be treated with great charity and patience: for they are sick persons worthy of commiseration, who cannot consult for themselves. Yet from excessive benignity that which increases scruples must not be conceded to them; indeed with a certain constant rigor there must be required from them what seems opportune for lessening or curing the disease.

b. Let him strive to know whether the penitent truly is scrupulous, what the origin of the scruples is, whether he is scrupulous in one matter only or in several. It belongs to the confessor to judge whether the penitent is scrupulous; scrupulous persons themselves almost always think that their fears are not empty.

c. In handing down counsels and responses let him be brief; let him speak not ambiguously and doubtfully, but definitely and determinately; let him furnish general rules (not particular ones) according to which scrupulous persons may direct themselves in particular cases; nor let him render to them the reason for those things which he prescribes.

d. Scruples are concerned chiefly with these three things: a. Scrupulous persons fear lest they have given assent to evil thoughts, especially against faith or chastity. In this case scrupulous persons are to be taught that not the thought or sense, but only the consent, is sin, and that thoughts and senses are to be contemned; besides, they are to be admonished not to accuse evil thoughts in confession unless they know so certainly that they have consented that they can swear concerning the consent. b. They fear lest past confessions have been either invalid or sacrilegious, whether because of a defect of integrity or because of a defect of sorrow. In this case let the scrupulous person be permitted once to make a general confession, if he has not made one before; but once a general confession has been made, let him not be permitted to say a word concerning past things which happened before the last confession, unless he knows most certainly that he committed grave sin and never said it; indeed sometimes it must be absolutely forbidden that he accuse anything concerning past things. c. In every action they fear sin or the danger of sin. In this case scrupulous persons must be enjoined to contemn scruples and fears, to act freely, indeed to operate against scruples, unless they evidently know sin in the action. But in confession it is not to be permitted that they explain at length, especially if there is question of shameful things, what they thought, what they did, how often they acted against conscience: for it is preferable that they accuse themselves concerning these things only in general, unless sin is plainly established.

e. Finally, let the confessor attend to the two things which are called the privileges of the scrupulous: a. namely, that scrupulous persons are not bound to that diligence in the examination of conscience which others must employ, because a more accurate examination does them no good but disturbs them more; b. that scrupulous persons are not bound to the confession of those things which they themselves think they have committed, whether from past life or from the last confession, but only to the confession of those things which by an obvious examination are evidently known to be grave sins, even if for this reason the integrity of confession sometimes is lacking, because they are excused from integrity on account of excessive inconvenience.

Whether there is an obligation of acting against a scrupulous conscience. Sometimes there is an obligation of acting against a scrupulous conscience: for scruples are diseases of the soul which bring damage to life both bodily and spiritual; therefore if grave damage threatens from them, there exists an obligation of fighting against scruples. Although this obligation of itself can be grave, nevertheless it is never grave as

regards individual acts; indeed the scrupulous themselves are almost always excused from grave fault on account of the infirmity under which they labor.[298]

Article Fourth.

On Certain and Doubtful Conscience.

§ 1. On Certain Conscience.

218. Notion and division. Certain conscience is that by which the mind firmly judges, without fear of erring, that an action is good and licit or evil and illicit.

a. By reason of the motive, strict or perfect certitude is distinguished, which wholly excludes every doubt and every fear of erring, even an imprudent fear; and broad or imperfect certitude, which excludes only every prudent doubt, yet rests upon motives of such a kind as truly merit assent excluding prudent fear of erring.

Broad or imperfect certitude is customarily called moral certitude. This must suffice for us in many matters even of the highest moment, because in these matters we cannot have a greater and more perfect certitude, e.g. concerning the validity of baptism or priestly ordination. Nevertheless it must not be confused with moral certitude which is improperly called by this name and signifies nothing other than a certain greater degree of probability, which nevertheless does not exceed the limits of probability.

b. By reason of the object, speculative certitude is distinguished, which is concerned with abstract truths or with the liceity of an action in general, e.g. to plow is a servile work, or servile works are prohibited on a feast day; and practical certitude, which is concerned with the liceity of an action to be placed here and now, e.g. today, even if it is a feast day, it is lawful for me to paint.

c. By reason of the mode in which it is acquired, direct and indirect or reflex certitude is distinguished. Direct certitude is called that which arises from the internal principles of reason, which demonstrate the truth of the matter itself and the honesty of the action; indirect certitude is called that which arises from external (reflex) principles, which do not demonstrate the truth of the matter itself and the honesty of the action, but from which nevertheless the honesty of the action is certainly gathered.

Let the example be a judge who must condemn the guilty and absolve the innocent. Now if from the judicial acts the accused is demonstrated guilty, the judge has direct certitude of the crime committed and forms a directly certain dictate of conscience: this accused person must be condemned by me. But if from the judicial acts grave reasons show the accused guilty, but other grave reasons show him innocent, he does not acquire direct certitude concerning the committed crime and a directly certain dictate concerning the accused to be condemned or absolved; but by applying this reflex principle: in doubt favor is to be shown to the accused, he forms an indirectly certain dictate: this accused person must be absolved by me.

219. Principles. 1. Certain conscience alone is the right norm of our actions: for from the Apostle, everything which is not from faith, i.e. which is not from certain persuasion that the thing which is done is honest and licit, is sin.[299] Certainly, he who operates with a conscience which is not certain voluntarily exposes himself to the danger of transgressing the divine will; but one acting thus virtually consents to the transgression of the precept, and therefore sins formally. Wherefore it is never lawful to act without certain conscience concerning the honesty of the action.

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298. Cf. Stoz, *Tribunal poenit.* l. 1. pr. 5. n. 182.

299. Rom. 14, 23.

2. In order that we may follow conscience, it suffices that it be morally certain with imperfect certitude: for in our moral actions that certitude must suffice, of which the very nature of things does not admit a greater; but moral matters for the most part admit no certitude other than moral or broad certitude. Besides, for operating licitly a truly certain persuasion concerning the honesty of the action suffices; but morally certain conscience is truly certain.

A negative doubt does not impede the certitude of conscience, because it is founded either upon no reason or only upon a lighter and empty reason and is known as such by the agent. Therefore he who acts with a doubt of this kind nevertheless has a practically certain conscience. From this it is clear that negative doubt is to be spurned and only positive doubt in a moral matter is to be attended to.

3. For operating licitly any practically certain conscience suffices, even indirect conscience; for in order to operate licitly nothing else is required except certain persuasion that the action to be placed here and now is honest; but any practically certain conscience supplies this persuasion, whether by direct or reflex certitude.

§ 2. On Doubtful Conscience.

220. Notion. Doubtful conscience is that by which the mind suspends judgment concerning the honesty of an action, or indeed forms it, but with fear of erring.

a. Doubt accepted in general is a state of the mind concerning some proposition, by which the mind lacks certitude: for one is called doubtful who is not certain, whether he suspends judgment, or inclines to one side, or assents to one side with fear concerning the opposite. Therefore doubt accepted in this sense is opposed to certitude alone.

b. A twofold doubt must be distinguished, strict and broad: for the mind which does not possess a firm judgment concerning the honesty of an action can have itself in two ways; for either it assents to neither side, neither for liceity nor against liceity, but suspends assent (strict doubt), or it assents to one side rather than the other, but with fear of erring (broad doubt).

c. Doubt properly and strictly so called, since it is suspension of judgment or suspension of assent concerning some proposition, is opposed to all states of the mind by which the mind in some way assents to a proposition: suspicion, opinion, and certitude. For in suspicion the mind inclines to one side without nevertheless assenting to it; in opinion the mind assents to one side, but with fear; finally, in certitude it assents without fear.

d. Doubt properly and strictly taken can happen from a twofold reason: either because on each side there are either no reasons or only slight reasons, or because on each side equal or almost equal reasons militate. Therefore in doubt strictly accepted the mind is as the tongue of a balance which, placed in equilibrium, bends neither to one side nor to the other. But where on each side probable reasons are present, the will can move the mind to assent to one or the other.

221. Division. 1. By reason of the motive, doubt is called negative if either no reasons or only slight reasons of assenting occur; and it is called positive if a grave reason of assenting is present, which nevertheless does not exclude prudent fear of erring.

Positive doubt can happen in two ways: for either on each side there is a grave reason of assenting, or on one side only, while on the other no reason of assenting appears. The same must be said of negative doubt: for either on each side a reason of assenting is lacking, or on one side only, while on the other a reason of more or less firmly assenting is present, as if a priest doubts whether he consecrated duly, because reflexively he does not remember the consecration having been made.

2. By reason of the object, one doubt is speculative, which is concerned with the truth of a matter or proposition, e.g. whether painting is a servile work, or with the liceity of an action in general, e.g. whether it is lawful to paint on a feast day; another is practical, which is concerned with the liceity of an action now to be placed, e.g. whether it is lawful for me to paint today.

Therefore that doubt which is concerned with the liceity of an action in general is not customarily called practical doubt, but that which is concerned with the liceity of an action to be placed here and now.

3. Speculative doubt is either doubt of fact, which is concerned with a particular matter, e.g. whether I recited the hours, whether the child has been baptized, whether this food is meat; or doubt of law, which is immediately concerned with the law, or with a faculty of doing something, or with the value of an act, e.g. whether it is prohibited to hunt on a feast day, whether a parish priest can dispense from fasting, whether such a baptism is valid.

Practical doubt always supposes speculative doubt, whether of law or of fact, and arises from speculative doubt: for I would not doubt whether it is lawful for me to paint today unless I doubted whether painting is a servile work, nor would I doubt that I can baptize this child unless I doubted whether he has already been baptized. It is clear that it can happen that, while speculative doubt remains, a practically certain conscience can be had, namely indirectly.

222. Principles. 1. It is never lawful to operate with a practically doubtful conscience: for he who operates in this way, willing the action even if it were evil, consents to evil and therefore sins: for everything which is not from faith, i.e. from certain persuasion of liceity, is sin.[300]

a. The sin which one acting with practical doubt commits is of the same species and gravity as a sin committed with certain conscience. Therefore he who doubts whether that which he is about to do is a grave sin and nevertheless acts, sins gravely; and he who in doubt whether today one must abstain from meat nevertheless eats, sins against the precept of abstinence. Wherefore in confession it suffices to say: on a prohibited day I ate meat.

b. Nevertheless they are foolish who after the fact begin to be distressed and to inquire in books or from a confessor whether they have sinned; likewise those who act in doubt and afterward, knowing that the action placed was not evil, are no longer distressed: for the whole morality of the action depends upon the dictate of conscience antecedent to and concomitant with the action itself; subsequent doubt or knowledge cannot change the morality of the action placed.

2. He who doubts concerning the liceity of an action to be placed, before he acts, must lay aside the doubt and form for himself a practically certain conscience. But there exists a twofold way and method of laying aside doubt and forming for oneself a practically certain conscience, direct and indirect.

a. He attempts to lay aside practical doubt directly who inquires into the truth of the matter or the liceity of the action concerning which speculative doubt is concerned, by investigating internal reasons, consulting books or doctors, etc. Practical doubt is laid aside indirectly or reflexively by means of some reflex principle: for by means of these one can arrive at a practically certain conclusion that this or that is licit, while speculative doubt remains (n. 218).

b. If the doubt is concerned with a law or precept which obliges here and now, the direct mode of laying aside a doubtful conscience must be employed in the first place, namely by inquiring with moral diligence into the truth of the matter or the liceity of the action: for every law first obliges to knowledge

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300. Rom. 14, 23.

of itself. Wherefore he who from negligence in the inquiry of truth exposes himself to the danger of transgressing the law, by this very fact sins. But in this investigation of truth the highest diligence must not be employed, namely by using all means which can be employed: for this would be an intolerable burden; rather, it suffices that moral diligence be employed, which alone is accommodated to human nature (n. 49). He who, after employing moral diligence, cannot arrive at knowledge of the matter is situated in invincible ignorance of that matter (n. 209).

3. But if a doubtful conscience can be laid aside neither directly nor indirectly, the action must be deferred, or, if the necessity of acting urges, the safer part must be chosen: for unless in this case the safer part were chosen, the action would be made with a practically doubtful conscience, which is always sin; but he who embraces the safer part certainly observes the law, even if perhaps he would not be bound.

The safer part is that which stands for the observation of the law and which therefore excludes every danger of sinning by one's action. Therefore in doubt whether it is lawful to place an action which can licitly be omitted, the action must be omitted; in doubt whether it is lawful to omit an action which can licitly be placed, the action must be placed.

Article Fifth.

On Probable Opinion.

223. Declaration. 1. The name opinion is used properly subjectively, improperly objectively. Opinion considered subjectively is a judgment by which the mind adheres to a proposition because of persuasive motives, but with fear concerning the opposite; and opinion considered objectively is the matter itself or proposition to which the mind adheres, because of persuasive motives, with fear concerning the opposite. In this objective sense we speak of probable opinion.

From these definitions it is clear: a. that opinion considered subjectively and probable conscience do not in reality differ: for probable conscience properly is a judgment by which the mind judges that some action is licit or illicit, but with fear of erring; b. that positive doubt accepted in a broad sense and opinion considered subjectively likewise do not differ: for any positive doubt is an opinion.

2. The probability of some opinion (or sentence) is that property of the same by which, on account of the motives by which it is supported, it merits the assent of a prudent man, although with fear concerning the opposite. Therefore the reasons by which it can be persuaded and proved constitute the probability of some sentence.

By its nature greater or lesser probability belongs to an opinion according to the diversity of the reasons upon which it rests. Therefore manifold divisions of probability are said equally of opinion: for we speak of an opinion as speculatively or practically, internally or externally, solidly or tenuously, certainly or doubtfully, absolutely or comparatively probable.

224. Division. Probability is divided in many ways:

1. Into speculative and practical: the former belongs to an opinion considered in itself and in the abstract; the latter belongs to an opinion considered in the concrete with the circumstances which affect it in particular cases.

From these things it is understood that it can happen that an opinion speculatively probable is not practically probable on account of scandal or the danger of sinning which would have to be feared in the concrete if someone acted according to that opinion. Thus this sentence, that a woman oppressed by force can hold herself passively on account of fear of death, is said to be speculatively, but not practically, probable, because

on account of the very great propensity of fallen man into venereal matters there threatens a danger of consenting to shameful delight.[301]

2. Into internal and external: the former is founded on reasons taken from the very nature of the matter; the latter is proximately founded on the authority of doctors. External probability of itself supposes internal probability, namely that the doctors were determined to embrace the truth from internal reasons.

a. According as the weight of the reasons or of the authority by which some sentence is supported is greater or lesser, so also the degree of probability, whether internal or external, is greater or lesser. b. But external probability must be estimated not so much from the number of authors as from their doctrine and prudence, and also from the study and diligence which they used in investigating the truth.

3. Into solid and tenuous: the former is constituted by a fallible but nevertheless grave and firm motive, which truly merits the assent of a prudent man; the latter rests upon a slight and empty motive, so that he who gave assent to it would be imprudent.

Therefore an opinion tenuously probable, being destitute of true probability, is in reality not probable. Yet there are authors who by the name of tenuous probability signify some slight but nevertheless true probability.

4. Into certain and doubtful, according as a grave and solid foundation, which suffices for constituting true probability, belongs to the opinion certainly or doubtfully or only probably.

5. Into absolute and comparative or relative: the former is had when the motives of the opinion are considered in themselves independently of the opposite opinion; the latter is had when the motives of the opinion are considered together with the opposite opinion and its motives.

To these must be added solitary probability, which is had when there are no opposed reasons, although nevertheless it does not attain certitude. Wherefore an opinion uniquely or solitarily probable is called that whose opposite opinion can be supported by no reason, although nevertheless it itself is not certain. Thus where an upright man, whose faithfulness or unfaithfulness has not hitherto been proved by experience, seriously promises something, his promise is a grave motive of trust, which does not furnish certitude, yet is weakened by no contrary reason. In moral theology, opinions uniquely probable are rare; but if there are any, by the very fact that no reason appears on the opposite side, their probability is greatly increased, so that it almost approaches moral certitude.

225. On opinions considered comparatively. 1. If opinions are compared with one another by reason of security from sinning where someone follows them, these distinctions must be noted:

a. That opinion is called safe which excludes the danger of formally sinning; b. that is called safer which more excludes sin; c. that is called less safe which less excludes sin. Therefore in the concurrence of opinions, of which one stands for the law, the other for liberty, the safer is that which stands for obligation, because it simply excludes the danger of sinning; the less safe is that which stands for liberty, because it does not exclude every danger of sinning.

b. That is called safe which is removed from evil and its danger; since in the present question there is question of sin, that is called safe which removes sin and its danger. The opinion for law alone is not simply safe, but both the opinion for law and the opinion for liberty can be safe.

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301. Cf. Lehmkuhl I. n. 72.

c. Although of itself the opinion for law is safer, nevertheless from another source it can happen accidentally that the opinion for law is not safer: for on account of the difficulty of observing the law, an opinion safer in itself frequently practically induces the danger of sin.

d. A less safe opinion does not cease to be simply safe, although the opposite is safer; just as the less probable does not cease to be probable, although the opposite is more probable.

e. It is clear that it can happen that the more probable sentence at the same time is less safe, and that the safer sentence is less probable, because it can happen, and in reality sometimes does happen, that an opinion which stands for liberty is supported by graver motives than an opinion which stands for law.

2. If opinions are compared with one another by reason of probability, these distinctions are had:

a. Equiprobable opinions are called those which are supported by reasons equally or almost equally grave: for the moderate excess by which one is supported more than another does not prevent them from being called equally probable.

b. That opinion is called more probable which rests upon graver motives than its opposite, which is called simply probable or less probable.

Note. 1. In St. Alphonsus there also occurs: a. a most probable opinion, which rests upon very grave foundations; its opposite, on account of weak motives, is tenuously or doubtfully probable; b. certainly and notably more probable, whose foundations are certainly and without any hesitation much graver; its opposite is tenuously or doubtfully probable.

2. Since a notably more probable opinion and a most probable opinion are little distant from one another, they are practically equated.

3. Although a most probable opinion is not in itself morally certain, but only occupies the highest degree of probability, nevertheless practically it is equivalent to a sentence morally certain in the broad sense.

Question Second.

On the Moral System.[302]

Article First.

On the Various Systems.

226. For what it serves. The moral system must perform its office whenever there is a doubt concerning the obligation of a law which cannot be solved directly. Namely, when a founded doubt concerning the liceity of his action or omission and concerning the existence of a law, whether prescribing or prohibiting, arises for the agent, first of all he is bound seriously to inquire into its existence. But if he has arrived at certain knowledge of the law, he must observe it holily (n. 143). Yet innumerable are the circumstances of human life in which doubt concerning the obligation of a law and therefore concerning the liceity of an action arises, without its certain knowledge being able to be reached. Here the question offers itself: in what way, in circumstances of this kind, ought man to conduct himself according to the will of God? Namely, it is asked whether, from the will of God, the supreme legislator, even doubtful laws, concerning whose obligation it is not established with certitude, must be observed, or whether from the will of the

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302. Cf. Fr. Mannhart, *De ingenua indole probabilismi* (Augustae Vindel. 1759). Leimbach, *Untersuchungen uber die verschiedenen Moralsysteme* (Fulda. Aktiendruckerei. 1894). Ludwigs, *Zur Frage uber das Moralsystem* (*Zeitschrift f. k. Theol.* 1878 S. 1 ff.). *Der Katholik*, 1874, Probabilismus und probabilistische Systeme. *Kirchenlexikon*, Moralsysteme. Schindler S. 213 ff.

same it suffices that laws be observed of whose existence we have certain knowledge. And if it is established that from the will of God it is not necessary that even doubtful laws be observed, it is further asked by what reason, while doubt concerning the obligation of the law remains, one can arrive at a practically certain conscience. For from doubt concerning the obligation of a law there immediately arises a practically doubtful conscience; but it is not lawful to act with a practically doubtful conscience. Therefore any moral system proposes to itself a twofold question to be solved: concerning the obligation of a doubtful law and concerning the way and method of arriving at a practically certain conscience when there exists doubt concerning the liceity of an action in general.

227. What it is. By the name of moral system is understood a complex of principles by the help of which, from speculative doubt concerning the obligation of a law, one can arrive at a practically certain conscience.

It is called a moral system: a. because it contains several principles cohering among themselves by a logical connection, by whose help the chief question of moral theology is solved; b. because it exercises a very great influence on the whole of moral theology and its character, since the principle of the system is a most fertile principle of moral theology, which supplies a norm of judging concerning the existence of a precept and therefore a norm of acting in very many questions.

228. How many there are. Moral systems are numbered as altogether six, which solve the proposed questions in a diverse way: absolute tutiorism, mitigated tutiorism, probabiliorism, equiprobabilism, probabilism, and laxism. In order that the formula by which each system is exhibited may be understood, this must be noted: whenever the existence or obligation of a law is doubtful, two opinions more or less probable are opposed to one another, of which one stands for the obligation of the law, the other for liberty from the law. The formulas of the individual systems are called their principles, which are customarily exhibited in this way:

1. Absolute tutiorism teaches: we must follow the safer opinion (for the law), even if the contrary opinion for liberty is most probable.
2. Mitigated tutiorism teaches: we must follow the safer opinion, unless the contrary opinion for liberty is most probable.
3. Probabiliorism teaches: we can follow the less safe opinion for liberty if it is more probable than the contrary opinion for the law.
4. Equiprobabilism teaches: we can follow the less safe opinion for liberty if it is equally probable as the opposite opinion for the law.
5. Probabilism teaches: we can follow the less safe opinion for liberty if it is truly probable, even if the opposite opinion for the law is more probable.
6. Laxism teaches: we can follow the less safe opinion for liberty even if it is only tenuously or doubtfully probable.

If we compare the principles of these systems with one another, these things are manifest:

a. All the systems can be referred to two classes, of which one contains tutioristic or antiprobabilistic systems, namely the two former, and the other probabilistic systems, namely the four latter. The former favor law more, the latter liberty more; the former are systems of the Jansenists, the latter systems of Catholics.

b. These two kinds of systems differ from one another especially in this, that tutioristic systems admit only a directly certain conscience and therefore reject the use of probable opinion and of reflex principles;

but probabilistic systems admit an indirectly certain conscience and therefore also declare licit the use of probable opinion and reflex principles for forming an indirectly certain conscience.

c. Two of these systems, absolute tutiorism and laxism, are illicit, as being reprobated by the Church; but the other four are indeed licit, since they are not reprobated by the Church, yet only one can be true, because they mutually exclude one another.

§ 1. On Absolute Tutiorism.

229. Absolute tutiorism teaches: it is never lawful to follow the opinion for liberty, even if it is most probable.

1. This doctrine, rigoristic beyond measure, was defended by Sinnichius (d. 1666), a doctor of Louvain, and the Jansenists maintain it. For since the Jansenists taught that there are precepts which are impossible for men, and that grace is not given by which they would become possible, they tried to increase the burdens and precepts imposed on the faithful in order to protect this doctrine.

2. Their arguments are these: a. It is a received axiom: in doubt the safer part is to be chosen; but the safer part stands for the law; therefore we are always bound to observe the law, unless it is certain that the law never existed or has already ceased. b. It is not lawful by one's action to expose oneself to the danger of sinning; but even he who follows a most probable opinion exposes himself by operating to the danger of sinning: for even a most probable opinion can be false.

3. Refutation. a. This doctrine has been reprobated by the Church: for by Alexander VIII this proposition (3) was condemned: it is not lawful to follow an opinion even the most probable among the probable. b. He who simply teaches that in doubt that must be done which is safer falsely affirms that what is of counsel is a precept: for God does not oblige to that which is safer, but to that which is simply safe. c. He who affirms that even doubtful laws must be observed imposes against the will of God an intolerable yoke on the faithful and makes divine precepts impossible for them; but it is lawful for no one to impose obligations from which God wills the faithful to be immune, lest precepts be rendered impossible for them. d. What the tutiorists add, that it is lawful for no one by acting to expose himself to the danger of sinning, is true if there is question of the danger of formally sinning; but it is not necessary that even the danger of materially sinning always be excluded, as will be clear below.

§ 2. On Mitigated Tutiorism.

230. Mitigated tutiorism teaches: it is not lawful to follow the opinion for liberty unless it is most probable.

1. This system, which likewise involves exaggerated rigorism, was maintained in the 17th and 18th century by the doctors of Louvain, more devoted than was right to Jansenius: Opstraet (d. 1720), Steyaert (d. 1701), Henry of St. Ignatius (d. 1719), etc. They indeed tried to soften the harshness of the Jansenian doctrine in this way, by admitting a most probable opinion for liberty. Moreover, they defend their doctrine by the same arguments as the Jansenists. In recent time Cardinal Gerdil (1802) acceded to this opinion, which now no one any longer holds.[303]

There are several probabiliorists (Antoine, Gazzaniga, Patuzzi, L. Habert, etc.) who exaggerate the greater probability which they require for acting licitly against the law to such an extent that the more probable opinion becomes most probable and their probabiliorism degenerates into tutiorism.[304]

Notes

303. Gerdil, *Opere edite ed inedite* (Firenze. Gelli. 1850). Vol. VII. c. 3. et 4.

304. Cf. Bouquillon l. c. p. 544. note 3.

2. It is refuted by the same arguments as absolute tutiorism; besides, it must be noted that mitigated tutiorism has not indeed been proscribed by the Church, but necessarily falls back into proscribed doctrine unless it wishes to affirm that it is lawful to act with a practically doubtful conscience: for the most probable opinion which it is lawful to follow against the law either produces a certain conscience or it does not; if the first, we fall into condemned tutiorism; if the second, it is lawful to act with a practically doubtful conscience, which is false.

§ 3. On Probabiliorism.

231. Probabiliorism teaches: it is lawful to follow the opinion for liberty if it is more probable than the opposite for the law.

As regards the degree of greater probability which the more probable opinion must carry before itself in order that it be lawful to follow it, probabiliorists do not agree: for some require that it be notably more probable and therefore almost morally certain; others require that it be more probable to such an extent that the mind can assent to it. Besides, some assume a reflex principle for informing conscience; others admit none, contending that in order to operate honestly conscience need not be practically certain.

1. This doctrine was little known among moralists until the middle of the 17th century. From that time theologians of the Order of Preachers defended probabiliorism with such agreement that up to the beginning of the last century hardly a Dominican theologian could be found who was not a probabiliorist. To these several other theologians, both secular priests and regulars of other orders, joined themselves.

Among the Dominicans are eminent: Mercorus, Gonet, J. Martinez, Vincent Baronius, Contenson, Natalis Alexander, Concina, Billuart, and Patuzzi, whom St. Alphonsus had as a most keen adversary. At this same time other theologians also of every order, both seculars and regulars, acceded to this doctrine, from whom these are to be named: Prosper Fagnanus, Collet, Cabassutius. Of the theologians of the Society of Jesus, those devoted to probabiliorism are: Blancus, Thyrsus Gonzalez, Camargo, Estrix, Gibert, Elizalde, Malatra, and Antoine. At the present time, especially after the ecclesiastical approval which the moral books of St. Alphonsus obtained, there will scarcely be a theologian who defends probabiliorism.

2. Their argument is: just as in doubt concerning truth we are bound to embrace that sentence which approaches more to the truth and excludes more the danger of erring, so in doubt concerning honesty we are bound to follow the sentence which approaches more to the truth and excludes more the danger of sinning; but the more probable opinion approaches more to the truth and removes more from sin.

3. Refutation. a. Either they admit reflex principles for forming a certain conscience or they do not admit them; if the first, by logical necessity they arrive at probabilism; if the second, they necessarily at last fall into absolute tutiorism, since it is not lawful to act with a practically doubtful conscience.

Those who admit a reflex principle form a practically certain conscience in this way: he who does what he prudently judges to be licit does not sin; but he who follows the more probable opinion does what he prudently judges to be licit; therefore he who follows the more probable does not sin. - Now they cannot effectively prove the minor in another way except by an argument taken from invincible ignorance of the law; but this argument consequently leads to probabilism: for the law is invincibly unknown whether the opinion against the law is more probable or probable.

b. A moral system cannot be true which not only imposes an intolerable burden on the faithful, but besides brings this inconvenience, that its use is impossible both for confessors and for the faithful; but probabiliorism is of this kind. For for the licit use of some opinion it would be necessary to inquire which opinion is more probable; but this is impossible for most. Besides, it casts all who are of timorous conscience into innumerable scruples and perplexities, especially because that which to one is certainly more probable

seems to another at most probable, and that which to the same man today appears probable, tomorrow seems to be more probable.

c. Their argument, which has deceived many, contains two things which are false. a. It is false that the more probable opinion approaches nearer to the truth: for in order that this could be affirmed, the truth would have to be known. It must be said: the more probable opinion has a greater appearance and likeness of truth and is more often joined with truth than with falsity, but nevertheless it can be just as false as the opposite probable opinion. Therefore neither of contradictory sentences, of which one must be true, approaches truth more or less than the other: for each either coincides with truth or is contradictorily opposed to it. b. The order of knowledge is confused with the order of operation: if in doubt concerning truth there is question of consent to be given to one opinion or the other, we must assent to that which appears more probable on account of graver reasons; nevertheless at the same time we know that the law is uncertain; but now we are not bound to follow an uncertain law.

On a similar confusion rests the example sung again and again by probabiliorists and equiprobabilists. If two ways offer themselves to one seeking Rome, of which one more probably leads to Rome, only this one can prudently be chosen. - Indeed he would be mad who chose the other, which less probably leads to Rome. But cases of this kind, in which there is question of a means necessary for attaining an end and of damage necessarily to be avoided, are solved not by the probabilistic principle but by the tutioristic principle. But where there is question of a doubtful law, he who follows the less probable certainly avoids the only damage to be feared from the fact that he perhaps does not observe an existing law, namely formal sin.

§ 4. On Laxism.

232*. Lax probabilism or laxism teaches: it is lawful to follow the opinion for liberty, even if it is only doubtfully or tenuously probable.

1. No one has taught lax probabilism in these terms or as a principle and moral system: for those who affirm that even slight probability suffices say that it is nevertheless one which merits prudent assent. Nevertheless there are authors who are called laxists, such as Sancius (John Sanchez), Leander, Diana, Bauny, Moya, and especially Caramuel, whom St. Alphonsus calls the prince of laxists.

2. Therefore they are called laxists not because they defend a system too benign, but a. some because they exhibit the principle of probabilism in such a way that it can be taken in the more benign part: for they say that it is lawful to follow the less probable, without excluding the doubtfully or tenuously probable; b. others because they do not restrict the principle of probabilism sufficiently to its proper matter, but extend it also to other matters in which it cannot licitly be employed; c. finally, others because in reality in particular questions they admit opinions as licit which, as being only doubtfully or tenuously probable, are too benign.

3. Refutation. a. The principle of laxism has been condemned by the Church in proposition 3 of Innocent XI: "Generally, while trusting in probability whether intrinsic or extrinsic, however tenuous, provided one does not go beyond the limits of probability, we always act prudently." b. A law whose obligation is not truly doubtful must be observed; but doubtful or tenuous probability which is against the law does not render this law truly doubtful. c. If the opinion for liberty rests upon a tenuous or doubtful reason, the law is judged morally certain, if not with direct certitude, at least with indirect certitude: for it is certain that man cannot follow doubtful, slight, and improbable reasons.

An opinion tenuously probable is not simply improbable, which is in no way contained within the limits of probability, but is an opinion resting not upon a grave and solid foundation but only upon a slight and apparent one, so that it is contained within the limits of tenuous and doubtful probability, not true and

certain probability.[305]

§ 3. On the System of Probabilism.

233. Probabilism teaches: where there is question of the honesty alone of an action, it is lawful to follow an opinion truly and certainly probable, even if the opposite opinion for the law is more probable. This principle the more recent authors now commonly hold, such as Gury, Ballerini, Lehmkuhl, Sabetti, Bucceroni, Bouquillon, Delama, Rappenhoner, Gopfert, Van der Velden, Raphael a St. Joseph, Waffelaert, Haine, Genicot, Schindler, and others.

Where there is question of the licit or illicit alone. By these words the ambit of probabilism is determined.

1. There are actions or omissions in which there is question of their honesty or liceity alone, and there are actions or omissions in which there is question not only of their liceity, but besides this of an end or effect necessarily to be obtained through them, or of an evil necessarily to be avoided. Therefore doubts concerning actions to be placed or omitted are of two kinds: some regard actions in which there is question of the liceity of the action alone; others regard actions in which there is also question of an effect necessarily to be obtained through them, or of an evil necessarily to be avoided.

If it is doubtful whether that food is meat, and therefore whether on a prohibited day it is lawful to eat it, there is question of the liceity alone of this action. If it is doubtful whether this matter is water, and therefore whether it is lawful to baptize in it, there is question not only of the liceity of this action, but at the same time it is asked whether it can produce the effect which must necessarily be obtained through baptism, and whether through it the evil which must necessarily be avoided is guarded against, namely damage to the soul which arises from the frustration of the sacrament. If you do not know whether that which lies hidden in a thicket is a man or a beast, and therefore whether it is lawful to fire at it, there is question not of the liceity alone of this action, but at the same time it is asked whether through it the evil necessarily to be avoided, namely the killing of a man, is guarded against. In doubts of the latter kind, it is not so much asked whether the action is licit, but rather whether the action is a suitable means of obtaining a necessary effect, whether by its placing the evil necessarily to be avoided is sufficiently guarded against.

2. The principle of probabilism can be employed in doubts concerning actions of the first kind, but not in doubts concerning actions of the latter kind: for in the former the law or obligation is doubtful; but in the latter the law or obligation is not doubtful, but altogether certain, and therefore the action or omission is certainly illicit or certainly prescribed. Therefore only in those doubts in which there is question of the honesty of the action is it lawful to follow a probable opinion, because in these alone the law and obligation are doubtful. Since in other doubts the obligation is certain, they wander outside the ambit of probabilism, which by its own nature is concerned with doubtful laws. Therefore in all doubts in which there is question of an end necessarily to be obtained, the safer part is to be chosen, so that the necessary end may certainly be obtained.

Thus in the examples given, certainly it is not lawful to baptize so long as it is doubtful whether the matter is water, because baptism must be certainly valid; and certainly it is not lawful to fire so long as it is doubtful whether the shot falls upon a man, because it is not lawful to introduce the danger of killing. And certainly: he who is bound to the end is also bound to employ means through which the end is certainly obtained, and he who must absolutely guard against an evil must also guard against the action by which the danger of the evil is introduced.

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305. Cf. Viva, *Damnatae theses*, in prop. 3 condemned by Innocent XI.

234. When the safer part is to be chosen. In a twofold case one must act according to the principle: in doubt the safer part is to be chosen: a. in practical doubt, if someone cannot form for himself a certain conscience concerning an action to be placed here and now (n. 222, 3); b. in all those cases in which the law, beyond the honesty of the action, enjoins the obligation of obtaining some effect or avoiding some evil. But the cases in which there is question of an end absolutely to be obtained or of an evil necessarily to be avoided can be reduced to three heads:

a. Where there is question of a means necessary for salvation: for by the precept of charity eternal salvation must necessarily be obtained, eternal damnation necessarily avoided; therefore where there is question of a condition upon which eternal salvation depends, that condition must be employed in such a way that eternal salvation is not brought into danger.

b. Where there is question of the value of a sacrament: for from the virtue of religion and charity, and indeed also of justice, the minister must administer the sacraments validly, lest injury be inflicted on God or damage on man; therefore where there is question of a thing upon which the value of a sacrament depends, a certain means must be chosen, unless necessity is present, or unless the Church supplies the defect; concerning this twofold exception it will be said in the treatise on the sacraments.

c. Where there is question of the certain right of another: for from justice the right of one's neighbor must be preserved unharmed; therefore any action by which the certain right of one's neighbor is brought into danger must be omitted. Wherefore a physician is bound to employ safer and more certain means, so long as they can be had, both so that the effect necessarily to be obtained may be obtained and so that the evil necessarily to be avoided may be guarded against. The same must be said in similar cases, as concerning a hunter, to whom it is not lawful to fire where he judges only probably that a beast and not a man will be killed.

There are some who less aptly call these cases, in which the safer part must be chosen, exceptions from the principle of probabilism: for the principle does not suffer exceptions; and in reality they are not exceptions, since they do not pertain to the proper matter of probabilism, but are placed altogether outside its ambit. Certainly the principle of probabilism is referred to those cases in which a doubtful law occurs; but where there is question of an end necessarily to be obtained, the doubt is concerned with the efficacy of the means for obtaining the end, and in no way with obligation.

235. Declaration of the principle. 1. In order that someone may follow a probable opinion with a safe conscience, it is required: a. that it be truly and solidly probable, and indeed for the very one who follows it: for otherwise the law is not truly doubtful and uncertain for him; b. that the opinion be certainly probable: for doubtful probability is not true probability; besides, an opinion which is not certainly probable cannot serve for forming a practically certain conscience concerning the honesty of the action.

Therefore by the fact that the opinion must be truly probable, the use of an opinion tenuously probable is excluded; by the fact that it must be certainly probable, the use of an opinion doubtfully probable is excluded.

2. In order that some opinion can be called truly and solidly probable, these three things are required: a. that it rest upon a truly grave motive of reason or authority; b. that neither a definition of the Church nor certain reason is opposed to it; c. that it be relatively probable, i.e. that its motives, compared with the motives of the opposite sentence, retain their probability; but it is not required that the degree of probability of one be compared with the degree of probability of the other.

Whether an opinion probably probable must be held as truly and solidly probable depends upon the sense which is subjected to the term probably probable: for if an opinion is called probably probable which is

affirmed on account of a reason truly grave and prudent, it is certainly truly and solidly probable; but if that opinion is called probably probable which is affirmed on account of a reason which is not certainly, but only doubtfully and probably, truly grave and prudent, it cannot be called truly (certainly) and solidly probable.[306]

3. Even if the opposite is truly more probable: for the more probable opinion for the law can be neglected so long as it itself is within the bounds of true probability and is not morally certain.

a. I have thought one must abstain from the affirmation "even if the opposite is certainly more probable," because some authors equate an opinion certainly more probable with an opinion notably more probable, whose opposite is not truly and certainly probable, although the term certainly more probable by its force in no way signifies an opinion notably more probable. Wherefore to an opinion certainly more probable for the law, of itself there can be opposed an opinion truly and certainly probable for liberty. Indeed, from the rules of logic, of itself nothing prevents even an opinion much or notably more probable from being opposed on the other side by an opinion truly and certainly probable; nevertheless in moral matters it can scarcely happen that an opinion is known as truly and certainly probable whose opposite is certainly demonstrated to be much or notably more probable.

b. Against this affirmation the probabiliorists object: the greater probability of one opinion eliminates or destroys the lesser probability of the opposite; therefore the less probable in the concurrence of the more probable is not probable. - Greater probability eliminates the lesser can signify two things: either the greater force of arguments on one side by that very fact brings it about that the force of the arguments of the other part becomes lesser; or the greater force of arguments on one side altogether destroys the probability of the other part. Now if the probability of each opinion is taken from the same principle, the increase of one by that very fact depresses the probability of the other; but if the probability is taken from diverse principles, the greater probability of one does not by that very fact diminish the lesser of the other, but the latter retains its force, even if the opposite is greater, because it deduces its arguments from other principles, "just as," says St. Alphonsus, "a weight of ten pounds by no means brings it about that a weight of eight pounds placed in the other pan ceases to be, and to be truly called, heavy."[307] But indeed in either case, whether probability is taken from the same or from diverse principles, the greater probability destroys the opposite if its excess is so notable that it approaches closely to moral certitude: for then the opposite becomes doubtfully or tenuously probable.

236. On external probability. There is no doubt that external probability can constitute an opinion truly and certainly probable: for if several authors, and those grave, say that an opinion is probable, ordinarily it cannot happen that it is not supported by probable internal reasons. Therefore of itself it is lawful to follow external probability which truly militates for some opinion, even if its internal motives are not known.

a. Not only a sentence which is called probable by most theologians, but also a sentence which five or six theologians distinguished for probity, science, and prudence hold as true or probable must be judged truly and certainly probable, unless their authority is weakened either by a declaration of the Church or by manifest reason.

b. One author ordinarily does not suffice to constitute a sentence truly probable against the authority of others; therefore proposition 27 was condemned by Alexander VII.[308] Nevertheless it cannot be denied that it can happen that even one author renders an opinion truly probable: namely, if an author grave and

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306. Cf. Ballerini-Palmieri I. n. 190.

307. Scholastic-moral dissertation for the moderate use of probable opinion in concurrence with the more probable, from the year 1755. n. 13.

of great name treats some question seriously and diligently ex professo, confirms his sentence by grave reasons which others have not brought forward, and sufficiently solves the contrary reasons of others, his authority suffices for procuring true probability for the sentence. Today this can be affirmed with the more confidence because the holy see expressly declared that a confessor who follows the doctrine of St. Alphonsus only on account of his authority is not to be disturbed, even if he has not weighed his reasons.

c. Since external probability is essentially founded upon internal probability, it is not lawful to appeal to external probability when the sentence is known to be false and therefore destitute of probable reason, even if authors of great name hold that sentence. External probability with precision from internal probability can be invoked only when there is question of an obscure matter entangled with difficulties which has not yet been sufficiently explained by authors.

d. Concerning internal probability, only learned men and those very versed in moral matters can judge; to these that is probable which, after all things have been diligently considered, appears to rest upon grave reasons. Concerning external probability, learned and unlearned can judge. To the latter that is probable, indeed practically certain, which is said to them by a learned and upright man (parish priest, confessor), if there is no serious reason for doubting his authority. But if there is reason for doubting, they are bound to inquire further. From these things it now follows: a. if a theologian furnished with sufficient doctrine diligently and without disordered affection considers a sentence and finds it resting upon a grave reason, he can follow it as probable for himself; b. an uneducated man can stand by the sentence of a confessor or parish priest whom he knows to be upright and prudent; c. a confessor or parish priest in practical questions can follow the authority of approved theologians, indeed even of one truly grave and approved doctor, especially St. Alphonsus.

237. The principle is demonstrated. 1. From reason:

a. A doubtful law does not oblige; but a law against which true and solid probability is had is truly doubtful; therefore a law against which true probability is had does not oblige.

To the major. Only a known law can induce obligation: for law cannot oblige the will immediately and of itself, but in order that the will remain obligated, the law must be exhibited and applied to it through knowledge; therefore only a known law can oblige the will, which St. Thomas teaches in these words: no one is bound by some precept except through knowledge of that precept;[309] but so long as the intellect doubts concerning the existence of the law, it does not know the law: for only certain knowledge is true knowledge; he who doubts concerning some truth knows the doubt concerning it and the obligation of inquiring into its existence, but he does not know the truth itself; therefore a doubtful law cannot oblige the will.

To the minor. Certitude and an opposed probability concerning the same truth mutually exclude one another; therefore so long as the opinion for liberty is probable, the opinion for the law cannot be certain. But it makes no difference whether this opinion is less, equally, or more probable, provided the opinion for liberty is probable.

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308. "If a book is by some younger and modern author, the opinion ought to be judged probable, provided it is not established that it has been rejected by the apostolic see as improbable." This proposition is false, because it affirms that for the probability of an opinion it suffices that it be called probable by a modern author and has not been rejected by the Church.

309. *De verit.* q. 17. a. 3.

Others demonstrate the major proposition in this way: a law which is not sufficiently promulgated does not oblige; for promulgation is necessary so that a law may obtain the force of obliging; but a doubtful law is not sufficiently promulgated. But it is better to take the argument from knowledge of the law, so that it may be effective from every side.

b. An uncertain law cannot induce true obligation; but a law against which a truly and solidly probable opinion militates is truly uncertain; therefore a law against which a probable opinion militates cannot impose certain obligation.

To the major. The right of liberty, and indeed certain and innate liberty, precedes the right of law and its obligation. Certainly, if the rights of law and the rights of human liberty are compared with one another, it must be said that according to the order of nature the right of liberty precedes and the right of law and obligation follows, even if not in time, at least in nature and reason: for obligation supposes a free will which is bound; but a certain right cannot be restricted except by a certain obligation: for the effect cannot be greater than its cause; therefore an uncertain law cannot produce certain obligation.

a. This argument is taken from the relation which exists between liberty and law. As regards positive law, both divine and human, liberty is anterior to law in time, since those things which are prohibited by positive law are licit of themselves and become illicit only through a law enacted in time. But where there is question of the law of nature, which is eternal law, liberty is anterior to law by reason. And certainly by the very fact that man has been created by God, according to his whole essence he depends on God and is subject to Him. From this dependence follows the debt of contracting obligations which God shall have willed to enjoin upon him, and the obligation of investigating and knowing laws if He is going to give any to him. In this sense man is not born free but subject to God: for this debt of subjecting oneself to all divine laws precedes liberty or rather coexists with liberty. But if there is question of a determinate law to which a particular rational creature is subject, liberty precedes law by reason. For God by reason first conceives the essence of the creature and its liberty, and by reason afterward the law to which it is subject: since law by its own nature is a means by which the creature is directed to its proper end, first of all the nature must be known, so that the law suitable to it, by which it is directed to the end, can be determined. Therefore sacred Scripture says: *God from the beginning constituted man and left him in the hand of his own counsel; He added His commandments and precepts*;[310] and St. Thomas says: that is called licit which is prohibited by no law.[311]

b. From these arguments it is established that of itself only certain knowledge of law obliges the human will; yet if the opinion for the law is most probable or notably more probable than the opposite, we are bound to observe the law. For although an opinion of this kind does not attain true certitude, nevertheless practically it is equivalent to a certain sentence, because its opposite is not truly and certainly but only doubtfully or tenuously probable, and therefore cannot supply a norm of acting, since it does not suffice for informing a practically certain conscience. Hence it happens that an opinion of this kind is called quasi morally certain or practically certain.

238. 2. From authority. A moral system cannot be false which in any time whatever is explained, vindicated, and employed in particular questions as a rule of morals by the greater part of theologians; of this kind is the probabilistic system.

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310. Eccli. 15, 14. 15.

311. In 4. dist. 15, q. 2. a. 4. ad 2.

To the major St. Alphonsus notes: if the principle of probabilism were false, so many doctors would not have admitted it, nor would the Church have tolerated it: for the Church can tolerate by prudent silence particular erroneous opinions, but not others "which contain a general doctrine, as is the benign sentence, which imports the direction of all consciences concerning all particular cases; whence, if it were false, the deception of the whole Christian people would have been brought in."[312]

The minor will be confirmed by the following historical survey. a. In the first centuries of the Church this question is not explicitly proposed, namely by what reason doubts concerning the obligation of a law are to be solved; therefore neither is any principle conceived in a determinate formula found, by which the question is resolved. Nevertheless in the practice of the Church several indications of the probabilistic principle are had: for in particular questions doubts are resolved according to the probabilistic principle.[313]

b. In the Middle Ages not only does the use of this principle occur in particular questions, but the principle itself occurs implicitly and virtually: for truths are handed down from which the principle of probabilism is deduced by necessary inference; indeed formulas occur which exhibit it equivalently. Yet it is not denied that at the same time formulas are also found which rather favor probabiliorism and tutiorism.

c. Bartholomew Medina was the first of all to propose explicitly and demonstrate by arguments the principle of probabilism (1577). This principle so pleased theologians of every order that by common consent they accepted it and for almost an entire century, with scarcely anyone protesting, explained it in published books and applied it to particular cases.

d. Around the middle of the 17th century the attacks against probabilism began. Besides one or another theologian, the Jansenists rose against it with more bitter anger; in attacking the system, the Dominicans by common consent joined them (1656). Thence it happened that theologians, as regards the moral system, were split into two parts: some from any school defended probabiliorism; others likewise from any order held and vindicated probabilism. With great contention and keen zeal the battle was fought on each side; nevertheless the greater part of doctors always adhered to probabilism.

Three principal reasons can be assigned on account of which several authors, having left probabilism, embraced probabiliorism: a. The license of opining of many authors, who, led by a slight reason, sold opinions scarcely probable as probable and practically licit. Now they thought they could remedy this evil effectively only by leaving the system of probabilism itself. b. The attacks of the Jansenists, who, carried away by hatred against the Society of Jesus, were denouncing the moral system to which most theologians of the Society were devoted as the source of laxism and the corruption of morals. c. The condemnation of proposition 3 of Innocent XI (n. 231); for several theologians thought that by this proposition not only the use of a tenuously probable sentence, but the system itself of probabilism as the source of laxism, was condemned.

e. In the midst of these disturbances, by the wonderful counsel of providence, God sent St. Alphonsus to His Church, who by his works brought it about that disputes were ended and Jansenian rigor and the system of probabiliorism went into exile from the borders of the Church.[314]

239. 3. From the approval of the Church. a. The Church has indeed never explicitly approved probabilism; but implicitly it clearly and indubitably manifests its mind by that peculiar approval by which it marked

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312. St. Alphonsus, Scholastic-moral dissertation for the moderate use of probable opinion in concurrence with the more probable, year 1755, apud Ballerini-Palmieri I. p. 194.

313. Cf. Christianus Lupus, *De antiquitate et legitimo usu sententiae probabilis.*

314. Cf. Bouquillon, *Theolog. mor. fundam.* n. 304 ss. *Kirchenlexikon*, Moralsysteme.

the moral works of St. Alphonsus, namely by which his opinions are declared practically safe. But it is impossible to approve the opinions which are contained in the works of the holy doctor without indirectly and implicitly approving the moral system by whose use and application the individual sentences were deduced and established; but the system which St. Alphonsus used in writing moral theology is simple probabilism.

It cannot be denied that the (negative) approval of the Church is referred to all the writings of the holy doctor and therefore also to the dissertations in which he first maintains probabilism and then either truly or apparently equiprobabilism. But likewise it cannot be denied that the positive and peculiar approval by which his writings are celebrated with great praises, because he fortified for moderators of souls a safe way between laxer and more rigid sentences,[315] is attributed especially to his moral theology. For he did not bring it about by his dissertations concerning the moral system that he paved a middle way between laxism and rigorism, but chiefly by the solution of particular questions, whereby by prudent judgment among lax and rigid opinions he chose safe ones. But in choosing opinions, employing the principle of probabilism, he investigates this one thing: whether the opinion is probable; and the opinion which he judges still probable, he proposes and commends to the reader as a norm of acting.

b. The equiprobabilists contend that the Church has openly turned away from the system of probabilism and has tried to extinguish it. To prove this they call the principal document the decree of Innocent XI or of the Holy Office, 26 June 1680, whose first part is directed to Fr. Thyrsus Gonzalez, the other to the general of the Society of Jesus, Fr. Oliva. The authentic form of the decree is this:

When the relation had been made by Father Laurea concerning the contents in the letters of Fr. Thyrsus Gonzalez, S.J., directed to Our Most Holy Lord, the most eminent lords said that it should be written by the secretary of state to the apostolic nuncio of Spain, that he signify to the said Thyrsus that His Holiness, his letters having been benignly accepted and read not without praise, commanded that he himself freely and intrepidly preach, teach, and defend with the pen the more probable opinion, and also manfully attack the sentence of those who assert that in the concurrence of the less probable opinion with the more probable so known and judged, it is lawful to follow the less probable, and that he make him certain that whatever he shall have done and written in favor of the more probable opinion will be pleasing to His Holiness.

Let it be enjoined upon the Father General of the Society of Jesus by order of His Holiness, that he not only permit the Fathers of the Society to write for the more probable opinion and to attack the sentence of those asserting that in the concurrence of the less probable opinion with the more probable so known and judged, it is lawful to follow the less probable; but also that he write to all the universities of the Society that the mind of His Holiness is that anyone, as it shall please him, freely write for the more probable opinion and attack the aforesaid contrary one, and that he command them to submit altogether to the mandate of His Holiness.

a. Thyrsus Gonzalez, then professor at Salamanca, had given repeated letters to the supreme pontiff and at the same time had sent a little work against probabilism, in which he sets forth that all theologians of the Society are devoted to probabilism and that no one dares to attack that doctrine and defend the opposite, lest he incur the offense of superiors. In these few things the occasion of the decree is contained.

b. Innocent XI turned away from probabilism and desired that it be extinguished, but by his supreme authority he neither extinguished it nor did anything else against it. But from the fact that the supreme

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315. Pius IX in apostolic letters concerning the confirmation of the title of doctor, 7 July 1871.

pontiff in his private sentence turned away from probabilism, the system is shown to be neither false nor damnable.

c. Therefore it is wrongly asserted by adversaries that this decree is a solemn and authentic testimony of supreme ecclesiastical authority against probabilism: for the decree is not doctrinal but disciplinary, and that particular, from which nothing against the system of probabilism can be drawn. Indeed from the fact that it is lawful for theologians of the Society to defend it, far from being rejected, it is admitted by the holy see equally as probabiliorism is.

240. On the use of probable opinion. 1. In order that it be lawful to follow a truly probable opinion, it is required above all that a practically certain conscience concerning the honesty of the action be formed explicitly or at least implicitly; this indeed can be done in this way: that action against the law is certainly licit for which a truly probable opinion militates: for a doubtful law does not oblige; but for this action a truly probable opinion certainly militates; therefore this action is certainly licit.

From this argumentation two things are rendered manifest which we hinted above (n. 235): a. that the opinion which someone follows must be certainly probable: for if it were not certainly probable, the conclusion of the syllogism and therefore the dictate of conscience, from the rules of logic, would not be certain; and b. that the opinion must be probable for that very one who follows it: for there is question of informing the conscience of the one operating himself.

2. It is lawful to follow a probable opinion against any law whatever, whether natural, divine, or human: for concerning all laws the principle is equally valid: A doubtful law does not oblige, since it is demonstrated from the very nature of obligation.

There are some who have denied this affirmation as regards the law of nature, judging that concerning the law of nature an insoluble doubt or invincible ignorance cannot be admitted. But although invincible ignorance is not had concerning first principles and proximate conclusions, nevertheless concerning deduced truths, especially the more remote, insoluble doubt can have place (n. 114).

3. It is lawful to follow a truly probable opinion for liberty in all cases of doubtful law, whether the opposite for the law is less, equally, or more probable: for since the arguments by which the principle is demonstrated, A doubtful law does not oblige, are taken from the very nature of obligation, it follows spontaneously that neither probable nor more probable knowledge, but only certain (broadly, morally) knowledge of the law can oblige the human will, and therefore that the use of probable opinion is lawful where the law is truly doubtful.

a. Therefore the probabilistic principle, altogether universal, extends not only to doubt concerning the existence of a law but also to doubt concerning a law ceasing. For doubt concerning a law can be concerned either a. with the existence of the law, namely if it is doubted whether a law was issued or promulgated, whether the time of obligation has already arrived, whether it extends to this case or to these persons; or b. with the cessation of the law, namely if the existence of the law was certain and it is doubted whether it has ceased, either because it has been abrogated, or because someone is excused or dispensed from its observance, or because he has already fulfilled the law, etc. But in each case the principle of probabilism can be employed. Therefore neither he who probably judges that he did not emit a vow, nor he who certainly emitted a vow but probably judges that he has already satisfied it, is held to anything by strict obligation: for by the very fact that the law has probably ceased, the existence of the law becomes doubtful; but a doubtful law does not oblige.

b. Therefore in doubt concerning the cessation of a law, the principle of probabilism can licitly be employed even in the matter of justice, unless the debtor's culpable negligence is the cause why doubt concerning

the payment made exists, and unless the doubt is merely negative, i.e. unless there is no reason or only a slight reason for doubting concerning the payment made. They indeed object that justice differs from other virtues in this, that it must preserve equality; hence, so long as the matter is doubtful, restitution must be made at least in proportion to the doubt. But justice requires that equality be preserved by the fact that each one is rendered his own right when the right of the other is certainly established; when the right of the other is doubtful, justice does not require that one rather than another, especially since he is a possessor in good faith, be despoiled of his own thing.[316] Besides, perfect equality in this case on account of invincible ignorance of the payment made cannot be restored, even if payment is made anew: for if the payment has already been made, the other has more than is owed to him; but since equality cannot certainly be restored, there is no reason why in doubt the creditor should receive more rather than the debtor, unless fault of the debtor is the cause on account of which equality cannot be restored.

241. Whether it is lawful for the same person concerning the same matter to follow now one, now another of two probable opinions.

a. Nothing prevents someone in diverse cases concerning the same matter from using at will now one, now another probable opinion: for each renders conscience equally safe. Thus the same person can for one testament use the opinion by which a testament lacking the formalities of law is valid, and for another testament the contrary opinion.

b. But in the same case he cannot concerning the same matter follow one probable opinion insofar as it brings advantage, and then another contrary one insofar as this brings advantage. Thus it is not lawful to hold the same testament lacking the formalities of law as valid, so that the inheritance can be entered upon, and as invalid, lest the legacies which are contained in it must be paid, because it cannot at the same time be valid and invalid.[317]

It is not lawful voluntarily to introduce a state of insoluble doubt concerning a law, although afterward it is lawful to use a probable opinion against the law. Thus if someone doubts whether the twelfth hour of night has already elapsed or not, it is not lawful for him to drink, lest he expose himself to the danger of at least materially violating the law of the Church. But if nevertheless he had drunk, he can celebrate or communicate, because it is not established that he broke the fast; yet by drinking he sinned (venially), unless a reasonable cause, e.g. great thirst and the impossibility of ascertaining the hour of night, excused him. Likewise it is not lawful for a priest to consume a doubtfully consecrated host before the reception of the precious blood, lest he deliberately induce a state of doubt concerning the natural fast with danger of violating the law. To expose oneself often in this way voluntarily to the danger of materially violating the law would be mortal.[318]

242. Very many difficulties by which probabilism is customarily attacked are solved without difficulty from the theory set forth above; others will have to be untangled below; therefore in this place these few things will suffice.

1. From the law of nature we must sincerely tend toward agreement with objective morality or with the objective ordination of the eternal law; but he who follows the less probable opinion against the law does not sincerely tend toward agreement with objective morality; therefore he who follows the less probable opinion against the law offends against the eternal law and therefore places a morally evil action.[319]

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316. Cf. Bucceroni, *Casus conscient.* (Typogr. augustin. 1903) n. 12, 5.

317. Cf. Lugo, *De eucharist.* disp. 15. n. 47 ss., where several examples of this kind are brought forward and judged.

318. Cf. Bucceroni l. c. n. 13.

This difficulty can be turned back upon equiprobabilism. For if the sanctity and necessity of agreement between human actions and the eternal law is so great that man must tend toward it as much as he can according to his knowledge, he must establish that agreement not only where he judges the law to exist more probably, but also where he judges the law to exist probably. But if God permits an exception from the necessity of establishing that agreement in favor of liberty, there is no reason for failing from agreement when the opinion for liberty is equally probable, but not likewise when it is simply probable.

To the major. This principle contains two things which are very true. Namely, on account of our essential and absolute dependence on God the creator, we are bound habitually to bear a sincere will of observing all particular laws which God is going to give us; and since we cannot observe laws unknown to us, we are bound with the same sincere will to tend toward knowledge of laws issued by God and actually to observe those that are known. Whether our dependence on God and the habitual obligation resulting from it of tending toward agreement with objective morality obliges us only to observing particular laws sufficiently known, or also to observing those whose knowledge we cannot acquire and which probably objectively do not exist, is a question controverted among theologians, which probabilists demonstrate by invincible arguments must be resolved in the negative part. Therefore those who contend that by force of this principle we must observe opinions which in our judgment agree more probably with the objective ordination of the eternal law than they disagree affirm the very thing which is to be proved and which from the arguments of the probabilists is shown to be false. But if thereafter they contend that the law which in our judgment more probably exists is known, they again affirm what is false. If finally they concede that the obligation of a law more probably existing does not arise directly from the law itself more probably existing, as being not sufficiently known nor sufficiently promulgated, but indirectly from this higher principle: we must tend toward agreement with objective morality, they commit the same begging of the question. For antecedently to a known law there exists no other obligation except that of inquiring with moral diligence into the existence of the law, which, if it is not sufficiently known, leaves to the will its natural liberty.

The minor must be altogether denied: for that a sincere tendency of the will toward agreement with the eternal law always strictly requires (not only sometimes counsels and inclines, which all concede) that in a conflict of opinions the more probable opinion be chosen, is an invention which is demonstrated by no reason. Therefore he who affirms that by force of the aforesaid principle we are bound not only to investigating the existence of the law and to observing laws sufficiently known, but also to observing laws more probably or more plausibly existing, commits a begging of the question and besides affirms what is false. Hence he who follows the less probable for liberty, far from placing a morally evil action, rather directs his actions according to the principle of probabilism, uniquely true and demonstrated by certain arguments.

2. He who follows probabilism exposes himself to the danger of sinning. - The danger of formally sinning is excluded by the fact that he who follows probabilism acts with a practically certain conscience, namely with certain persuasion that the action which he places is licit. But the danger of materially sinning is present, because the law against which probability militates can in reality exist, since probable reasons can be false; yet it is not necessary that this danger be avoided. For if it is established that the use of probable opinion against the law is lawful, by that very fact it is established that God does not impose upon us the obligation of avoiding this danger of materially sinning: for an intolerable burden would be imposed upon us if, for avoiding this danger of materially sinning, we were bound to observe all uncertain laws; for very often we would have to observe a law which does not exist.

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319. Cf. *Der kath. Seelsorger* (Paderborn, Schoningh. 1900) S. 495 ff. Lehmkuhl, *Probabilismus vindicatus* (Friburgi. Herder. 1907).

3. Probabilism in practice leads to a lax life. - The fear of laxism is empty where a certain and unshaken moral principle is applied for directing morals: for truth cannot beget a lax life. Moreover, in this matter two things must be distinguished, namely what must be done for fulfilling the strict law, and what must be done for attaining Christian perfection. If a Christian man in the service of God did nothing other than what strict law postulates from the principles of probabilism, he would certainly live a life little worthy of a Christian man; but the practice of probabilists is this: where there is question of imposing obligation and of judging sins, they are benign for avoiding the dangers of formally sinning; but where there is question of attaining perfection and of the exercise of virtues, they strive toward the highest things, measuring the service owed to God not from the obligation of law, but from love and gratitude toward the divine majesty.

§ 6. On equiprobabilism.[320]

243. 1. Equiprobabilism teaches: in doubt concerning the existence of a law it is lawful to follow an opinion equally or almost equally probable for liberty, but not a less probable one in the concurrence of one certainly more probable.

a. There are two points in which equiprobabilism theoretically differs from probabilism: the one indeed refers to the very principle of the system, the other to its use. For it contends a. that a probable opinion which stands for liberty is lawful to follow only when it is equally or almost equally probable as that which stands for the law; therefore if the opinion favoring the law is, in comparison with the opposite, certainly or certainly and notably more probable, the law must be observed; it contends b. that the system can be applied only if the doubt turns about the existence of a law, but not if the doubt concerns the cessation of a law; in this case the law must always be observed.

b. Practically the equiprobabilists differ from the probabilists in this, that they do not apply their system in doubts concerning the cessation of a law. They therefore oblige him who positively doubts whether he has fulfilled a vow certainly emitted to fulfill it again, and him who positively doubts whether he has already confessed a sin certainly committed to confess it again. But in the selection of opinions they scarcely differ from the probabilists: for above all they embrace all opinions which St. Alphonsus calls probable, even if they are less probable; but if there is question of a new question which St. Alphonsus did not treat, they follow in practice the opinion for liberty when they understand it to be supported by a solid reason. Indeed even in the manner of speaking they do not depart from the probabilists: for the opinions which we can licitly follow they scarcely ever call equally probable, but, after the example of St. Alphonsus, simply probable.

2. Equiprobabilism is defended especially by the theologians of the Congregation of the Most Holy Redeemer, Haringer, Marc, Aertnys, Konings, *Vindiciae alphonsianae*, etc., being persuaded that St. Alphonsus was an equiprobabilist. In this question several other theologians follow them: Gousset, Del Vecchio, Ninzati, Scavini, Pruner, E. Muller, Simar, P. Hilarius, etc.

Nevertheless, not all defend equiprobabilism in the same sense; and that this may be well understood, it must be noted that there are two formulas which equiprobabilism excludes: a. it is lawful to follow a probable opinion, even if the opposite is certainly more probable, and b. it is lawful to follow a probable opinion,

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320. Gaude, C. SS. R., *De morali systemate s. Alphonsi* etc. (Romae. Cuggiani. 1894). Ter Haar, C. SS. R., *De systemate morali antiquorum probabilistarum* (Paderbornae. Schoningh. 1894). Aertnys, C. SS. R., *Probabilismus oder Aequiprobabilismus?* (Paderborn. Schoningh. 1896). Hippert, *Probabilismus oder Aequiprobabilismus?* (*Zeitschrift f. k. Theol.* 1895) S. 467 ff. Noldin, *Aequiprobabilistische Beweisführung.* (*Zeitschrift f. k. Theol.* 1896) S. 670 ff. De Caigny, *De genuino probabilismo licito* (Brugis. Desclee. 1901. Idem, *De genuino morali systemate s. Alphonsi* (Brugis. Desclee 1901).

even if the opposite is certainly and notably more probable. Equiprobabilists who understand their system so that they exclude only the second formula differ from probabilists only in words; those who understand equiprobabilism so that they exclude both formulas differ from probabilism not only in words, but in the matter itself.

244. The arguments by which equiprobabilists demonstrate the system in general are the very same arguments of the probabilists; then the arguments by which they demonstrate that part in which they differ from probabilists are these:

1. The law which is sufficiently promulgated must be observed; but the law to which an opinion certainly or certainly and notably more probable is favorable is sufficiently promulgated; therefore the law to which an opinion certainly or certainly and notably more probable is favorable must be observed.

a. Some demonstrate the minor proposition in one way, others in another: for some affirm that the law for which an opinion certainly, or certainly and notably, more probable militates is sufficiently promulgated, because an opinion certainly, or certainly and notably, more probable is morally or quasi-morally certain. Others, however, contend that an opinion certainly more probable does not exceed the limits of probability, and nevertheless that the law to which an opinion of this kind is favorable is sufficiently promulgated and to be followed: for an opinion certainly more probable approaches more closely to the truth; but we are bound to embrace, by assent and as the norm of acting, the opinion which approaches more closely to the truth.[321]

b. To these things it must be observed: a. an opinion certainly and notably more probable practically is equivalent to a morally certain opinion: for if the excess of probability of one opinion is notable, and this is known certainly, the opposite opinion will be only doubtfully probable; but it is not lawful to follow a doubtfully probable opinion. But an opinion certainly more probable of itself neither theoretically nor practically is equivalent to a morally certain opinion, but is an opinion simply, although more, probable. b. It indeed cannot be affirmed that the more probable opinion approaches more closely to the truth, but nevertheless the more probable opinion has a greater likeness and appearance of truth than the opposite; therefore it is conceded that, as regards the assent of the mind, it must be preferred; but it must be denied that it constitutes a norm of acting which must necessarily be followed: for he who adheres by assent to the more probable with fear of erring knows that the law is uncertain; but we are not bound to observe a law unless its existence is certain (broadly, morally).

2. For acting licitly moral certainty concerning the honesty of the action is required; but such certainty cannot be had if the opinion for liberty is certainly less probable: for an opinion certainly less probable is not truly and certainly probable.

To this affirmation, that an opinion certainly less probable cannot be truly probable, this must be answered: it is not lawful to follow an opinion which is not truly and certainly probable; therefore if an opinion whose opposite is certainly more probable is no longer truly and certainly probable, it is not lawful to follow it; but whether an opinion whose opposite is certainly more probable can still be truly and certainly probable is not a moral question, but a logical question; and logicians teach that an opinion can be truly probable whose opposite is not morally certain. But if it is conceded that the less probable opinion is truly probable, from the principle: a doubtful law does not oblige, it is lawful to follow it.

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321. Very recently in time the equiprobabilists do indeed bring forth diverse other arguments (cf. Commer, *Jahrbuch* XVII, S. 106 ff.), which nevertheless, more accurately inspected, are only variations of this argument invented by the ancient probabiliorists (n. 230, 2).

3. A law does not oblige if it is truly doubtful; but it is truly doubtful only when concerning it there is a strict doubt, i.e. if the mind suspends assent because of equal reasons from either side; therefore the law does not oblige only if from either side, for the law and for liberty, there are equal or almost equal reasons.

A law does not oblige if it is truly doubtful; but from the arguments by which the probabilistic principle is demonstrated, it is clear that a law is truly doubtful if it is simply uncertain, whether the doubt existing about it is strict or broad; therefore a law does not oblige whenever it is simply uncertain, whether the reasons for the law are equally or more probable.

245. Refutation of the system itself. 1. Equiprobabilists, in order to establish their system, use no other arguments than probabilists, namely: a doubtful law does not oblige and an uncertain law cannot induce a certain obligation; but from these arguments not equiprobabilism, but by necessary inference the formula of probabilism follows; therefore equiprobabilists deduce not the whole, but only a halved conclusion from their own principles.

2. A moral system which for its use necessarily requires that on each side not only the force and moments but also the degrees of reasons be weighed, and that it be determined whether the opposed opinions are equally or less or more probable, is a system practically unfit: for almost always it is impossible to determine when on each side there stand reasons equally or almost equally probable; and authors who think that they can accomplish that without difficulty deceive themselves and others.

3. An opinion certainly more probable either is quasi-morally certain or is simply probable; if the first, it must be conceded that it is not lawful to follow the opposite, because this is not truly probable; if the second, by no right are we prohibited from following the opposite, since to a probable opinion there is opposed one likewise probable.

246. On the use of probabilism, where there is question of the cessation of a law.

1. Already long ago among theologians there was agitated the controversy whether the principle of probabilism can be extended also to doubt concerning the cessation of a law. Authors of great name, such as Suarez, de Lugo, Bonacina, the Salmanticenses, Lacroix, Billuart himself the probabiliorist, and others, employ probabilism also in doubt concerning the cessation of a law.

2. St. Alphonsus in the first periods likewise extended his probabilistic system even to questions in which there is question of the cessation of a law; afterward, however, he retracted this opinion and changed several particular questions of his moral theology according to this reformed doctrine.

But if nevertheless in the work of moral theology there occur resolutions which do not agree with this doctrine,[322] this must either be attributed to inadvertence, or it must be said that the holy doctor in certain particular questions did not wish to urge the reformed opinion.

3. Besides the authority of St. Alphonsus, they bring forward especially two arguments by which the equiprobabilists demonstrate this part of their system: a. In doubt the condition of the possessor is better; but in this case the law possesses; therefore the law must be observed. b. Since doubt concerning the cessation of a law very often arises from the fact that someone has probably already satisfied the law, they say: a certain obligation is not satisfied by a doubtful fulfillment; therefore it must be satisfied again.

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322. Cf. l. 1. n. 99; l. 4. n. 150; l. 6. n. 505; l. 3. n. 290. n. 112.

4. But these two arguments do not prove the matter. Concerning the principle of possession there will be discussion below; concerning the other argument, thus: a certain obligation is not satisfied by a doubtful fulfillment, it must be distinguished: by a negatively doubtful fulfillment, I concede; but by a probable fulfillment it is not satisfied certainly, yet it is satisfied probably; but an obligation which has probably already been satisfied ceases to be certain, and an uncertain obligation is none.[323]

Note. These things having been set down beforehand, we can now settle the matter itself in this way: the opinion which extends the principle of probabilism also to cases of the cessation of a law is defended by many and approved authors, is validly confirmed by reasons taken from the nature of the matter itself, and the arguments of the contrary opinion are aptly solved; for which reason the principle of probabilism can safely be employed also in the case of the cessation of a law.

Article Second.

On Reflex Principles.

247. On universal principles. 1. Direct principles are called those truths from which the matter itself is proved and known certainly; but reflex principles are called certain general truths which indeed do not prove the matter whose truth is sought, yet serve for bringing about practical certitude.

They are called reflex principles because from their proper object they are, as it were, bent by reasoning toward another, so that through them a certain dictate concerning the honesty of an action can be obtained.

2. Reflex principles are of two kinds: some are universal, which can be employed in any doubt whatever for forming a practically certain conscience; others are particular, which can be employed only in negative doubt, whether of law or of fact, for the same end. The principle of possession indeed is employed for informing conscience in a negative doubt of law and of fact; but the other particular principles are employed only for solving negative doubts of fact.

3. Universal principles are counted as only two: a doubtful law does not oblige and an uncertain law cannot induce a certain obligation; these two principles are clear from the arguments by which the formula of probabilism is demonstrated. Since between these two principles there is scarcely any real distinction, in reality there is only one reflex principle, namely, a doubtful law does not oblige, which alone suffices for forming a practically certain conscience in all doubts. Particular principles are numbered as several, among which the chief is the principle of possession.

248. On the principle of possession.[324] 1. The principle of possession, which in law is set forth thus: in equal fault or case the condition of the possessor is stronger,[325] among moralists occurs in this formula: in doubt the condition of the possessor is better. This principle, which properly and immediately pertains to the matter of commutative justice, which concerns ownership of things, and indeed to the external forum, has this sense: if between two persons there exists a dispute concerning the property of some thing and each proves his right by an equal reason, the laws assign the thing to him who up to now possessed it, until the other sufficiently proves that the thing is his: for possession founds the presumption of ownership, and therefore grants the right of retaining the thing until the contrary is sufficiently established. No one denies that this principle, as regards the matter of justice, is valid not only in the judicial forum, but also in the internal forum.

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323. Cf. Lugo, *De eucharistia* disp. 19. n. 249.

324. Bouquillon, *Theologia moralis fundamentalis*^3 (Brugis. Beyaert. 1903) n. 302 ss.

325. C. *In pari* 65 reg. iur. in 6°.

Therefore the principle of possession protects a certain stability of things, so that things, by force of possession, remain unchanged in the same state in which they up to now legitimately existed, until there supervenes a reason sufficient for changing the prior state.

2. There are some who, because of analogy, transfer this same principle also to other matters of other virtues and apply it for solving doubts concerning the obligation of a law: for they imagine liberty and law as two persons, of whom one has the right of acting as it pleases, but the other the right of limiting liberty; now in the conflict between liberty and law victory must be assigned to that one which is in possession. But if liberty and law are said to be possessed, possession is nothing other than the existence of liberty and of law. And rightly indeed, provided its use is restricted to negative doubts whether of law or of fact; nevertheless in negative doubts of fact other principles also are rightly applied, as is clear from what follows.

249. On particular principles. Since negative doubt is founded only in no reason or in a slight reason, it does not impede sufficient certitude of conscience, and therefore is not to be attended to. And indeed he would act imprudently who from no motive or a slight motive would determine himself to placing or omitting an act. Wherefore in practice one must act in such a way as if no doubt were present; and this is expressed by the principle of possession or by another particular reflex principle, as the examples which follow show.

a. If in a negative doubt of law no reason or a slight reason proves that a law has been enacted, that the law extends itself to this case, that the law commands under grave obligation, etc., liberty remains, or the condition of liberty possessing is better. Likewise if no reason or a slight reason proves that a law has been abrogated, that someone is excused from it, that dispensation has been given in it, etc., the law remains, or the condition of the law possessing is better.

b. If in a negative doubt of fact no reason or a slight reason proves some fact on which the obligation of the law depends, it is often difficult to understand which side possesses, wherefore other principles are rather employed.

Thus in negative doubt whether a boy of seven years has the use of reason, whether a man of timorous conscience has consented to temptation, etc., this principle is applied: in doubt one must judge from things commonly occurring.

In negative doubt whether someone has emitted a vow, committed a sin, inflicted damage; whether the time of beginning an obligation is present (Friday has begun), the time of ending an obligation is present (Friday has ceased); whether someone has recited the hours, committed this sin or confessed it, whether he has satisfied a vow, paid a debt, etc., this principle is applied: a fact is not presumed, but must be proved.

In a negative doubt of fact on which the value of an act depends, where no reason or a slight reason proves that I did not have the due intention or attention in Mass, in the sacraments, in the hours, that I do not justly possess this thing, that baptism conferred was not valid, that confession was not integral, etc., this principle is applied: in doubt one must stand for the value of the act, or: what has been done is judged to have been done rightly.

Article Third.

On the System of St. Alphonsus.[326]

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326. Ballerini, *Dissertatio de genuina s. Alphonsi sententia circa usum opinionis probabilis.* (*Opus theol. morale*^3 I. Appendix I. p. 632 ss.) Arendt, *Crisis apologeticae dissertationis P. de Caigny C. SS. R.* (Friburgi. Herder. 1897). Noldin, *Die Briefe des hl. Alphons von Liguori*

250. Historical notes. 1. Some equiprobabilists claim that St. Alphonsus is the inventor of a new system, which supplies the uniquely right norm of acting; but this system is equiprobabilism itself. But how absurd this affirmation is, is evident: for from it there would follow that the uniquely right norm of acting had been unknown in the Church up to St. Alphonsus. For this reason it must be said either that St. Alphonsus is not the inventor of a new system, or that that system is not the only norm of acting rightly. Besides, from history it is established that there were some theologians (Amort, Rassler, Ant. Mayr) who already before St. Alphonsus set forth the system of probabilism in an equiprobabilistic formula. Finally St. Alphonsus himself declares in the *Apologia*: "Therefore I never wished, nor do I wish, to forge new systems."

2. In the first periods St. Alphonsus adhered to probabiliorism, which he had received from his teacher; soon, however, in hearing confessions and rightly understanding that a probabiliorist cannot fruitfully undertake the direction of souls, he passed over to probabilism, which he vigorously defended against the probabiliorists, and indeed to pure probabilism, which the more ancient moralists defended. To defend this probabilism he composed a double dissertation: *For the moderate use of a probable opinion in the concurrence of a more probable [opinion]*, one in the year 1749, the other in the year 1755, and according to the principles of this probabilism he composed his moral work, which had already been published five times before he himself changed the formula of the moral system.

3. From the year 1762 onward he changed the principle of probabilism into the formula which the equiprobabilists almost use: when the less safe opinion is equally or almost equally probable, someone can licitly follow it (n. 55); and: where the opinion for the law seems certainly more probable, we are held to follow it, otherwise, however, if it is of the same weight as the opinion for liberty (n. 67), more often asserting that he was not a follower of probabilism. Wherefore it must be conceded that the formula by which St. Alphonsus later sets forth his system differs from the common formula of probabilism.

a. To make this change he was induced especially by these reasons: a. because the formula by which at the beginning he had proposed probabilism: it is lawful to follow the less probable in the concurrence of the more probable, was ambiguous; b. because by the new formula he thought he could more effectively repel the attacks of adversaries and forestall the abuses of laxists; c. because only by this way could he avoid the prohibition of his books and the suppression of the congregation founded by him, which was to be feared on the part of the government.

b. They dispute whether the contradiction which in reality exists between the earlier and later writings of the holy doctor is true or only apparent. Not even the equiprobabilists are of the same opinion in this matter. The more recent ones (Marc, Gaude) think that the holy doctor later revoked the probabilism to which he had adhered at the beginning and taught equiprobabilism; but the older ones (Haringer, *Vindiciae alphons.*) think that St. Alphonsus never changed his opinion concerning the moral system, but always adhered to equiprobabilism, at the beginning indeed implicitly and doubtfully, but afterward explicitly and confidently. Most probabilists, with Ballerini leading the way, themselves judge that the holy doctor never changed his opinion concerning the moral system, but always adhered to simple probabilism, which in the earlier writings he lucidly sets forth and defends, and in the later writings only apparently retracts, because he proposes it by an equiprobabilistic formula.

Note. Concerning the genuine system of St. Alphonsus there will always be dispute, because in the later writings of the holy Doctor there occur several texts which supply arguments to each part. Whatever may be about this matter, two things are certain: that St. Alphonsus in the first periods adhered to simple

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und dessen Moralsystem (*Zeitschrift fur kath. Theolog.* 1896) S. 73 ff. Meffert, *Der hl. Alphons von Liguori* (Mainz. Kirchheim. 1901) I: *Die moralth. Schriften des hl. Al. v. L.* S. 19-136.

probabilism, and that he composed his moral theology at that time when he was attached to probabilism; and therefore his moral theology is a probabilistic work. Since the system of probabilism is not founded on the authority of St. Alphonsus, the truth of probabilism is independent of the opinion of St. Alphonsus concerning the moral system.

Article Fourth.

On the Authority of St. Alphonsus.

251. His authority. 1. The moral works of the holy doctor are:

a. *Moral Theology*, which he himself published nine times, often corrected;[327] b. *The Apostolic Man*, a compendium of moral theology; c. *Practice of the Confessor for Receiving Confessions Well*; d. *Dissertations*, some of which were afterward inserted into the work of moral theology.

2. The internal authority of the moral doctrine of St. Alphonsus depends on the author's knowledge and prudence and on the arguments by which he fortified his doctrine. Now indeed it cannot be denied that there are moral theologians not inferior to St. Alphonsus in genius, keenness of mind, and abundance of doctrine; nevertheless his moral theology excels by these prerogatives: by the sureness by which he reduces the more difficult questions about morals to genuine principles and resolves them from these, by the prudent judgment by which, after weighing the moments of reasons on this side and that, he chooses opinions, and finally by the erudition by which he surveys the works of almost all authors and examines their arguments. To these is added the singular wisdom by which, teaching the middle way, he overcame on the one hand Jansenian rigorism, and on the other the contrary laxism.

3. External authority is established especially by the judgment which the Church has rendered concerning his moral doctrine. The public judgments of the Holy See which refer either to the works of St. Alphonsus generally or to moral theology in particular are these:

a. Declaration of the Sacred Congregation of Rites for the effect of canonization, 25 May 1802: Nothing worthy of censure was found.

b. Response of the Sacred Penitentiary to doubts proposed by the archbishop of Besancon, 5 July 1831:

1. "Whether a professor of sacred theology can safely follow and profess the opinions which Blessed Alphonsus a Ligorio professes in his moral theology.

2. Whether a confessor is to be disturbed who follows all the opinions of Blessed Alphonsus a Ligorio in the practice of the tribunal of sacred penance for this reason alone, that by the apostolic see nothing worthy of censure was found in his works.

The confessor about whom there is question in the doubt reads the works of the blessed doctor only in order to know his doctrine accurately, not weighing the moments or reasons by which the various opinions are supported, but judges that he acts safely by this very fact, that he can prudently judge a doctrine which contains nothing worthy of censure to be sound, safe, and in no way contrary to evangelical holiness.

To 1. In the affirmative, yet without those being judged reprehensible who follow opinions handed down by other approved authors.

To 2. In the negative, having regard to the mind of the Holy See concerning the approval of the writings of servants of God for the effect of canonization.

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327. Cf. *Elenchus quaestionum reformatarum* at the end of the work; 99 reformed questions were added to the second, 25 to the sixth, 3 to the ninth edition.

c. Conferral of the title Doctor of the Church (1871), by which the saint, on account of his eminent doctrine, is declared "an outstanding teacher divinely given to the Church."

d. To these are added several encomia, which are found in letters given by the supreme pontiffs to various theologians who either published the works of the holy doctor or translated them into another language.[328] Worthy of mention is the response of the Sacred Penitentiary, 19 December 1855, to a certain professor who, when he obtained academic degrees, had bound himself by oath to defend probabiliorism, namely that he, notwithstanding the oath, could follow and publicly hand down the doctrine of St. Alphonsus and did not need dispensation from the oath.

252. Corollaries. From all these things, as regards the authority of St. Alphonsus in moral matters, the following are gathered:

a. The opinions of St. Alphonsus are not by these things all declared true, but nevertheless in general they can be had as probable, not indeed always internally, yet at least externally, and indeed on account of the authority alone of the holy doctor.

The judgment of the Church concerning the works of St. Alphonsus does not refer to the truth of the doctrine, but to the conditions required for canonization; but for obtaining this end the examination of works investigates only this: whether anything is contained in them which is opposed to right faith and good morals, or, what comes back to the same thing, whether anything is contained in them which is worthy of (theological) censure.

b. Therefore in practice any confessor can safely follow (with some exceptions) the opinions of St. Alphonsus, so that according to them he may direct his own and others' manner of acting, but not so that from them he may impose obligations on the penitent. Nevertheless no one is held to follow them, but to each one it is free to embrace the opinions of other authors, provided they are truly and solidly probable; wherefore the confessor cannot require from his penitents that they follow the opinions of the holy doctor.

Those opinions must be excepted which a. either before or after the published works of the holy doctor were reprobated by the Church, as concerning a Catholic sponsor in baptism conferred by a heretical minister; concerning the absolution of a dying person which a simple priest grants in the presence of an approved one; concerning a regular bishop, whom St. Alphonsus had thought not obliged either to vows emitted in religion or to the rule of his order;[329] which b. are opposed to custom legitimately introduced either before or after the times of the holy doctor, e.g. concerning fasting, concerning servile works; which c. suppose the circumstances of the time of St. Alphonsus, circumstances which afterward were changed, as the grave quantity in theft; which d. by evident or certain reason are demonstrated to be false: for it is impossible to form for oneself a practically certain conscience according to an opinion which is known to be false.

253. Whether a confessor ought to absolve a penitent who wishes to follow an opinion opposed to the opinion of the confessor.

a. If there is question of opinions which regard the administration of the sacrament, manifestly the confessor must proceed according to the opinions which he himself holds: for the opinions which he follows must be probable to the agent.

Notes

328. These are gathered in Clement Marc, *Institutiones morales Alphonsianae*^13 (Romae. Cuggiani. 1906) I. p. VII-XII.

329. Cf. resolution S. C. Ep. et Reg. 6 May 1864 and *Acta s. sed.* I. 449. ss.

b. If there is question of opinions which turn about the obligations of the penitent, the confessor is held to absolve the disposed penitent, however much he may wish to follow opinions opposed to those which the confessor holds, provided they are truly probable: for the penitent has the right of following truly probable opinions, but the confessor does not have the right of using an opinion only probable for imposing an obligation. Indeed even where an uneducated penitent does not know that he has the right of following the opposite opinion, it is not lawful for the confessor to impose upon him an obligation which is not imposed by God the legislator.

c. But if the confessor judges false the opinion which the penitent wishes to follow, a distinction must be made: if the opinion is such that theologians commonly hold it as probable and it appears false only to the confessor, the latter can counsel the penitent to abandon it and to follow his opinion; but he cannot compel him by denying absolution. But if the opinion which is approved by the penitent is such that theologians commonly reject it as false, the confessor must teach him and exhort him to abandon his opinion, and if he is unwilling to do this, he must deny him absolution, unless perhaps the penitent is in good faith and no fruit is hoped for from admonition.[330]

Book Fifth.

On Virtues.[331]

Question First.

On Virtues in General.

Article First.

On the Nature of Virtues.

254. Definition. 1. Virtue in general is defined as a habit perfecting a power for operating well.[332]

a. A twofold habit is distinguished: substantive, which inheres in the substance of the soul and gives to it a new mode of being, of which kind is sanctifying grace; and operative, which inheres in the powers of the soul and perfects them for acting, of which kind is virtue.

b. Virtue is an operative habit, which perfects a power for acting. But this perfection can be of two kinds: either it inclines a power, already complete for its operation, to acting, so that it can exercise its acts with a certain facility; or it elevates and completes a power incomplete and insufficient in itself for exercising an operation. Habits of the former kind give to a power that it can operate easily; habits of the latter kind give that it can operate simply.

c. Virtue, which is a good habit, cannot elicit anything except good acts, just as vice, which is a bad habit, cannot elicit anything except bad acts. Therefore virtue is customarily defined as a good quality of mind, by which one lives rightly, which no one uses badly.[333] Although virtue cannot be the principle (elicitive) of a bad act, nevertheless it can be the object of a bad act, as if someone hates virtue or is proud about

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330. Cf. Lehmkuhl I. n. 116 ss.

331. St. Thomas I. II. q. 55-61. Suarez, *De virtutibus.* Lessius, *De iustitia et iure ceterisque virtutibus cardinalibus.* Greg. de Valentia, *Commentar. scholast.* II. disp. I. q. 5. A. Tanner, *Theologia scholast.* II. disp. 3. q. 2. ss. Mazzella, *De virtutibus infusis* (Romae. Forzani. 1894). Waffelaert, *De virtutibus cardinalibus* (Brugis. Beyaert, 1889). *Tractatus de virtutibus ad usum seminarii Mechliniensis* (Mechliniae. Dessain 1896). E. Muller, *Theologia moralis*^7 (Vindobonae. Mayr. 1894) I. § 104 ss. Hilarius a Sexten, *Compendium theologiae mor.* l. c. 4. I. B. Scaramelli, *Directorium asceticum* t. 3. *De virtutibus moral.* (Augustae Vindel. 1770). I. E. Pruner, *Katholische Moraltheologie*^4 (Freiburg, Herder. 1902) I. S. 117-175.

332. A habit is a quality inhering in a power in order to its act (St. Thomas).

333. St. Augustine, *De libero arbitrio* l. 2. c. 19.

it. But man can use other habits, which are distinguished from virtues, such as knowledge and art, for good and bad acts.

2. Three things must be considered in virtues: the efficient cause, the subject, and the object.

a. The efficient cause of a virtue is said to be that by which the virtue is produced. By reason of the efficient cause, virtues are divided into natural and supernatural, infused and acquired.

b. The subject of a virtue, and that the proximate subject, is said to be that power of the soul in which the virtue is present and from which the acts of a certain virtue are elicited. The remote subject is the very person having the virtue.

The powers in which virtues inhere are the intellect, the will, and the sensitive appetite; in this appetite namely there are those virtues which turn about moderating the passions, of which kind are temperance and fortitude.

c. The material object of a virtue is that about which the act of virtue turns; the formal object is the reason or motive on account of which it turns about its material object. Thus the material object of faith is the truths revealed by God; the formal object of faith is the authority of God revealing.

255. Division of virtues. a. According to the diverse subject in which virtue is present, virtues are divided into intellectual virtues, which perfect the intellect for knowing the true, and appetitive (moral) virtues, which perfect the will for pursuing the good. The intellectual virtues are numbered by the philosophers as five: understanding, wisdom, knowledge, art, and prudence, to which theological faith is added by the theologians; but the appetitive virtues are numbered as very many.

Of the intellectual virtues, three are speculative habits: understanding, wisdom, and knowledge; two are practical habits: art and prudence. Understanding perfects the mind for knowing the true which can be known immediately and of itself; wisdom for knowing the true which is known through discourse and is simply ultimate (the first cause); knowledge for knowing the true which is known through discourse and is ultimate in some determined genus.

b. By reason of effect, virtues are divided into moral virtues, which make a man good simply or morally, and intellectual virtues, which make a man good in a qualified respect, e.g. a good philosopher, a good craftsman. The former are present in the will and in other powers only insofar as they are ruled by the will; the latter are present in the intellect independently of the command of the will.

To the moral virtues accepted in this sense belong also the theological virtues and prudence; to the intellectual virtues accepted in this sense belong understanding, wisdom, knowledge, and art.

c. By reason of the efficient cause, they are divided into infused and acquired virtues: the former are produced immediately by God in the powers of the soul; the latter are obtained by man through acts more often repeated. Some infused virtues are called infused per se, others infused per accidens: the former can be had only from God infusing them, of which kind are all supernatural virtues; the latter can also be had by human effort, since they are of the natural order, but sometimes are infused by a special gift of God.

That virtues are acquired by repeated acts is established by experience; but by revelation we are taught that virtues are infused into us immediately by God (n. 28). Acquired and infused virtues agree in this, that they are habits by which we are disposed for operating well; but they differ both in origin and in effect (n. 254).

d. With the preceding division there almost coincides as regards the thing that by which virtues are divided into natural and supernatural: the former are acquired by natural powers through repeated acts and are

ordered to a natural end, namely natural beatitude; the latter are exercised by the help of supernatural grace and are ordered to a supernatural end or supernatural beatitude.

e. By reason of the object, they are divided into theological and moral virtues: the former have for their immediate object some divine perfection and therefore turn immediately about God; the latter have for their immediate object a created good, i.e. the honesty of actions. Thus the material object of mercy is the relief of the needy person, and the formal object is the moral honesty which shines forth in the relief of the needy person.

Therefore moral virtue is taken in two ways, according as it is opposed to theological virtue, and according as it is opposed to intellectual virtue.

f. By reason of perfection, they are divided into common and heroic: the former are exercised in a common or ordinary mode; the latter are exercised promptly, expeditiously, and above the common mode of operating.

g. By reason of the remote subject, namely the person having the virtue, they are divided into formed and unformed, according as the person having the virtue is in the state of grace or in the state of mortal sin; grace or charity is called the form of the other virtues.

256. On the mean of virtue. 1. The mean of virtue is called the measure by which excess and defect are excluded from it; thus liberality is in the mean between prodigality and avarice, fortitude is the mean between rashness and timidity, because it preserves the due mode between excess and defect.

a. The chief property of virtues is that by which they are said to be in the mean between excess and defect. For the acts of virtues, in order to be such, must be conformed to right reason; but they would not be conformed to right reason if either through excess or through defect they turned aside from the mean of right reason; therefore virtues consist in the mean in this, that their acts by reason of object and circumstances are conformed to right reason.

b. The mean of virtues can be considered on the part of the object about which it turns, and on the part of the subject, or by reason of the mode by which virtue is exercised. In the mode of exercising virtue one can turn aside from the mean if it is exercised rashly, inopportunely, with excessive effort, etc. Moreover all virtues have and require a mean on the part of the subject.

c. The mean of virtues on the part of the object is twofold: the mean of the thing and the mean of reason. The mean of the thing is the measure which is determined by nature itself and therefore is the same for all; the mean of reason is the measure which reason, by prudent estimation after considering the person and circumstances, determines, and therefore is not the same for all, but is diverse in diverse cases.

2. All moral virtues have a mean on the part of the object, and indeed justice has the mean of the thing, but the other moral virtues have the mean of reason.

What he ought to do who intends to observe justice strictly is not determined by prudent estimation, but has already been defined by nature: namely he must give as much as is owed. For justice requires that he who owes a hundred also pay a hundred, whoever he is, rich or poor, and whoever his creditor is. The mean of the other moral virtues is the mean of reason: for what matter in these is conformed to right reason must be determined by reason according to the quality of the person; for what is suitable for one in taking food can be too much or too little for another, and what is suitable for a man in undergoing danger is too much for a boy or a woman.

3. Theological virtues do not have a mean on the part of the object but only on the part of the subject or by reason of the mode: for since the object of these virtues is God himself, it is impossible to sin against

them by excess; and indeed we cannot believe and hope too much in God or love God too much. But in the mode by which these virtues are exercised, sin can occur even by excess.

257. On the connection of virtues. Those virtues are called connected of which one cannot exist without another.

1. Theological virtues are connected among themselves insofar as, in the order of generation, charity supposes hope and faith, and hope supposes faith, and all are infused together; but they are not connected insofar as one can be without another: for when charity has been lost, hope and faith remain, and when hope has been lost, faith can remain (n. 29, 5).[334]

2. Infused moral virtues are connected among themselves insofar as they are infused together with grace and charity, and when these have been lost the virtues are lost at the same time. But infused virtues are not necessarily connected with acquired moral virtues; for infused virtues can be without acquired virtues, as in baptized little ones, and acquired virtues can be without infused virtues, as in adult sinners: for when infused virtues have been lost through sin, acquired virtues are not also lost.

3. Acquired moral virtues are not necessarily connected as long as they are imperfect; but if they are perfect, they are necessarily connected with one another, so that he who perfectly possesses one likewise has all the others.

In order that a virtue can be called perfect, it is not necessary that it be exercised in a heroic degree, but this is required: that it be exercised easily, promptly, and constantly in every event, even in ordinary difficulties. Virtue can be imperfect in two ways: either a. because it has not yet come to the nature of a habit, but either is a certain natural and innate inclination to the good or is a certain disposition to the habit of virtue arisen from some imperfect acts; or b. because it indeed reaches the nature of a habit, but does not yet firmly inhere in the power nor dispose to exercising virtue constantly even in difficulties.

a. Imperfect acquired virtues are not connected among themselves: for by experience it is established that many, either from innate disposition or from some habituation, are prompt for works of mercy, who nevertheless are not prompt for works of chastity; likewise that some are prompt for exercising chastity who are not prompt for exercising liberality or humility.

b. Perfect acquired virtues are necessarily connected among themselves; therefore he who lacks one has none perfectly. The internal reason seems to be this: because there is no perfect virtue without perfect prudence; but where there is perfect prudence, there all the other virtues are more or less perfect: for that prudence is not perfect which at the same time is not just, temperate, and brave.

It is not required that all perfect virtues reach the same degree of perfection, but both in the same man and in diverse men one can be more perfect than another; hence it comes about that in one saint this virtue, in another that virtue, especially shines forth and is praised.

Article Second.

On the Distinction of Moral Virtues.

258. The specific distinction of moral virtues is taken from their formal object. For every moral virtue turns about an honorable good; therefore as many virtues specifically diverse will have to be distinguished

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334. By what reason it can happen that, after sanctifying grace has been lost, faith and hope remain in the soul, although grace is the foundation and principle of these, cf. Suarez, *De gratia* l. 6. c. 13. Kleutgen, *Theologie d. Vorzeit* II. n. 200 ff. Mazzella, *De virtutibus infusis* n. 184 ss.

as there are special reasons of the honorable good about which virtue turns; but the special honesty which any virtue pursues is its formal object.

The diverse reasons of honesty or of the honorable good are found either in operations which are toward another, or in moderating the passions; therefore there are two great genera of moral virtues: virtues which turn about operations toward another, as justice and those which are annexed to it, and virtues which turn about the passions, as fortitude and temperance and those which are annexed to these.

259. Among moral virtues there are four which are called cardinal or principal: prudence, justice, fortitude, and temperance, to which all other virtues are reduced as parts annexed to them.

a. They are called cardinal because among the virtues they are chief and in the moral life of man very necessary and very commonly used, just as in a door the hinge is the chief thing, on which the door turns and on which its use depends.

St. Ambrose is said to be the author of this name (l. 5. in Luc. 6, 20). Sacred Scripture commemorates them where concerning divine wisdom it says: It teaches sobriety (temperance) and prudence, and justice and virtue (fortitude), than which nothing is more useful in life to men;[335] but wisdom (God) teaches these virtues by infusing them.

b. Their number is taken both from the fourfold object (honesty, honorable good) about which they turn, and from the fourfold subject in which they are principally present.

c. Object. In order that man may act in all things according to virtue or according to right reason, first he must judge rightly concerning the things which are to be done, which happens through prudence; then he must preserve the order of reason toward others, which happens through justice; then he must preserve the order of reason toward himself, both by overcoming difficulties which draw back from right reason, which happens through fortitude, and by moderating the passions which in the use of created things incite one to acting against the order of reason, which happens through temperance.[336]

Briefly, St. Thomas sets forth the object of the moral virtues in this way: prudence, which bears the light before the others, is in things to be chosen; justice in things to be distributed; fortitude in things to be endured; temperance in things to be used.[337]

b. Subject. Prudence is in the intellect, justice in the will, fortitude in the irascible sensitive appetite, temperance in the concupiscible sensitive appetite.

Nevertheless all moral virtues are also in the will as in a subject, because their acts are either elicited or commanded by the will. Hence some virtues (such as prudence, fortitude, temperance) are in a twofold power, and consequently a complete virtue consists of two habits, of which one is in the will, the other in the intellect or in the sensitive appetite; but each constitutes morally one virtue because of the relation by which one habit is ordered to the other.

260. Annexed parts of the cardinal virtues. According to St. Thomas, to each cardinal virtue there pertain three classes of moral virtues which are its annexed parts, as a whole has annexed parts: for some virtues are subjective parts of the cardinal virtues, others integral parts, others potential parts.

a. Subjective parts of a virtue are called those which are referred to it as species to a genus;

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335. Wis. 8, 7.

336. *Summa* I. II. q. 61. a. 2.

337. *Summa* I. II. q. 61. a. 4.

b. integral parts are called those which are required so that virtue may be integral, or so that it can operate more easily and more perfectly;

c. potential parts are called those which indeed are akin to the cardinal virtue, but in some respect fall short of the perfect nature of that virtue. They are called potential parts as if not having the whole power of the principal virtue.

261. Diverse perfection of virtues. Virtues are not all of the same dignity and perfection; nevertheless their greater or lesser perfection cannot be determined absolutely: for under one respect this virtue, under another respect another, is of greater perfection.

a. If the object is regarded, theological virtues are more perfect than moral virtues, because the immediate object of the former, both material and formal, is God himself, the ultimate end; but the immediate object of the latter is not God, but a created good, not the ultimate end, but a means to the end.

b. Among the cardinal virtues, under some respect prudence is most perfect, both because it directs all the other virtues and is the leader of all, in that it assigns to each the mean which they must hold, and because it perfects the intellect, not the will; but according to St. Thomas the intellect is more perfect than the will.

Under another respect, however, justice occupies the first place among the cardinal virtues, both because its works fulfill obligations which are owed to God and neighbor, and because it perfects the will, since its subject is the will; on the contrary, fortitude and temperance perfect the lower appetite, since their subject is the sensitive appetite; besides, their works render what man owes to himself.

Under another respect finally, among moral virtues obedience stands out: for if that virtue is called more perfect which offers a greater good to God, obedience must be called the most perfect moral virtue, because through it man offers the noblest good which he possesses, his will.

c. Finally, among the virtues of justice those are more excellent whose remote and mediate object (the object to whom) is God, namely those which fulfill an obligation owed to God, of which kind are religion, which exhibits due worship to God; penance, which satisfies for an offense and injury inflicted upon God; obedience, which executes the will of God.[338]

Question Second.

On the Cardinal Virtues.

262. Cardinal virtues can be considered in three ways: a. As special virtues, distinct among themselves and from others, namely insofar as their object is restricted to a determined matter in which a special honesty shines forth.

b. As general virtues, or as four genera of virtues, which contain other moral virtues under themselves. Thus every virtue which brings it about that operations are directed according to reason is called prudence; every virtue which brings it about that operations are exact according to what is due is called justice; every virtue which restrains the passions is called temperance; every virtue which renders the soul firm against any difficulties whatever is called fortitude.

c. As general properties, which must in some way be present in every virtue: for every virtue must be prudent in operating, lest it err through lack of consideration; just, so that it renders what it owes to God, neighbor, and the one operating himself; brave, so that it persists constantly in good and yields to

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338. Cf. St. Thomas I. II. q. 66. II. II. q. 141. a. 8. II. II. q. 161.

no difficulties; temperate, so that in all things it preserves moderation (the mean) and does not exceed the mode prescribed by reason.

Article First.

On Prudence.

263. Its nature. 1. Prudence is defined as right reason of things to be done, or it is the moral virtue dictating in any business whatever what, with the circumstances considered, must be done, so that the action may be fitting to right reason.

a. Prudence is a virtue of the practical intellect, which proximately directs all virtues, both moral and theological.

b. Prudence orders man both to himself and to another, because it directs all acts whatever, both those which are referred to himself and those which are referred to another.

2. The material object of prudence is constituted by all human actions in particular, concerning which it dictates how they are to be exercised here and now, so that the honorable may be done and evil avoided. The formal object is natural honesty, which shines forth in this, that all deliberate actions be done according to right reason.

a. Because prudence pertains to all human actions (for it must impress upon all, as it were, the mean of virtue as a form), it is easily understood that there can be no virtue without prudence. For this reason prudence is rightly called the charioteer and moderator of all virtues. Thus mercy inclines a man to assist the poor, but prudence dictates how much, where, when, and how it must be given to the poor man, so that the act of mercy may be fitting to right reason in every respect.

b. Prudence itself supposes that the will is well disposed concerning the particular ends of the moral virtues, lest prudent judgment be corrupted by disordered affections: for he who wishes to judge rightly must be free from disordered affections, since each one customarily judges according as he is affected.

3. The functions or acts of prudence are numbered as three: consultation, judgment, and command. For first it must inquire into the means which are necessary for the end, i.e. so that the work may be done honestly; then it judges what and how something must be done here and now, so that the work may be done according to virtue; and finally it commands that this or that action is to be done here and now.

264. On the opposed vices. 1. The vices opposed to prudence by defect are:

a. Precipitation, by which a work is undertaken immediately without prior deliberation.

b. Inconsideration, by which an attentive inspection of the matter about which judgment must be made and of its circumstances is omitted.

c. Inconstancy, by which the opinion reached is changed without any cause, or certainly without a just cause.

d. Negligence, by which a matter deliberated and determined is not committed to execution at the opportune time.

2. The vices opposed to prudence by excess are rather vices which have a certain false appearance and likeness of prudence:

a. Prudence of the flesh, which devises means for fulfilling the motions of corrupt nature.

b. Astuteness, which devises simulated and hidden ways for deceiving one's neighbor in order to attain some end, whether good or bad; if it is committed by words, it is called deceit, if by deeds, it is called fraud.

c. Solicitude for temporal things, which is an excessive occupation of the mind in acquiring and preserving temporal goods.

d. Solicitude for future things, which is an excessive occupation concerning those things which are in future time, especially those necessary for life.

265. On the parts of prudence. 1. The integral parts of prudence are numbered as eight:

a. memory of past things, b. understanding of present things, c. docility, which acquiesces in the opinions of elders, d. shrewdness in considering future events, e. reason comparing one thing with another and promptly gathering what follows from it, f. foresight considering the end, g. circumspection attending to the circumstances of the work, h. caution in avoiding impediments.

2. The subjective parts of prudence are two: a. monastic or private prudence, by which someone rules himself, b. ruling prudence, by which someone rules others or a multitude.

This is distinguished into economic prudence, by which the family is ruled, children are well educated, goods are preserved and increased, etc.; into political prudence, by which a society of men living under the same laws is ruled and its common good is sought; into military prudence, by which soldiers are directed to attack enemies or to repel them.

3. The potential parts of the virtue of prudence are numbered as three:

a. Eubulia is the habit of finding good counsel in ambiguous and perplexed matters.

b. Synesis is the habit of bearing right judgment concerning particular operations according to common laws.

c. Gnome is the habit of judging rightly in particulars in which, on account of particular adjuncts, an exception from the common law must be made. Gnome therefore directs epikeia.

Article Second.

On Justice.[339]

§ 1. On the Nature of Justice.

266. Notion of right. The notion of justice supposes the notion of right, which is its object. Right, in its proper and primary sense, signifies the inviolable moral power of a person to have, do, or exact something; in this sense we say: he uses his right, he transfers his right to another. Secondarily, it signifies that which is just, equal, or what is owed to another, namely the objects themselves about which that power turns; in this sense we say: to each one his own right must be given. These two significations of right are correlative; the one exhibits the thing owed, the other the title of the debt: for nothing would be owed to anyone unless he had the power of exacting or retaining it. Now right, insofar as it signifies that which is owed to another, constitutes the object of justice.[340]

a. The power is called moral, both because it is not physical and because it is according to right reason; it is called inviolable because each one is bound to observe it, so that it cannot be violated without fault.

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339. St. Thomas, II-II, q. 57 ff.; q. 61. Molina, *De iustitia et iure*, tract. 1. Lessius, *De iustitia et iure*, l. 2, sect. 1, c. 1 ff. Lugo, *De iure et iustitia*, disp. 1, sect. 1. Holzmann, *Theologia moralis*, IV, n. 286-336. Vermeersch, *Quaestiones de iustitia* (Bruges: Beyaert, 1901), n. 1-76. Pottier, *De iure et iustitia* (Liege: Ancion, 1900). Victor Cathrein, *Die Cardinaltugend der Gerechtigkeit*, *Zeitschrift fur kath. Theologie* 1901, p. 635 ff.

340. Cf. what Lugo (*De iustitia*, disp. 1, n. 2 ff.), Vermeersch (loc. cit., n. 5 ff.), Cathrein (*Moralphilosophie*, I, p. 415 ff.), and others dispute concerning the nature and properties of right, subtly as well as ingeniously.

But the reason and foundation of this inviolability is the dignity and independence of the person, which consists in this, that man has the character of an end, not of a means, and that he ought to tend toward his end, not be driven to it. Since he cannot effect this unless he can order certain created goods to his good and end, he is furnished with this twofold and inviolable power: of ordering himself to his end, and of applying certain goods as means for obtaining his proper end and good.

b. Moral power or right is distinguished in two ways: improperly so called, which is founded in superiority and cannot be rendered to equality, of which kind is God's right to worship, a father's right to obedience; and properly so called, which is founded in personal independence and can be rendered to equality, of which kind is the laborer's right to wages.

c. A threefold debt is distinguished: a. moral debt, which arises only from the honesty of virtue, without there being in another the power of exacting it, as is the debt of charity, mercy, gratitude, truthfulness; therefore he who does not observe this debt does not injure the right of another, but only falls short of the honesty of the virtue which each one must observe in his actions. b. legal debt, which arises from right improperly so called, which another can therefore exact as owed to himself, but which nevertheless cannot be rendered to equality, as is the debt of religion, piety, obedience.[341] c. juridical debt, which arises from right properly so called, which another therefore exacts as owed to himself by his own right, and which also can and must be rendered to equality, as is the debt of justice.

d. Right, insofar as it signifies a power, is subjective right; insofar as it signifies a debt, it is objective right. To subjective right there corresponds on the other side a debt or juridical office, at least of not hindering another in the use of his right. Wherefore a juridical relation (*das Rechtsverhaltnis*) involves both: right and juridical debt.

267. Division of right. Right properly so called, insofar as it is a legitimate power, is distinguished in two ways: right in a thing and right to a thing.

a. Right in a thing is the legitimate power which someone has in a thing already his own, of which kind is the right in a thing bought. This right immediately affects the thing itself and therefore is called real right (*dingliches Recht*).

b. Therefore he who has right in a thing has the thing itself obligated and bound to himself; wherefore this right gives a personal and real action, namely, the one having right in a thing can pursue it in court against whomever possesses it, and take it wherever he has found it.

c. For acquiring right in a thing three conditions are required: a. a just title, as donation, purchase, right of inheritance; b. that the thing be determined as an individual; c. delivery of the thing, at least for the most part.

d. Right to a thing is the legitimate power which someone has that some thing may become his, of which kind is the right to a promised thing, the right to payment of a debt. This right does not immediately affect the thing itself but the person, that he deliver the thing owed, and therefore it is called personal right (*Forderungsrecht*).

e. Therefore he who has right to a thing has not the thing itself, but the person, bound and obligated to himself for delivering the thing to him; wherefore this right gives only a personal action against the debtor, but not an action against the thing itself or against a third person who perhaps possesses the thing owed.

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341. Legal debt is so called because this debt can also be urged by human law.

f. For acquiring right to a thing, which is also called inchoative, nothing else is required except a just title, by force of which the thing can be exacted. Titles of this kind are the law which grants this right, the fact from which it arises, as death, from which arises inheritance by intestacy before acceptance, donation, sale before delivery of the thing. In some codes sale already before delivery of the thing produces right in the thing.

268. Notion of justice.[342] Justice is the moral virtue which inclines man to render to each one his own right, or what is owed to him, according to equality.

a. The name justice is taken in three ways:

b. In a broader and improper sense it denotes both the complex of all virtues together and any virtue whatever, since it is some part of that complex, some justice. In the former sense it is said: Blessed are they who hunger and thirst after justice.[343] Thus it befits us to fulfill all justice;[344] in the latter: Take heed that you do not do your justice, that is, your mercy, before men.[345]

c. In a stricter and improper sense it signifies some genus of virtues, namely those moral virtues which order man to another, whether God or man, and which are reduced to the cardinal virtue of justice as integral and potential parts.

d. Strictly and properly it signifies the moral and cardinal virtue which the proposed definition exhibits.

e. Three things belong to the nature of justice:

f. That it be toward another: for no one can properly be just or unjust toward himself. Therefore distinction of person is required between him who renders the debt and him to whom it is rendered, so that justice may have a place, whether the person is physical or moral.

g. That what is rendered to another be owed to him by his own right. That debt is called owed by one's own right which is founded in the personal dignity of the other and in his independence which results from it (266, b).

Since justice by its nature is toward another and is founded in individual independence, theologians asked whether a debt of justice intervenes between father and son, since the son is something of the father and what belongs to the son belongs to the father. The question is solved by making a distinction between father and son insofar as they are father and son, and insofar as they are men. Therefore in those obligations which exist only because the one is father and the other son, the nature of justice does not intervene between them; but in those obligations which exist because they are men, the nature of justice does intervene between them. Hence if a father does not nourish his son, and a son does not obey his father, as each is bound, they do not injure justice; but if a father detracts from his son, and a son steals from his father, each injures justice.[346]

Notes

342. The opinions of authors concerning justice and its species are various. Many attribute the nature of justice properly so called to commutative justice alone, which they distinguish from distributive and legal justice by the name of justice simply perfect or most perfect. Others, on the contrary, attribute the nature of justice properly so called both to commutative justice and to distributive and legal justice, and refer them as true species to justice generically accepted. This opinion, which among the older authors Tanner, Holzmann, Metzger, Coel. Mayr, and others defend, among recent authors P. Vermeersch learnedly champions (loc. cit., n. 1-70).

343. Matt. 5, 6.

344. Matt. 3, 15; cf. Matt. 1, 19; Luke 1, 6.

345. Matt. 6, 1.

346. Cf. St. Thomas II-II, q. 57, a. 4. Ballerini-Palmieri III, n. 4.

c. That the debt be rendered to another according to equality. He renders the debt according to equality who pays it adequately, or in such a way that he no longer owes anything further.

d. The material object of justice is everything which is owed to another by his own right; the formal object is the natural honesty which is discerned in this, that to each one there be rendered adequately what is owed to him: for justice intends this on account of the natural honesty intrinsic to it, that equality be established between the right of the one and the debt of the other.

269. There are three species of justice when account is taken of the relations which actually exist in civil society: commutative, distributive, and legal justice. For in the republic there is a threefold order in which to another his own right must be given: the order of part to part, citizen to citizen, which order commutative justice rules; the order of the whole to the parts, the community to the citizens, which distributive justice rules; the order of the parts to the whole, the citizens to the community, which legal justice rules.

a. In the common nature of justice all agree univocally, since the three elements required for the essence of justice are found in all; nevertheless each one participates in it in a specifically diverse mode. The three species of justice agree in this, that their object is right properly so called and therefore perfect, namely that which is founded in the dignity and independence of a person, whether physical or moral, and that they render this right according to equality. But they differ in this, that the nature of the right and of the debt which they regard is essentially diverse, and in like manner the equality which they establish between debt and what is received is specifically diverse.

b. There are three rights properly so called, but specifically diverse: a. the right of a private person toward a private person, or of a part toward a part of the same community, which commutative justice regards; b. the right of a private person, or part of society, toward society, which distributive justice regards; c. the right of society as such toward private persons, or parts of society, which legal justice regards. From the threefold diverse right there arises a threefold diverse debt consonant with the right, which the three virtues of justice pay: the debt of a private person or part to furnish that which a private person exacts by his right; the debt of the community as such to furnish that which a private person, a member or part of the same community, exacts by his right; the debt of a private person or part to furnish that which the community exacts by its right from its parts and members.

270. Commutative justice is that by which a private person gives to a private person what is owed to him by right.

a. It is called commutative because it turns especially about exchanges, purchases and sales, and other contracts. Citizens among whom exchanges are made constitute the subject of commutative justice.

b. The material object of commutative justice is the goods of each private person which belong exclusively to him. In exchanging these goods, to each one there must be rendered what is owed to him, or care must be taken that no one be deprived of his own thing. The formal object is the honesty of equality between the right of one private person and the juridical debt of another likewise private person, both of whom are members of the community.

c. It belongs to all species of justice to render to another the debt owed by right; but it is peculiar to commutative justice to render to another his own thing, either completely or at least inchoatively (n. 267, b), since its material object is things which have already in some way been made the proper things of another, as when the debt of wages is rendered to a laborer.

d. Since there is a manifest difference between the right which commutative justice regards and the right which distributive justice regards, nothing prevents the former from being able to be called strict right, the latter less strict right, although both are true right, properly so called and perfect, inasmuch as each

contains in itself the integral nature of right described above. For the right which commutative justice regards is a right of property, or right in a thing, or at least to a thing.

271. Distributive justice is that by which the community gives to citizens what is owed to them by right; for to citizens, by the very fact that they are parts of society, there belongs the right of exacting that they be assisted by society in the pursuit of their end, according as the nature of society bears; and conversely there rests upon society the office of caring that from common goods there be given to each what is owed to them.

a. The office of distributing common goods inheres in those who represent society, princes and their ministers: for these alone can act for society and in the name of society. Therefore these constitute the subject of distributive justice.

b. The material object of distributive justice is common goods, of which kind are the protection of rights, money for erecting public schools, subsidies for promoting the sciences and arts, for relieving the need of citizens, etc.; public offices, common burdens. The formal object is the honesty of equality between the less strict right of the private person, insofar as he is a part of the community, and the juridical debt of the community as such.

c. Distributive justice must render according to equality what is owed to citizens; nevertheless that equality is not of thing to thing, but of proportion of things to citizens, so that goods are proportioned to merits, subsidies to needs, burdens to the faculties of citizens.

d. The injury of distributive justice is called acceptance of persons. This properly consists in this, that in the distribution of common goods attention is paid not to the dignity of persons, but to other qualities, e.g. consanguinity, friendship.

272. Legal justice is that by which there is given to the community what is owed to it for procuring the common good.

a. The material object is constituted by certain acts of diverse virtues which the common good exacts: for society then has itself well if its members are well disposed and ordered in relation to God, to themselves, to other members of the same society, and to society itself. These acts, as owed to society, are commanded either by positive law or by natural law. The formal object is the honesty of equality between the right of the community as such and the juridical debt of the part as such.

b. As regards the subject of legal justice, this virtue is found both in the prince and in subjects, but it is exercised by them in diverse acts: the prince exercises it by prescribing those things which are necessary for procuring the common good; subjects by obeying and carrying out those things which have been prescribed for the common good.

c. Legal justice renders a debt according to equality insofar as it furnishes what is owed to the community, for example, pays tribute, performs military service, in such a way that the debt is now extinguished.

d. This justice is called legal, both because law determines the acts of virtues which are necessary for the common good, and because through it the citizen conforms himself to law; it is called general, not because it has no special object, but because its material object is the acts of all other virtues, insofar as they are owed to the community.

e. Those who in this time treat of the social question often speak of social justice, by which name they signify either legal justice, because its formal object is the common or social good of men living in civil society, or at the same time legal and distributive justice, insofar as the latter exacts that common advantages and burdens be distributed according to the norm of equality.

Note. Vindicative justice, which afflicts the guilty with a just punishment, is reduced by some to legal justice, insofar as the common good exacts that the superior punish crimes and the guilty man, by obeying the sentence of the judge, pay the penalty. By others it is reduced to distributive justice, insofar as it inflicts punishments congruous with the quantity of crimes. Finally, by others it is considered as a special virtue distinct from the rest, whose formal object is the natural honesty which is contained in this, that the moral order injured by a crime be in some measure repaired through punishment. Yet in no way can it be numbered as a fourth species among the subjective parts of justice, because the formal nature of justice does not belong to it. For justice properly so called regards a true right in him to whom the debt is rendered; but no one would say that the guilty man has a right to punishment. Therefore vindicative justice, if it is considered as a special virtue, is referred not to the subjective parts, but to the potential parts of justice, and is called vindication.

273. Parts of justice. 1. The subjective parts of justice are commutative, distributive, and legal justice.

For establishing an accurate division of the cardinal virtue of justice, justice generically accepted must immediately be divided into two species, namely general and particular justice, according as the good about which justice turns is owed to the community or to a private person. Then particular justice is again divided into two species, into distributive justice, which has society, a moral person, for its subject, and commutative justice, which has a private person for its subject.

2. The integral parts of justice are two: to do good and to decline from evil.[347]

The reason why, as integral parts of justice, two elements are posited which are found in all virtues must be taken from the peculiar nature of justice. For justice has this as proper to it, that it can and must be observed in a twofold mode, through a negative act, not taking what belongs to another, and through a positive act, rendering the debt, so that even he is truly called just who does not take what belongs to another. On the contrary, other virtues, e.g. temperance, can be observed in only one mode, namely through positive acts exact according to the norm of temperance; for he who does not eat is not called temperate. Now through negative acts of justice we decline from evil, but through positive acts we do good.

3. The potential parts of justice, which have some likeness with justice but nevertheless fall short of the perfect nature of justice, are all virtues which are toward another.

But they fall short of the perfect nature of justice:

a. some, because they do not regard debt: gratitude, vindication, truthfulness, friendship, liberality, equity;

b. others, because they do not regard juridical debt, and the legal debt which they do regard is so great that it cannot be rendered according to equality: religion, piety, observance, obedience.

§ 2. On the Obligation of Justice.

274. Principles. 1. Commutative justice obliges of itself under grave obligation and with the burden of restitution, if it has been injured.

a. The end which commutative justice regards is of great moment, namely both private and public good: for by preserving another's right uninjured, it provides both for mutual charity and conjunction among men, and for public peace and tranquillity. Hence St. Paul says: Do not err: neither fornicators … nor thieves

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Notes

347. St. Thomas II-II, q. 79, a. 1.

348. 1 Cor. 6, 9.

… nor the rapacious shall possess the kingdom of God.[348] Yet it admits smallness of matter, because an injury of this justice in a slight thing does not gravely oppose its end.

b. Commutative justice exacts that to each one be given what is his; therefore if through an injury of commutative justice there is taken from another what is his, either by theft or by damage-infliction, justice itself exacts that what has been taken from another be rendered; but it is rendered through restitution; therefore it obliges to restitution.

2. Legal and distributive justice likewise oblige under grave obligation, because the injury of each of these forms of justice also can introduce grave disorder into society; nevertheless of themselves they do not oblige with the burden of restitution.

To explain why injury of commutative justice, but by no means injury of distributive justice, induces an obligation of restitution, these things are to be noted. Injury of commutative justice affects a good which already in some way, at least inchoatively, has been appropriated to one or to individuals, which therefore already belongs to one or to individuals by strict right, in a thing or at least to a thing. But injury of distributive justice affects a good which in no way, not even inchoatively, has been appropriated to one or to individuals, which therefore by strict right belongs not to individuals but to the community alone, and is only destined to be appropriated to individuals through distribution. The same must be said concerning the injury of legal justice through defrauding taxes.

3. Accidentally, injury of legal, vindicative, and especially distributive justice also obliges to restitution, namely when commutative justice is injured at the same time. For it often happens that by reason of a pact, either explicit or implicit, the obligations of the other species of justice must also be observed from commutative justice, and therefore their injuries likewise induce an injury of strict right.

a. With distributive justice, commutative justice is injured at the same time: a. in distributing goods, if the distributor confers offices and benefits on the unworthy, so that subjects suffer damage on account of bad administration, which a superior, both ecclesiastical and civil, is held by strict debt to avert; b. in distributing burdens, e.g. in imposing taxes, when a greater burden is imposed on subjects than the common good exacts according to the faculties of individuals. For subjects have a strict right not to be deprived of their goods unless the common good exacts this according to the measure of their powers.

b. With vindicative justice, commutative justice is injured at the same time, both if delinquents are not punished with damage to others, and if they are struck with a punishment more grave than is just. For the judge is held by strict obligation toward citizens to impede by just punishment that delinquents inflict damages, and toward delinquents not to punish them beyond what is condign. Therefore if the guilty man is punished with a punishment more grave than is just, through this excess of punishment commutative justice toward the guilty man is injured at the same time.

c. With legal justice, commutative justice is injured at the same time if the prince by unjust laws and statutes inflicts damage on subjects in their goods. For subjects have a strict right of exacting that damage in their goods not be inflicted on them.

Article Third.

On Fortitude.

275. Its nature. Fortitude is taken in a broader and in a stricter sense.

a. In the broader sense it is firmness of soul in pursuing the honorable good. In this sense fortitude is not a special virtue, but a condition of every perfect virtue. For any perfect virtue ought to effect this, that

the man who possesses it, with firm and constant purpose, persevere in exercising the acts of the virtue even in difficult circumstances.

b. In the stricter and proper sense it is defined as the moral virtue which firms man in difficult things, but especially in dangers of death to be endured or repelled.

According to the doctrine of St. Thomas, he cannot be called simply brave who indeed tolerates all the annoyances of this life, but is not prepared to endure death.

276. Object. 1. a. The material object is constituted by the passions of fear and daring in dangers and labors.

a. For in arduous and terrible matters there rises in the soul either great fear, which must be restrained lest it compel one to act against right reason, or vehement daring rises, which must be curbed lest it rush rashly into dangers.

b. Therefore fortitude moderates the irascible appetite and rules it according to the prescriptions of reason. Wherefore fortitude orders man to himself, not to another.

c. The formal object is natural honesty, which shines forth in the moderation of fear and daring: for it befits the dignity of man very greatly that he be neither depressed by excessive fear nor lifted up by excessive daring.

2. The proper act of this virtue is twofold: to endure grave things, which act requires that fears be repressed, and to attack dangers, which requires that daring be curbed. The former constitutes passive fortitude, the latter active fortitude; the former is more difficult and more excellent, the latter appears more splendid.

3. The dangers concerning which fortitude is observed must be such as can be honorably undertaken and endured; but if they are not such, there is not fortitude, but rashness or ferocity, etc.

a. Primary dangers are warlike dangers, not only common ones which are justly undertaken for defending fatherland and religion, but also private ones which are unjustly brought on by wicked men in a private attack.

b. Secondary dangers are other dangers, whether of death or of other evils, e.g. mutilation, exile, diseases, chains, etc.

277. Opposed vices. The vices opposed to fortitude by defect are fearlessness and cowardice; and the vices opposed to it by excess are timidity and rashness.

a. Fearlessness, or emptiness of fear, is the vice by which one falls short in fearing: for a man empty of just fear does not fear when fear is due, nor does he fear those things which are to be feared.

b. Cowardice is the vice by which one falls short in daring: for the cowardly man does not dare to attack dangers and difficulties as and when just reason dictates.

c. Timidity is the vice by which one exceeds in fearing: for the timid man fears what he ought not to fear, or when he ought not, or more than he ought.

d. Rashness or daring is the vice by which one exceeds in daring: for the daring man attacks dangers either when it is not expedient, or in a mode in which it is not expedient.

278. Parts of fortitude. 1. Fortitude strictly such does not have subjective parts: for its matter is evils or dangers; now in the order of nature dangers are indeed diverse, but in the genus of morals they are not diverse, although some are greater than others.

2. The integral parts of fortitude are four: magnanimity, magnificence, patience, and perseverance or constancy.

a. Magnanimity is the virtue inclining to great and heroic works in every genus of virtues. Opposed to it by defect is pusillanimity; by excess, presumption, ambition, and vain glory.

b. Magnificence turns about great and costly things according to the prescription of reason. Opposed to it is smallness in doing by defect, and excessive profusion by excess.

3. The same four virtues are at the same time potential parts of fortitude: for those virtues can also be considered in other less difficult matters; now in these matters they are called potential parts of fortitude, because they imitate fortitude without attaining its perfection.

On Martyrdom.

279. Nature. 1. By the name martyrdom, in ecclesiastical usage, is understood the real testimony given to the faith by death endured. By the same name is also understood the death itself endured in testimony of the faith, as when we say that someone underwent martyrdom.

a. In the treatise on baptism, martyrdom is considered insofar as it is the baptism of blood; in the treatise on true religion, insofar as it is an argument of the true religion; in the treatise on virtues, insofar as it is an act of fortitude.

b. Although martyrdom is properly an elicited act of fortitude, nevertheless for true martyrdom, theologically accepted, it is not required that the martyr undergo death from the motive itself of fortitude, or from the honesty of this act; but this can happen from the motive of any Christian virtue whatever, e.g. from charity, from obedience toward God, for imitating the example of Christ, for attaining eternal life, or even for exercising Christian fortitude.

2. A twofold martyrdom is distinguished: one of infants, which consists in death endured before the use of reason in hatred of the faith; the other of adults, which consists in the voluntary acceptance and endurance of death in testimony of the true faith.

a. That infants are capable of martyrdom the Church teaches us, since she venerates the innocents killed for Christ as true martyrs. For the martyrdom of infants no other condition is required except that violent death be inflicted on them in hatred of the faith. This martyrdom, from a special privilege of Christ, supplies baptism, but it is neither an act of virtue nor has any merit.

b. Therefore an adult who, without voluntary acceptance of death, is killed unexpectedly by enemies of the faith is not a martyr: for he can neither place an act of fortitude nor give testimony except by voluntary acceptance of death.

280. Conditions of true martyrdom are: a. death inflicted; b. death inflicted in hatred of the faith; c. death patiently endured. The Church requires this threefold condition in order to venerate someone as a martyr.[349]

1. Death inflicted: for martyrdom by its nature is testimony given by death endured. It is not required that death actually follow, but it suffices that a cause of death be inflicted from which death naturally ought to follow, unless it is divinely impeded.

a. Therefore a distinction is made between completed or perfect martyrdom and true martyrdom. St. John the Apostle underwent true martyrdom, but not completed martyrdom.

b. Death can be inflicted not only by torments or wounds, but also by poison, want, and other grave afflictions.

Notes

349. C. Benedict XIV, *De servorum Dei beatificatione*, l. 3, c. 11.

c. Those who die a natural death from a pious cause, e.g. in the service of those sick with pestilence, are not truly martyrs, even if they are customarily called martyrs of charity improperly. Neither the desire of martyrdom, however most ardent, nor torments of soul, even if most vehement, suffice for true martyrdom. Wherefore also the Blessed Virgin Mary is a martyr only by similitude.

2. Death inflicted in hatred of the faith: for martyrdom is testimony given to Christ by death endured; but death is not testimony given to Christ unless it is inflicted in hatred of Christ. Therefore St. Augustine says: not the punishment but the cause makes the martyr.[350]

But by the name faith there is understood not only the truth of faith to be believed, but also any virtue to be exercised, insofar as it is commanded and commended by God. Although it is required that death or torments be inflicted in hatred of the faith, nevertheless the nature of martyrdom is not taken away by the fact that the tyrant feigns another title, provided the cause of faith truly concurs.

a. From these things it is clear that he who does not have the true faith cannot be a martyr, nor he who dies for a philosophical truth, since it belongs to the nature of martyrdom that someone die for the true faith or for a Christian virtue. Wherefore if a heretic, whether formal or material, were to die for the defense of a true article which he believes, or for a true virtue, he would not be a martyr; for true martyrdom is an external testimony of the true faith, but he himself externally rather bears testimony against the true faith.

b. Therefore virgins killed on account of chastity are truly martyrs, just as St. John the Baptist, killed on account of his rebuke of adultery, is truly a martyr.

3. Death patiently endured without resistance: for he who resists the one inflicting death is not considered to die as a witness of Christ, but as a soldier conquered by an enemy. Moreover the martyr ought to imitate Christ, who by his passion and death was made the exemplar of martyrs; but Christ suffered without resistance.

Therefore soldiers fighting in a war of the faith, even from the purest intention, and falling, have never been regarded by the Church as martyrs, since indeed a martyr does not fight back.

281. The due disposition for obtaining the effect of martyrdom is the state of grace, or at least attrition for sins committed.

a. In him who is in the state of sin, that sorrow for sins committed is required for obtaining the effect of martyrdom is clear: for without sorrow forgiveness of sins is not granted, not even through the sacraments of baptism and penance, although they were instituted first and of themselves for destroying sins; much less, therefore, through martyrdom.

b. That perfect contrition is not required, but that attrition suffices, is gathered from this, that the effects of martyrdom are not had from the work of the one working, but from the work worked, just as in baptism; but that baptism produce justice, the disposition of attrition suffices; therefore it also suffices in martyrdom. Moreover, if attrition did not suffice, martyrdom itself would never destroy grave sin.

From this condition it seems to follow that the salvation of many martyrs can be doubted, which is contrary to the persuasion of the Church, which believes that all are saved. Yet besides the fact that it will most rarely happen that a martyr does not have at least implicit attrition, the Church venerates as a saint only the martyr whom she knows to have died holily.[351]

Notes

350. *Sermo* 2, in Ps. 34, n. 13.

351. Cf. Lessius, l. 3, c. 1, n. 50.

282. Effects of martyrdom. Martyrdom is a heroic act, to which by the will of Christ certain privileges are annexed.

a. The first and chief privilege is that of itself and as it were from the work worked it confers sanctifying grace on the one duly disposed and destroys every punishment: for with one voice the holy fathers teach that Christ willed martyrs to be washed white in their own blood, just as those who are baptized in water.[352] Therefore the Church does not pray for martyrs, but venerates and invokes them immediately after death, even if they were killed before baptism. To confirm this doctrine they appeal to the words of Christ: He who shall confess me before men, I also will confess him before my Father. And again: He who shall lose his soul for my sake shall find it.[353] He who hates his soul in this world keeps it unto eternal life.[354]

b. To the essential reward of eternal beatitude martyrdom adds an accidental reward, namely the aureole of martyrs, on account of the distinguished victory won over the world.

The aureole is granted on account of an excellent victory won over the enemy in this life; but there is a threefold enemy: the world, the flesh, and the devil; therefore there is a threefold excellent victory to which an aureole is given: of martyrs, who conquered the world; of virgins, who conquered the flesh; and of doctors, who conquered the devil.[355]

Article Fourth.

On Temperance.

283. Its nature. 1. Temperance, insofar as it is a cardinal virtue, is the virtue which moderates the appetite in the pleasures of taste and touch.

a. Temperance in general, or accepted in the broader sense, restrains and moderates the concupiscible appetite, even spiritual, in any matter whatever which entices against the prescriptions of reason, especially with regard to honors and pleasures; special temperance restrains the sensitive concupiscible appetite with regard to the sensible pleasures of taste and touch, which, since they are most vehement, need a special virtue moderating them.

b. Therefore temperance also orders man not to another, but to himself.

2. The proximate material object is the pleasures of taste and touch; the remote material object is foods and drinks and venereal acts, to which those pleasures are referred as to their object. The formal object is natural honesty, which consists in this, that those actions be exercised with that moderation which befits the dignity of rational nature.

Therefore special temperance turns about the pleasures which are perceived in those actions which by their nature are ordered to the conservation of the individual and of the species. Indeed God joined vehement pleasures to the necessary actions by which the human race is preserved and propagated, so that men would be invited and enticed to those actions. Therefore from the intention of the author of nature nothing prevents man, in placing those actions, from being moved by pleasure and intending it, provided that he exclude neither explicitly nor implicitly the primary end, which is the conservation and propagation of the species, and that in all things he allow himself to be ruled according to the prescriptions of reason.

Notes

352. Cf. St. Augustine, *De civitate Dei*, l. 13, c. 7; *Sermo* 159, c. 1.

353. Matt. 10, 32, 39.

354. John 12, 25.

355. St. Thomas, Suppl., q. 96, a. 1.

284. Opposed vices. The vices opposed to temperance in general are two: insensibility by defect and intemperance by excess.

a. Insensibility or stupor is the vice by which someone so flees honors and pleasures that he does not wish to use them when or where or as much as is fitting according to right reason. A most rare vice.

b. Intemperance is the vice by which someone, in seeking and enjoying honors and pleasures, exceeds the dictate of right reason.

285. Parts of temperance. 1. The integral parts of temperance are modest shame and honesty.

a. Modest shame (*Schamhaftigkeit*) is a certain disturbance of soul or fear rising from consideration of some deed bringing confusion or disgrace. Deeds of this kind are especially sins of intemperance.

b. Honesty (*Ehrbarheit*) is a moral perfection averting man from dishonest pleasures and inclining him to the decorum which shines forth in abstinence from illicit pleasures.

2. The subjective parts of temperance are abstinence, sobriety, and chastity, of which two temper taste, but the third tempers touch.

a. Abstinence is the virtue moderating the appetite and use of food and of non-inebriating drink; opposed to it is the vice of gluttony.

Abstinence accepted in this sense is more often called temperance than abstinence, and by the name abstinence (*Enthaltsamkeit*) there is rather designated a subtraction of foods which is greater than the nature of temperance of itself demands. This abstinence, from a motive of virtue, abstains from licit things.

Its act is fasting.

b. Sobriety is the virtue moderating the appetite and use of inebriating drink; opposed to it is drunkenness.

c. Chastity is the virtue moderating or excluding the appetite and use of venereal things; opposed to it is lust.

3. The potential parts of temperance are those virtues annexed to temperance which bring about moderation concerning matters which are not so difficult to moderate as the concupiscences of taste and touch. Virtues of this kind are four: continence, meekness, clemency, and modesty.

a. Continence is the virtue firming the will for resisting concupiscence which impels especially to the venereal pleasures of touch.

The name continence is also taken in another sense, in which it signifies the same as chastity, namely abstinence from every venereal pleasure.

b. Meekness is the virtue which moderates anger according to the prescription of right reason. Opposed to meekness by excess is irascibility; by defect, lenity or excessive indulgence.

c. Clemency is the virtue which moderates external vindication or punishment according to the norm of reason. Opposed to clemency by excess is cruelty; by defect, excessive lenity.

d. Modesty is the virtue by which someone preserves the mode fitting to himself in internal and external movements and in the whole arrangement of his things. There are four species of modesty: humility, studiousness, modesty of morals, and modesty of attire.

Book Sixth.

On Sins.[356]

Question First.

On the Nature and Division of Sin.

286. Notion. 1. Sin is a morally evil human act;[357] but every human act is a free act, and every evil act is against the rule of morals, which is the divine law; therefore sin is customarily defined as a free transgression of the law of God.

a. Free: that which occurs from previous knowledge of the intellect and with consent of the will; for what is not free can in no way be imputed as sin. Transgression signifies any injury of the law of God, whether it is done by commission or by omission, whether by heart, mouth, or work. Of the law of God: for sin supposes a law, and one obliging in conscience, whether it was passed immediately by God or by man; but since there is no power except from God, every obligation of law is derived ultimately from God. Therefore Sacred Scripture says: sin is iniquity, that is, lawlessness;[358] and it also calls sin prevarication[359] and disobedience.[360]

b. Sin differs from imperfection. Three genera of imperfections are customarily distinguished, the first of which contains negative imperfections, the two latter positive and moral imperfections. a. Imperfection is called the defect of a further perfection in human acts, e.g. love of God lacking that perfection which it could have: this imperfection inheres by its nature in all human acts and therefore is not sin. b. Imperfection is called an indeliberate transgression of a divine law of lesser moment, e.g. involuntary distraction in prayer, an indeliberate excess in laughter or jokes: this imperfection is a light material sin, since it is an action entirely involuntary. c. Imperfection is called an action or omission which is opposed to a counsel, e.g. not complying with a divine inspiration, violating the statutes of a community, not obeying the dictate of reason moving one to morally better things, omitting morning or evening prayers, etc. Imperfections of this kind, since they are not against the law of God, of themselves are not sins; nevertheless they displease God and merit reproof, and, if they are committed deliberately, by reason of the motive on account of which the counsel is omitted, they will rarely be without some sin of sensuality, negligence, curiosity, acedia, etc. For the law of nature forbids man to determine himself in his actions from an irrational motive; therefore if the motive on account of which the counsel is omitted is irrational, the omission is a sin.

2. Since offense consists in this, that something is done against the will of another, and injury in this, that something is done against the right of another, every sin, inasmuch as it is against the will of the supreme legislator, by its nature is an offense and injury inflicted upon God. Therefore every sin gives God a motive of displeasure and a right of punishing the agent.

287. Conditions required for sin. Therefore three things are necessarily required for every sin: a. an action which is against the law of God, and therefore an evil action; b. advertence of the mind to the malice

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Notes

356. St. Thomas I-II, q. 71-89. St. Alphonsus, l. 5, n. 1-84. Suarez, *De peccatis*. Lugo, *De poenitentia*, disp. 16. Greg. de Valentia, *Commentar. scholast.*, II, disp. 6. A. Tanner, *Theologia schol.*, II, disp. 4. Billot, *Disquisitio de natura et ratione peccati personalis* (Rome: Typogr. de Prop. Fide, 1897). Schiesl, *Der objective Unterschied zwischen Tod- und lasslicher Sunde* (Augsburg: Wolff, 1891). Lehmkuhl I, n. 219-256. Kleutgen, *Theologie der Vorzeit^2* (Munster: Theissing, 1872), II, *Von der Sunde*, p. 404 ff. Chr. Pesch, *Praelectiones dogm.* (Freiburg: Herder, 1900), IX, n. 429-556. The same, *Theologische Zeitfragen* (Freiburg: Herder, 1901), *Das Wesen der Todsunde*, p. 47 ff. K. Frick, *Der objective Unterschied zwischen schwerer und lasslicher Sunde* (*Zeitschrift fur k. Theolog.*, 1889), p. 417 ff.

357. St. Thomas I-II, q. 71, a. 6.

358. 1 John 3, 4.

359. Rom. 5, 14.

360. Ibid. 5, 19.

of the action; and c. consent of the will. For true sin is a human action, which is not had without advertence of the mind and consent of the will.

1. Advertence to the malice of the action must be actual; interpretative advertence does not suffice, but imperfect and confused advertence does suffice. For sin is a free transgression of the divine law; but an actual free transgression cannot be had unless advertence is actually made to it in some way.

a. Nevertheless it is not required: a. That advertence last as long as the sinful action lasts, but it suffices that it be present when the evil action is begun. b. Nor is it required that it be clear and distinct, but confused advertence suffices, by which, either indistinctly or by doubting and suspecting, one knows the matter to be evil (n. 46). c. Nor is it required that it be reflex, by which the sinner is conscious to himself of advertence to the malice of the action, but direct advertence suffices, which arises from habitual and ready knowledge of sin. Thus a priest who sins against chastity, or a religious who commits theft at home, is not excused from the sin of sacrilege because he does not reflexly attend to his vow. d. Nor is explicit advertence to the offense of God required, but it is enough that the sinner know the matter to be evil or to be against conscience: for by the very fact that he knows this, he also adverts in some way that the matter is contrary to the will of the supreme legislator, which is manifested to us through the dictate of conscience; but this knowledge suffices for incurring an offense of God.

b. Interpretative advertence is called that which someone could and ought to have had, but in fact did not have from involuntary inconsideration. Therefore the doctrine of certain authors is altogether to be rejected, who judge that even those actions of which in fact there is no advertence can be imputed as fault, provided this advertence could and ought to have been present. Thus they affirm that a hunter is guilty of homicide who, as soon as he perceives something hidden among the bushes, with no investigation first made, invincibly thinking it to be a wild beast, fires and kills a man: for although, they say, he does not advert to the danger of killing a man, nevertheless he could and ought to have adverted to it. They teach that this happens especially when the man, even if adverting, would not have acted otherwise. Therefore they affirm that he sins in himself, not only in the cause, who, having a depraved custom of swearing falsely, from a sudden motion of soul, altogether inadvertently swears falsely.[361]

2. By equal reason an action cannot be sinful unless it is voluntary either in itself or at least in the cause; therefore there cannot be sin without consent of the will.

Therefore he who experiences motions of the flesh or the stimuli of his passions, of anger or concupiscence, without consenting, does not sin, since sense does not harm unless consent is present. From consent of the will, namely, there must be distinguished both temptation, by which someone is allured to sin, and the sense of pleasure, and the natural propensity of the sensitive appetite or of the will toward an evil thing, and finally the deliberation of the mind weighing on either side motives for sinning or not sinning, all of which precede the sinful consent itself. This is taught by the words of Sacred Scripture exhibiting the origin of sin: Each one is tempted, being drawn away and enticed by his own concupiscence. Then concupiscence, when it has conceived, brings forth sin; but sin, when it has been consummated, generates death.[362]

288. Therefore there is no philosophical sin which is not at the same time theological, i.e. in this order of things there is no morally evil action which is not an offense of God: because it is impossible that a man perfectly using reason be ignorant of God without fault, and in his actions not advert, not even confusedly, to God the supreme legislator.

Notes

361. The patrons of this sentence are Cajetan and especially the rigorists Concina, Collet, Antoine, etc., whom St. Alphonsus cites and refutes, n. 4.

362. Jas. 1, 14-15.

a. There were those who affirmed that morally evil actions could be given which are against right reason, because they are against the dictate of conscience, but which nevertheless are not offenses of God, because they are not known to be against the law of God, namely in those who either are ignorant of God or, while they sin, do not think of God and his law. Their doctrine was condemned by the Church as erroneous.[363]

b. Indeed, philosophical sin is called an action which is and is known to be against right reason; theological sin, however, is an action which is and is known to be against the will of God. But he who through the dictate of conscience knows that something is against right reason, by this very fact confusedly and implicitly, yet actually, knows also that it is against the will of God. Therefore there is no action which through the dictate of conscience is known to be against right reason without its at the same time being confusedly known to be against the will of God and thus an offense of God. For in this order of providence it cannot happen that someone invincibly be ignorant of God, or know some action to be morally evil, without at the same time at least confusedly knowing that it is against the law of God, because through conscience the supreme legislator manifests himself to man. Therefore in this order there is no morally evil action which is not an offense of God, which is manifestly gathered from the epistle of St. Paul to the Romans.[364]

289. Division of sin. Sin is divided in many ways.

1. Into original sin, which, committed by Adam's will, is poured into descendants through generation; and personal sin, which is committed by each man's own will.

2. Into actual sin, which is an action or omission against the law of God; and habitual sin, which is the effect left in the soul from actual sin and is customarily called the state of sin. The divisions which follow pertain to actual sin.

3. Into sin of commission, which is the placing of a prohibited action against a negative precept, as theft; and of omission, which is the omission of a prescribed action against an affirmative precept, as omission of Mass.

4. Into external sin, which is committed by word or by some exterior deed, and internal sin, which is committed by the mind and heart alone; whence sins are also distinguished into sins of the heart, which are completed interiorly, of the mouth, which are completed by word, and of work, which are completed by external action.

Therefore by St. Augustine sin is defined as something said, done, or desired against the eternal law of God.[365]

There are sins which are completed interiorly by the heart alone, as heresy, hatred. These sins are complete in their species, even if they are not manifested exteriorly. There are other sins which are not perfect in their species unless they are consummated exteriorly by work, as sacrilege, theft, homicide, fornication. In these the internal sin, e.g. the purpose of stealing, has itself toward the external as incomplete toward sin

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363. This proposition (2) was condemned as erroneous by Alexander VII (August 24, 1690): "Philosophical sin, however grave, in him who either is ignorant of God or does not actually think of God, is a grave sin, but is not an offense of God nor worthy of eternal punishment …" By these words there is not proscribed the sentence of those who hypothetically teach that, if someone in fact labored under invincible ignorance of God and, while performing an action which he nevertheless adverts to be unfitting to rational nature, invincibly did not even implicitly think of God, he would not commit an offense of God, because it is impossible for God to be offended unless he is known in some way. Cf. Viva on this proposition.

364. Cf. Rom. 1, 18 ff.; 2, 5 ff.

365. *Contra Faustum*, l. 22, c. 27.

complete in its species. In each case the internal and external sin pertain to the same objective species; but they are said to differ from one another in species, entitatively, because the mode of sinning only internally or also externally is essentially diverse and must be distinctly declared in confession.

5. Into sin against God, which is against virtues whose object is God himself, as blasphemy; against neighbor, which is against virtues which regard neighbor, as theft; against oneself, which is against virtues which moderate one's own passions, as drunkenness and lust.

6. Into sin of ignorance, which proceeds from culpable ignorance; of infirmity, which proceeds from passion soliciting the will; and of malice, which proceeds from full knowledge, with no passion drawing, and therefore from the perversity of the will alone.

Not only sins of malice, but also of infirmity and ignorance, can be grave sins. As regards the degree of subjective malice, indeed, these three genera of sins differ among themselves; but as regards essence, any one of them can be grave and mortal. And sins of ignorance in a grave matter are grave if the ignorance is gravely culpable; but sins of infirmity in a grave matter are grave, in a light matter light. Experience establishes that a great part of mortal sins are sins of infirmity.

7. Mortal or grave sin is called that which turns man away from God, the ultimate end, which brings death to the soul because it deprives it of sanctifying grace, which of itself is worthy of eternal punishment. Venial or light sin is called that which does not turn man away from God, which does not bring death to the soul, which merits not eternal punishment but only temporal.

8. Into material sin, which is an involuntary transgression of law and therefore not imputable as fault; and formal sin, which is a voluntary transgression of law and therefore imputable as fault.

Material sin, or sin taken objectively, is opposed only to law; formal sin, or sin taken subjectively, is opposed to law and conscience. In a twofold way it can happen that sin remains only material: either because the act is not human, as if one fully drunk does an evil thing, or because the act is indeed in itself human, but the agent is ignorant that it is against law, as if someone violates abstinence not knowing it is a day of abstinence.

9. Into carnal sin, which consists in disordered pleasure of the flesh, as gluttony, drunkenness, lust; and spiritual sin, which consists in disordered pleasure of the mind, as hatred, pride, envy, avarice.[366]

10. Into one's own sin, which is the act or omission of the sinner himself, and another's sin, which is the act or omission of another, but nevertheless is imputed to us by reason of scandal, inducement, cooperation.

This distinction is to be explained in such a way that one sin is called one's own only, another another's and one's own at the same time, because the sin which is committed by another becomes one's own for us by reason of scandal, etc.

290. On sin of omission. Sin of omission can be committed by omission of a commanded internal act, as if the precept of eliciting an act of faith or charity is not fulfilled; or by omission of a commanded external act, as if the precept of hearing Mass, giving alms, is not fulfilled. Here the discussion is about external omission.

1. The internal sin of an external omission is committed when the cause of the future omission is deliberately desired; the external omission then occurs when the time for fulfilling the precept is at hand.

Notes

366. St. Paul does not understand works of the flesh in the same sense, since he also counts idolatry, anger, enmities, etc. among the works of the flesh (Gal. 5, 19 ff.). By the name flesh he rather understands human nature corrupted by original sin and prone to sins. Cf. Gal. 5, 13. 16; 1 Cor. 3, 3.

If someone gives himself over to sleep, so that he foresees that on account of this he will not be able to hear a commanded Mass soon to be celebrated, he commits the internal sin of omission when he gives himself over to sleep; he is guilty of the external omission when the time of hearing Mass occurs, even if then he is not in possession of reason. Hence if, when the time of Mass occurs, he wakes and hears Mass, he is guilty of the internal sin of omission, but by no means of the external omission.

2. External omission in the cause of the will has the nature of sin, although it is not actually free, if he who placed the cause has not meanwhile retracted his will; but if he has retracted the will, the external omission is not a sin, but only the effect of a sin.

If someone commits himself to a journey, foreseeing that in this way he cannot hear Mass, and on the journey, before the time at which the precept can no longer be fulfilled, he revokes the evil will, because he would wish to hear Mass if he could, the omission is no longer a sin, because it is no longer voluntary either in itself or in the cause, which he would remove if he could.

3. The actions which are done at the time of the commanded act become evil if they are causes of the omission of the commanded act; but they do not become evil if they are not causes of the omission, but have themselves toward it merely concomitantly.

If someone determines to omit the commanded Mass in order to be free for study at home, the study becomes morally evil because it is the voluntary cause of the sinful omission; if someone determines to omit Mass from another undue cause and afterward, lest he be idle at home, is free for study at the time of Mass, the study is not morally evil.

4. The malice which an action contracts that is the cause of an omission is not distinct from the omission, but is the malice itself of the omission: for it contracts the malice of that sin of which it itself is the cause.

Therefore if the action which is the cause of the omission is evil in itself, two sins are committed; if it is indifferent or good, one sin is committed. Thus if someone omits Mass in order to read prohibited books, two sins are committed; if he omits Mass in order to occupy himself with licit studies, one sin is committed.

Question Second.

On the Distinction of Sins.

A threefold distinction of sins must be noted: theological, specific, and numerical. Sins differ theologically from a diverse relation to the ultimate end; specifically, from the moral object into which the human will is borne; numerically, from the moral multiplicity of acts and objects. But these things must now be explained more accurately.

Article First.

On the Theological Distinction of Sins.

291. What it is. The theological distinction is taken from the essentially diverse nature of sins; wherefore sins are theologically distinguished into grave or mortal sins and light or venial sins.

a. This distinction is called theological because it arises from consideration of sin by which sin is referred to God: for mortal sin turns man away from God, but venial sin does not turn him away from God. Wherefore these two sins differ from each other in the whole genus.

b. A sin is called mortal or venial from the effect which it produces in the order of grace; it is called grave or light from opposition to the moral order, which is violated notably by grave sins, but only lightly by light sins.

§ 1. On the Difference between Mortal and Venial Sin.

292. On the difference of each. Not all sins are mortal, but some by their nature are mortal, others venial.

1. The essential difference between mortal and venial sin was denied by: a. Jovinian, asserting that all sins are equal; b. the Pelagians, affirming that sanctifying grace is lost through any sin whatever; c. Wiclif, asserting that only the sins of the predestined are venial, because they are forgiven to them; d. the Protestants, asserting either with Luther that the sins of unbelievers are mortal, but the sins of believers are venial, except the sin of unbelief, or with Calvin that the sins of believers are venial, not because they do not merit death, but because they are not imputed to them; e. Baius, affirming that no sin is venial by its nature, but every sin merits eternal punishment.

2. The difference is proved: a. from Sacred Scripture. Some sins are compared to the lightest and smallest things, but others to the gravest and greatest things: to a gnat and a camel,[367] to a mote and a beam;[368] but by these comparisons it is signified that some sins by their nature are far smaller than others. Moreover, there are sins which exclude from the kingdom of God,[369] and sins which are committed even by the just, without their ceasing to be just: There is not a just man on earth who does good and does not sin;[370] if we say that we have no sin, we deceive ourselves and the truth is not in us;[371] for in many things we all offend.[372] But sins which exclude from the kingdom of God are mortal; but sins which do not exclude justice cannot be anything except venial.[373]

b. From the judgment of the Church. The Council of Trent condemned the doctrine of the Protestants;[374] moreover proposition 2 among the Baian propositions was condemned: No sin is venial by its nature, but every sin merits eternal punishment. This difference is implicitly handed down, on the one side, by the dogma concerning hell, an eternal punishment for mortal sins not expiated in life; on the other, by the dogma concerning purgatory, a temporal punishment for venial sins not destroyed.

c. From reason. Certain sins by their nature are so small that it is incredible that they notably injure the moral order, dissolve divine friendship, and merit eternal punishment, as some idle word or the theft of one small coin; therefore not all sins are mortal, but there are certain sins light from their object. Therefore St. Augustine says: "What can be said more absurdly, more insanely, than that he who at some time laughed rather immoderately, and he who rather savagely burned his fatherland, should be judged to have sinned equally? … Or if for this reason they are equal, because each is a fault, mice and elephants are equal, because both are animals; flies and eagles, because both are flying things."[375]

293. Criteria for discerning between grave and light sins. Although it is very important that it be determined which sins objectively are grave and which light, nevertheless to define this concerning all sins is not only difficult but also impossible. Therefore in this matter one must proceed cautiously; but grave sin must never be affirmed if it is not certainly established concerning it. Some criteria are external, others internal, taken from the very nature of the thing.

Notes

367. Matt. 23, 24.

368. Luke 6, 41 ff.

369. 1 Cor. 6, 9 ff.

370. Eccles. 7, 21.

371. 1 John 1, 8.

372. Jas. 3, 2.

373. For demonstrating this matter, the argument taken from Prov. 24, 16 is ineffective: *The just man shall fall seven times*; for the discussion is not about a fall into sin, but about a fall into misery, into which the just man will fall from the snares of the impious, from which nevertheless, with the help of God, he will always rise again.

374. Sess. 6, can. 27.

375. Epist. 104, c. 4, n. 130.

a. Sacred Scripture: sins which in the sacred letters are said to exclude from the kingdom of heaven, to be abominable, to be held in hatred by God, worthy of eternal punishment or death; likewise sins which have joined to them an explicit or implicit curse, woe!, are mortal.

Where there is question of positive laws, a grave punishment sanctioned by the Church against transgressors, as excommunication, privation of ecclesiastical burial, is a sign of a law obliging under grave obligation.

b. Definitions of Roman pontiffs or general councils.

c. Doctrine of the holy fathers and theologians: for what their common sentence declares to be mortal must be held as such.

d. The very nature of the thing. But if no external criterion exists from which the gravity of the sin can be determined, attention must be given to the object and end of the obligation. If there is question of a thing or of a good of great moment, which is notably injured by sin, the sin itself must be called grave; therefore sins are grave which yield a. to grave injury of God; b. to grave harm of the human race, of the Church, of the republic; c. to grave harm of neighbor, whether spiritual or corporal; d. to grave harm of one's own salvation, whether spiritual or corporal.

294. Corollary: Three classes of sins. When account is taken of the gravity of the object, sins are divided into three classes:

1. Sins grave from the whole genus are those which, with the object considered, are always grave. These do not admit smallness of matter and therefore can become light only from imperfection of the act.

There is no smallness of matter in those sins by which the divine perfection is directly injured, or a great and indivisible good. Therefore sins against the theological virtues, sins of blasphemy, simony of divine law, perjury, divination, do not admit smallness of matter, because they directly injure divine perfection. Likewise sins by which the life of man is destroyed, or a sacrament is rendered invalid, or the sacramental seal or the natural fast is injured, do not admit smallness of matter, because they injure the great and indivisible good of life, of the validity of the sacraments, of reverence owed to the sacraments.

2. Sins light from the whole genus are those which, with the object considered, as long as they remain within the same species, are always light. These cannot become grave except from an erroneous conscience or from a circumstance which changes the species.

Light from the whole genus are those sins which contain excess in an action good or indifferent of itself, as excess in food, in non-inebriating drink, in sleep, in laughter, etc., or an action indeed evil in itself, which nevertheless does not gravely injure the moral order nor notably impede a moral good, as an officious lie, a vain thought.

3. Sins grave from their genus are those which, with the object considered, are grave of themselves and light only in light matter. These admit smallness of matter and therefore, within their species, in grave matter they are grave, in light matter light.

a. Smallness of matter is given in those sins by which a finite divisible good is injured: for in these the matter can decrease to such a degree that it can no longer be judged grave, as in the theft of a small coin. Therefore sins against the worship owed to God admit smallness of matter, because the worship which we exhibit to God is a finite and divisible good, which can be greater and less according to the measure of the matter. Likewise sins of real and local sacrilege, because the sanctity of a thing or place is a finite and divisible good; it is greater or less according to the measure of the matter, etc.[376]

b. Great or small matter must be determined by prudent judgment; to form this judgment three things must be considered: a. the thing itself according to itself, whether it is something great or small; b. the thing in comparison to the whole which is commanded, whether it is notable or not; c. the thing in order to the end of the precept, whether it contributes much or little to promoting the end intended through the precept. In precepts which prescribe a determined matter under grave obligation, it can be established as a norm that the fourth part of the determined matter is notable, but a part less than the fourth is venial from smallness of matter, unless according to itself or by reason of the intended end it must be called notable.

§ 2. On Mortal Sin.

295. Essence of mortal sin. Mortal sin contains several notes in itself (n. 289). It is asked which of them constitutes its essence, from which the others are derived as from a common principle. Since sin can be considered subjectively and objectively, its essence must be determined in two ways.

It must be well noted that sin is a moral act which by its own nature contains a twofold element: an objective element, which is the sinful action considered in itself, namely an action repugnant to the moral law and therefore to the moral order; and a subjective element, which consists in the knowledge of the mind and the consent of the will.

1. Considered subjectively, it is an act of the will by which man turns away from God, the highest good and ultimate end, and chooses the creature, a created good, for himself as ultimate end; or, what comes to the same thing, it is an act of the will by which man withdraws love above all things from God, the highest good, and transfers it to a created good.

a. The primary and essential relation by which man is ordered to God consists in this, that he constitutes God, the highest good, as his ultimate end, subjects himself to him by his own will, places him before all created goods, and by this very fact loves him above all things. Hence the appreciatively supreme love by which man embraces God, the highest good and ultimate end, constitutes the essential relation of man to God. Mortal sin is formally opposed to the love of God above all things. In all mortal sins this happens: that a created good is presented to man, to the loving and choosing of which he is solicited; the mind understands that this is absolutely prohibited, so that it cannot stand together with the love of God and his friendship; and nevertheless, with the love of God spurned, the will voluntarily chooses the love of the creature. Therefore all mortal sins primarily and essentially are opposed to the love of God above all things and separate man from his ultimate end; and since sanctifying grace in the present order is inseparably connected with this love of God, when the love is rejected, grace itself also is necessarily destroyed.

b. Man can turn himself away from God, his end, in two ways: explicitly and formally, which happens in sins of hatred of God; implicitly and virtually, when indeed he explicitly turns himself only to the creature and would not wish, if it could be done, to be turned away from God; nevertheless by the very fact that he deliberately chooses sin, knowing that it is repugnant to divine love and conjunction with God, he also implicitly and virtually chooses aversion from God.

c. The creature in which he constitutes his ultimate end is the sinner himself, or the proper good of the sinner; for the particular creature which the sinner prefers to God is diverse, but the ultimate reason on account of which he prefers it to God is his proper good, so that the sinner substitutes love of himself above God for love of God above all things.

Notes

376. Sporer-Bierbaum, *Theologia mor. decal. et sacram.*, I, tract. 1, n. 272 ff.

2. Objectively, mortal sin is an action which gravely injures the moral order and the divine law; or it is an action which notably injures the moral good for the protection of which the moral order has been sanctioned by law by God.

a. The divine law tends to this, that the moral order be preserved. For obtaining this end, the law absolutely exacts those things without which the moral order could not be preserved, and absolutely prohibits those things through which that same order would be disturbed. Violation of the law which is necessary for preserving the order constitutes mortal sin.

b. Since the moral order is composed of those diverse relations by which man is referred to God, to himself, and to neighbors, the divine law necessarily prohibits those things which, if they were licit, would overturn man's essential relation to God, as heresy, blasphemy, perjury, sacrilege; or his essential relation to himself, as drunkenness, softness; or his essential relation to neighbors, as homicide, theft, adultery.

296. Effects of mortal sin. 1. Loss of sanctifying grace. The just man is habitually turned toward God, the supernatural end, through sanctifying grace; by the very fact, therefore, that he turns himself away from God, he loses sanctifying grace. This loss is followed by the loss of the infused virtues and gifts, which accompany sanctifying grace as ornaments. Since the privation of sanctifying grace is called a stain, it is clear that mortal sin induces the stain of sin into the soul.

Nevertheless the infused habits of faith and hope are not destroyed by every mortal sin, which is established from the Council of Trent,[377] as will be said in its own place.

2. Liability of fault. Since any sin whatever is an offense inflicted on God, through sin man becomes liable to undergoing the just indignation of God, which lasts so long as he has not furnished due satisfaction for the offense inflicted. Now the liability of fault consists in the necessity of bearing the just indignation of God.

3. Liability of punishment. Since any sin whatever is an injury inflicted on God, through sin man becomes liable to undergoing due punishment; now the liability of punishment consists in the necessity of undergoing due punishment. But the punishments inflicted or to be inflicted on account of sin are of a twofold genus: some pertain to the present life, others to the future life. The former proceed especially from the mercy of God and are all at the same time medicinal, because they all tend to this, that they either convert men from sins to God or deter them from sinning. The latter proceed from the justice of God and are all vindicative, because they tend solely to this, that the violation of order be vindicated.

a. Punishment is owed to fault: namely because man, by sinning and indulging his own will, acted against the will of God, he must suffer something against his own will from the will of God. Eternal punishment indeed is owed to mortal sin, but temporal punishment to venial sin.

b. The punishment of the future life is divided into punishment of loss and punishment of sense. The difference between the two consists in this, that the punishment of loss consists in mere privation and responds to sin insofar as it is aversion from the highest good; but the punishment of sense consists in positive pain and responds to sin insofar as it is conversion to a finite and created good. Because man, by sinning, has cast away the highest good and his beatitude with injury to God, God deprives him of this good in the other life; and because by sinning he inordinately sought pleasure in a created thing, God inflicts pains through a created thing in place of pleasure. Sacred Scripture indicates both punishments: Depart from me, the punishment of loss, into eternal fire, the punishment of sense.[378]

Notes

377. Sess. 6, can. 28. Cf. 1 Cor. 13, 2; Jas. 2, 14.

4. Loss of all merits, impossibility of acquiring new merits, and special unworthiness of obtaining actual graces.

§ 3. On Venial Sin.

297. Essence of venial sin. 1. Subjectively, venial sin is an act of the will by which man loves a created good against the will of God, without nevertheless preferring it to God and constituting it as ultimate end.

In every venial sin a created good is presented to man, to the loving of which he is solicited. He understands that he cannot love and choose it without acting against the will of God and displeasing him, but at the same time he understands that the love of that good does not turn him away from God and does not dissolve his friendship. But if he actually chooses it, nevertheless he is so disposed that he would never choose it if for that reason he would fall away from the ultimate end and from the love of God. Therefore he retains the essential and necessary relation to the ultimate end, since he preserves the love of God above all things.

2. Objectively, venial sin is an action which violates the moral order and the divine law only lightly; or it is an action which does not notably injure the moral good for the protection of which the moral order has been sanctioned by law by God.

a. God exacts that the moral order be preserved uninjured in every respect. Now an action which indeed does not disturb this order, yet is opposed to it in some measure, or an action which does not notably but nevertheless lightly impedes the good to be obtained through exact observance of the moral order, constitutes venial sin.

b. It can happen in two ways that some action injures the moral order somewhat, and yet does not essentially disturb it: a. from the object itself, which by its nature is of such a kind that it cannot overturn the order, as a non-harmful lie, voluntary distraction in prayer; b. from smallness of matter, when an action which indeed of itself would overturn the order nevertheless is not apt to overturn it, because it turns about a matter of small moment, as a slight theft.

c. Therefore it is truly said that there are two genera of venial sins by reason of matter: some which are venial from the object itself, and others which are venial from smallness of matter. To these there is added a third genus, namely those which are venial from imperfection of the act.

Note 1. They are called venial, not because they receive pardon, for this also belongs through the mercy of God to mortal sins, but because by their nature they can receive pardon and, if they remain alone, ought to receive pardon; mortal sins, on the contrary, considered in their nature, are not remissible. For mortal sins destroy grace; but venial sins do not destroy grace. Hence it happens that man can satisfy for these, but of himself cannot satisfy for those; moreover mortal sins are worthy of eternal punishment, venial sins only of temporal punishment; hence it happens that the punishment of the latter ought to have an end.

Note 2. It is the doctrine of St. Thomas that venial sin is not against, but beside the law of God.[379] To understand this rightly, it must be noted that sin can be against law in a twofold way: either only against some precept of the law, or against the precept and the end of the law. In the former sense both mortal and venial sin are against the law; but in the latter sense only mortal sin is against the law of God, because it alone extinguishes charity, which is the end of the law. But venial sin, since it does not extinguish charity, is said to be not against but beside the law of God.

Notes

378. Matt. 25, 41.

379. *De malo*, q. 7, a. 1, ad 1.

Note 3. St. Thomas affirms that mortal sin turns about the ultimate end, but venial sin about those things which are for the end.[380] These words cannot be understood in such a way that the proximate object of an act gravely sinful is always the ultimate end, the highest good, while the proximate object of an act lightly sinful is always some means to the ultimate end, namely a created good, since there are manifestly mortal sins which proximately turn about means to the end, as homicide, theft, and there are sins, at least venial from imperfection of the act, which proximately turn about God himself, as half-deliberate acts of unbelief, despair, hatred. Therefore the sense is this: that mortal sin is a disorder concerning the end, because it destroys the due order or conjunction with the ultimate end; venial sin is a disorder concerning means, because the will adheres too much to created things, without nevertheless withdrawing from the ultimate end.

298. Effects of venial sin can be considered negatively and positively.

1. Negatively. a. Venial sin does not extinguish sanctifying grace: for it does not take away the due union with God; moreover, if it could extinguish it, either the last venial sin would become mortal, or from many venial sins there would arise a mortal sin. Since these things contain repugnance, venial sin, however it increases in degree or number, cannot take away sanctifying grace.

b. Nor does it diminish it: for if venial sin had the power of diminishing sanctifying grace, with venial sins multiplied, grace would finally be entirely extinguished, which cannot happen through venial sins.

But since habitual charity, the infused virtues, and the gifts of the Holy Spirit cohere with sanctifying grace by an indissoluble bond, so that they are not only acquired and lost together with grace, but are also increased with it, it is clear that these also are in no way diminished through venial sin. Finally, venial sin in no way diminishes merits already acquired or the glory corresponding to them.

c. Nor does it induce a stain into the soul: for since the stain of sin consists in the privation of sanctifying grace, venial sin, which neither takes away nor diminishes grace, cannot cause a stain. Wherefore if even venial sin is called a stain of the soul and is compared to dust and filth which, sprinkled on the face of a man, disfigure its beauty, this must be understood not of a detriment of grace caused by venial sin, but either of liability of fault or of liability of punishment.

2. Positively. a. It diminishes the fervor of charity. By the fervor of charity is designated not only promptness and facility in eliciting fervent acts of charity, but also promptness and facility in exercising acts, more or less intense, of any virtue whatever: for through acts of virtues charity fervently lives in the just man. Now since venial sin impedes and diminishes the exercise of virtues, by that very fact it diminishes the fervor of charity; and since tepidity is opposed to fervor, venial sin is said to induce tepidity.

b. It induces liability of fault: for venial sin also furnishes God a just cause of displeasure and indignation, which nevertheless does not dissolve divine friendship.

c. It induces liability of punishment, not indeed the punishment of loss, which responds to sin insofar as it is aversion from God, but only the punishment of sense to be paid in purgatory and the delay of the vision of God.

d. It gradually disposes toward mortal sin, because it weakens acquired virtues, excites the motions of concupiscence more, and finally brings it about that God permits graver temptations and grants actual graces more rarely.

Notes

380. *Summa* II-II, q. 24, a. 10.

§ 4. On Habitual Sin.

299. On habitual mortal sin. Habitual sin is sin which remains in the soul from any mortal sin whatever until it is forgiven; but that which remains in the soul from the act of sin is: a. habitual aversion from God; b. liability of fault; c. voluntary privation of sanctifying grace; wherefore habitual sin consists in these.

1. That habitual sin, which remains in the soul after the act, must be distinguished from actual sin is clear:

a. A man is actually called a sinner even when the evil action was performed long ago; but from the act of sinning alone he could not be called a sinner unless something were left in the soul by the act.

b. The same thing is indicated in many places by Sacred Scripture: And you know that he appeared that he might take away our sins;[381] but not the evil act, because it has already passed, but the sin which inheres in the soul in the manner of a habit is afterward taken away. Cleanse me from my sin;[382] the prophet asks to be cleansed not from the act of sin already past, but from the sin still clinging in the soul. And forgive us our debts;[383] only habitual sins contracted from actual sins can be called debts.

2. The essence or formal nature of habitual sin consists in habitual aversion from God, the ultimate end, which remains after the act of sin: for man remains turned away from God until he returns to God through conversion. But the offense and injury inflicted on God also remains imputable to man until it is remitted; wherefore habitual sin is rightly said to consist in the liability of fault, by which, after sin, there rests upon man the necessity of having God offended and of bearing his indignation. Because in this supernatural order conversion to God, the ultimate end, consists in sanctifying grace, and therefore aversion from the ultimate end consists in voluntary privation of sanctifying grace, which voluntary privation remains until conversion, habitual sin is also said to consist in voluntary privation of sanctifying grace.

3. Mortal sin induces a stain into the soul: for Sacred Scripture often speaks of the stain by which the sinner is constituted unclean, defiled, filthy: Until the present day the stain of this crime remains in us.[384] The stain left in the soul by mortal sin in the present order consists in the voluntary privation of the brightness of grace, which is caused by actual sin.

300. On habitual venial sin. a. That there is habitual venial sin is established from the same reasons by which habitual mortal sin is demonstrated: for even the just call themselves sinners[385] and say that they are cleansed from every sin.[386]

b. It consists in past actual sin still remaining, until it is revoked and remitted. Through actual sin the will is deprived of due rectitude with the moral order, since it adheres too much to a created good; now this privation induced into the will through sin remains until it is retracted through penance and the sin is remitted.

Article Second.

On Specific Distinction.

Notes

381. 1 John 3, 5.

382. Ps. 50, 4.

383. Matt. 6, 12.

384. Josh. 22, 17. Cf. Jer. 2, 22; Eph. 5, 27; Tit. 1, 15.

385. 1 John 1, 8.

386. Ibid. 1, 7.

301. Declarations. 1. That there are sins specifically distinct is certain from the precept of Christ by which we are commanded to confess sins in their lowest species. From this precept at the same time the practical importance of this question is understood: for the whole question is directed to this, that the confessor may be able to help the penitent in making a confession of mortal sins according to species and number.

Sin can be considered in two ways: first, insofar as it is a human act; and then insofar as it is a morally evil human act, which consists in privation or lacks due form. But in whatever way it is considered, it is clear that there are sins specifically diverse. And indeed not only the objects of sins, but also the forms which evil acts lack, are essentially diverse: for the forms which sinful acts lack are the opposed virtues or relations of fittingness with the precepts which are injured. But since acts are specified by objects, and privations receive species from the forms to which they are opposed, it is clear that morally evil human acts, or sins, are specifically diverse.

2. Now it is asked what the norm is according to which sins are specifically distinguished. Not all assign the same norm.

a. St. Thomas takes specific distinction from the formally diverse objects of sins: those sins differ specifically which turn about formally diverse objects; for human acts receive their species from the object.[387]

b. Scotus takes it from the diverse virtues to which sins are opposed: those sins differ specifically which are opposed to diverse virtues; for privation receives its species from the opposed form, which in this case is virtue.[388]

c. Vasquez takes it from the diverse laws to which sins are opposed: those sins differ specifically which are opposed to morally diverse precepts; for sin consists in privation of fittingness with the precept which is violated through sin.[389]

These three norms for specifically distinguishing sins do not in fact differ from one another, but one explains and perfects another: for virtues are diverse according as their objects are diverse, and laws are diverse according as they regard diverse virtues. Therefore it can rightly be said: sins proximately receive specific distinction from the virtues or precepts to which they are opposed; remotely, from the objects to which they are referred. And indeed hatred of neighbor and theft are sins specifically distinct either because they turn about morally diverse objects, namely the person of the neighbor and the goods of the neighbor, or because they are opposed to essentially diverse virtues, namely charity and justice, or because they are contrary to formally diverse precepts, namely the precept of charity and the seventh precept of the decalogue.

302. The norm taken from virtues. But because of these norms the easier one is that which Scotus proposes, I shall explain it more fully.

For the rest, the following rules furnish only general norms for specifically distinguishing sins; but which sins in particular are opposed to virtues specifically diverse will have to be explained below, where the discussion is about precepts.

1. Those sins are specifically diverse which are opposed to diverse virtues.

a. Therefore heresy, despair, and hatred of God are sins diverse in objective species because they are against the three theological virtues diverse among themselves; perjury, theft, and lying are specifically diverse because they are opposed to diverse virtues, namely religion, justice, and truthfulness.

Notes

387. *Summa* I-II, q. 72, a. 1.

388. In II, dist. 37, q. 1, n. 9.

389. *Disputationes in I-II S. Thomae*, disp. 98, c. 2.

b. If one act is against several virtues diverse in species, it likewise contains in itself several sins diverse in species. Thus the killing of a priest contains two sins, one against justice, the other against religion; and the carnal sin of a priest with a married blood-relative contains four sins: against chastity, religion, justice, and piety.

2. Those sins are specifically diverse which are opposed to the same virtue in a morally diverse mode. For sometimes the object of a virtue is so universal that it contains in itself several objects diverse in moral estimation; therefore diverse precepts of the same virtue also exist. Thus the object of justice is morally diverse according as the goods of the neighbor are diverse, namely life, reputation, honor, or riches; therefore also diverse precepts, the fifth, eighth, and seventh, are referred to these goods. Likewise the object of temperance in the use of food is diverse according as it regards the quantity or quality of foods; wherefore a twofold precept also is had concerning this matter.

a. Therefore perjury, violation of a vow, and blasphemy are sins specifically diverse, because they are opposed to the virtue of religion in a morally diverse mode. Local, real, and personal sacrilege are sins specifically diverse, because a sacred thing, a sacred person, and a sacred place are objects diverse in moral estimation of the same virtue of religion. He who on feast days omits Mass and is occupied in servile works commits two sins, because he injures the virtue of religion in a morally diverse mode.

b. Sins of commission, which are contrary to a negative precept, and of omission, which are contrary to an affirmative precept, against the same virtue are sometimes not specifically diverse, namely if they are referred to the same moral object and precept, as theft and omission of restitution, i.e. taking away and retaining another's thing. But for the most part they are sins specifically diverse, because they regard objects and therefore precepts morally diverse. Therefore heresy and omission of an act of faith, despair and omission of an act of hope, hatred of God and omission of an act of charity, are sins diverse in objective species, because they regard diverse objects and precepts and therefore injure the same virtue in a morally diverse mode.

3. Those sins are specifically diverse which are opposed to the same virtue in a contrary mode, i.e. through excess and through defect: for any virtue has its own mean, and what is opposed to it on either side has a distinct malice and constitutes a sin specifically distinct.

Therefore prodigality and avarice are sins diverse in species, because the former is opposed to the virtue of liberality through excess, the latter through defect. Despair and presumption are diverse in species, because the former is opposed to the theological virtue of hope through defect, the latter through excess.

303. Whether a sin which is opposed to several precepts passed concerning the same matter contains several sins specifically diverse. A distinction must be made: a. If the precepts are formally diverse, i.e. if they were passed from a diverse motive, the sins opposed to them are specifically distinguished. Thus he who breaks a fast to which he is bound from a precept of the Church and from a vow commits two sins, because the precept of the Church obliges from the virtue of temperance and the vow from the virtue of religion.

b. But if the precepts are only materially diverse, i.e. if they were passed from the same motive, the sins opposed to them do not differ specifically, whether they were passed by the same or by diverse legislators.

Thus through theft one sin is committed, even if it is prohibited by natural, divine, and human law, because these laws were passed from the same motive of justice. The beneficed presbyter who does not recite the office commits one sin in species and number; likewise the religious priest who sins against chastity commits one sin against religion, because the obligation is imposed by the same legislator from the same motive of religion.

Article Third.

On Numerical Distinction.

304. State of the question. That several sins specifically distinct, e.g. blasphemy and theft, are also several in number is manifest; and if one sinful act injures several diverse virtues, by that very fact it also contains several malices which are equivalent to sins several in number. Indeed he who steals a sacred thing commits two sins distinct in species and virtually also in number, one against justice and the other against religion. But the question concerning the numerical distinction of sins consists in this: whether and when sins of the same species, e.g. several thefts, several desires of fornicating, are distinguished according to number.

The numerical distinction of sins is taken from a twofold source: a. from plurality of acts; b. from plurality of objects of the same act. Nevertheless there are not as many sins as there are numbered acts, nor does an act which turns about several objects in number contain as many sins as there are numbered objects of the same act. Rather: a. with respect to acts, there are as many sins distinct in number as there are acts morally distinct; b. with respect to objects, there are as many sins distinct in number as there are objects of the same act morally distinct. Therefore first it must be declared in how many ways it can happen that acts physically distinct are joined by moral union and must morally be considered as one act, and how several objects which are reached by one act are morally united; then the rules must be explained according to which one must discern concerning the numerical distinction of sins taken both from plurality of acts and from plurality of objects.

305. Several acts physically are morally united: 1. From the intention of the agent, by which several acts, whether internal or external, are ordered as means to one end: for various actions which are directed to the same act as to an end constitute one action according to moral estimation, even if there is a rather long interval of time between the individual acts.

a. He who proposes to kill an enemy and for this reason conceives acts of revenge, prepares weapons, takes the road, and finally kills him, commits one sin, even if for many days he sought the enemy and several times repeated the purpose of killing, because all these acts are morally united in the same end toward which they tend. Therefore in confession it suffices to say: I killed a man.

b. He who approaches a woman with the intention of fornicating, first places touches, kisses, and immodest conversations, and at last fornicates, commits one sin: for all those things are means for attaining the end and are morally united in the intended end. Indeed even touches, conversations, and things of this kind which are committed immediately after fornication without the intention of a new copula constitute one sin with the fornication itself (St. Alphonsus, n. 41). Therefore in confession he satisfies by saying: I committed fornication.

c. He who, from the intention of stealing one hundred florins, often renews the internal purpose and snatches them away in ten instances, commits one sin, because the individual acts are directed to the same end. Therefore he sufficiently accuses himself by saying: I stole one hundred florins.

d. If an external sin has been begun, but not consummated, whether because of retracted will or because of a supervening impediment, a distinction must be made thus: a. If the means applied for executing the purpose are indifferent, entering a house for fornicating, buying a sword for killing, it is not necessary that they be explained; for whatever evil is in them is already sufficiently declared in the purpose itself. b. If the means applied for executing the purpose are evil, prior touches for copula, blows, wounds, they certainly must be indicated; but it suffices if they are declared confusedly and indistinctly: I wished to fornicate and had already applied certain means, but I did not complete the act. For the individual acts do not lose the moral unity which they have on account of the intention of the agent because of the

interruption of the work; therefore it is not necessary that they be distinctly declared. The same holds concerning this example: if someone intending to kill Titius strikes him and then wounds him, but does not kill him.[390]

2. From the affection of the will, by which it happens that several sinful acts, both internal and external, which occur during the same impulse of passion, morally constitute one action, even if some interval intervenes between the individual acts.

He who from the same impulse of passion inflicts several wounds on an enemy, often blasphemes God, often curses a man, often dishonestly touches himself, several times falsely swears the same thing, morally commits one sin. He who remains for an hour in morose delectation concerning the same object, even if from time to time he thinks about another thing, commits only one sin morally. Therefore a brief interruption between one act and another does not prevent them from being judged morally one act.

3. From the work itself to be completed: namely, if the work either from its own nature or from human institution is so constituted that several distinct acts are required as integral parts for completing it, these acts in moral consideration constitute one action and therefore one sin.

a. The priest who proposes on one day to omit the whole office and in fact omits it commits one sin; nevertheless if he had first proposed to omit only Matins, but afterward also the remaining parts, he would have two sins.

b. He who in the same occasion distributes holy Communion to several persons in the state of sin commits one sin, according to some grave, according to others light, because the individual communions pertain to one ministry by which holy Communion is distributed to several persons, and because the individual communicants participate in the same banquet. Therefore in confession it suffices to say: I distributed Communion in the state of sin.

c. He who in the state of sin successively absolves several penitents likewise commits only one sin: for all absolutions which occur successively pertain morally to the same ministry of absolving, which by its nature is not restricted to one person but is extended to all who on the same occasion approach the sacred tribunal. Therefore in confession he satisfies by saying: once I heard confessions in the state of sin.

306. 1. Concerning the distinction of sins taken from plurality of acts, three rules must be established: a. concerning merely internal acts, which are consummated interiorly, as acts of hatred; b. concerning internal acts to be consummated exteriorly, which have annexed to them a purpose of placing an external action, as the will of stealing, of fornicating; c. concerning external acts or acts consummated exteriorly, as theft, fornication. For moral interruption does not occur in the same mode in all these acts.

2. Yet first it must be declared in how many ways acts which have moral unity from the intention or passion of the agent are interrupted, or lose moral unity. Now acts of the will can be interrupted in three ways: a. through voluntary revocation, as if someone truly repents of the sinful act and afterward nevertheless resumes the same act; b. through voluntary cessation from the act, as if someone deliberately ceases from the evil act, turns himself to other things, and then returns to the same act; c. through involuntary cessation from the act, e.g. on account of sleep, distraction, occupation, etc., lasting for a rather long time. But how great a delay of time must intervene between one act and another for the acts to be judged truly interrupted in this way must be estimated by the judgment of the prudent according to the diverse nature of the acts.

Notes

390. Ballerini-Palmieri I, n. 668.

307. 1. Merely internal acts concerning the same object, which have unity from the same affection of passion, are multiplied whenever they are interrupted through revocation, through voluntary cessation, and through involuntary cessation.

a. Merely internal acts of the will which turn about the same object and proceed from the same affection, even if they are several, are judged one continued act, which lasts so long as it is not interrupted. But acts of this kind are morally interrupted not only by revocation and voluntary cessation, but also by involuntary cessation: for the same affection of passion cannot last amid daily occupations and distractions except for a brief time, at most for two or three hours.

b. He who, seeing an enemy, interiorly imprecates evils upon him and after some time, seeing him again, imprecates upon him anew, commits two sins, because the imprecations have been morally interrupted. He who, thinking of base things with pleasure, exchanges a few words with a passer-by and immediately returns to thinking again about base things, commits one sin; but if he returned to thinking again about them after a longer conversation which had entirely drawn the mind away from these matters, he would have two sins, because the delectations in the latter case, but not in the former, are interrupted.

c. He who for a rather long time, e.g. for an entire day, fosters the same sinful act, commits more or fewer sins according to the diversity of circumstances. Therefore if a penitent does not know how to indicate the number of internal sins, he must be asked about the delay of time during which he persevered in the same sin; and with account taken of the matter, the character of the penitent, and the circumstances, especially the kind of daily occupation, the prudent confessor must judge from this rule the moral interruption of acts, and therefore the number of sins.[391]

308. 2. Internal acts to be completed exteriorly, which have unity from the passion and intention of the agent, are multiplied whenever they are interrupted through revocation or voluntary cessation.

a. These acts, which chiefly have moral unity from the intention of the agent, are interrupted through revocation or voluntary cessation, but not through involuntary cessation, unless the interval of time is long. And indeed an act which tends into an external work is judged to last virtually so long as the work has been placed, unless a notable delay is interposed between the purpose and its execution; and therefore internal acts often repeated are nothing other than a continuation of the first sinful act. But if the external work has already been begun, the depraved will in this exterior effect lasts virtually still more easily even for a longer time. For how much time the same act remains virtually must be determined by the judgment of the prudent according to the diversity of acts: for sometimes, e.g., the purpose of reading a bad book can persist without moral interruption for a few hours or at most for a day; on the contrary, the purpose of stealing for several days, indeed the purpose of revenge even for several weeks.

b. He who determines to commit theft commits one sin, even if for several days he thinks about the theft and often renews the purpose of stealing, until at an opportune time he finally executes the theft. But he who proposes to commit theft this night, and then, mindful of this purpose, remains at home, and tomorrow renews the same purpose, commits two sins, because through voluntary cessation from the iniquitous purpose the first will of stealing is interrupted.

c. He who for a long time does not restore, although he often remembers the obligation of restoring and renews the purpose of not restoring, commits one sin: for in the external effect, namely in the retention of another's thing, the depraved will virtually perseveres. Yet if he retracts the purpose of not restoring

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391. Cf. Lugo, *De poenitentia*, disp. 16, n. 569.

and fosters the will of restoring for some time and afterward returns to the prior purpose, he commits a new sin.

309. 3. External acts are multiplied whenever they are complete in themselves and independent of one another, unless they are ordered as parts or means to one consummated act.

a. Therefore he who twice sacrilegiously communicates, who pollutes himself twice, even if he does this within a brief time, commits two sins. Likewise he makes several sins who omits a prescribed fast for several days: for any omission is something complete in itself, independent of another omission. He commits several sins who strikes an enemy several times at diverse times without the intention of killing him; likewise he who several times takes something from the same heap of wheat without a prior intention of stealing the whole.

b. He who for several days reads a prohibited book places several external acts physically distinct, which nevertheless are morally united both on account of the intention of the agent reading the whole book and on account of the nature of the acts, which constitute integral parts of one whole, namely the reading of the whole book.

Note. Acts which have disparate objects, or external acts which are in themselves plainly complete and independent of one another, cannot be gathered into moral unity either through the intention of the agent or through the affection of the will: for the nature of these acts prevents them from being morally united. He, for example, who, seeing a virgin, basely desires her and a little afterward, seeing another, desires this one too, commits two sins, even if the base desire proceeds from the same ardor of lust. He who within a brief time pollutes himself twice from the same libidinous affection commits two sins. Likewise a priest omitting the office sins as often as he omits the office, even if he should wish to unite the individual omissions through intention. Similarly a prostitute having the intention of sinning with all who come commits as many sins as copulas she completes.

310. Several objects physically are morally united. Whether several physically distinct objects have moral unity and constitute one moral and total object depends on the nature of the object and on the apprehension of the agent. Namely, if several objects either from their nature have moral unity, as a family, a city, and therefore are apprehended by the agent as one whole, or if they are apprehended by the agent in the manner of one object, as my rivals, even if by their nature they do not have unity, they constitute one moral object and are reached by the will as one thing. But if several objects neither have unity from themselves nor are apprehended by the agent as one, but are distinctly apprehended, they constitute not one object but several objects and are reached by several distinct acts of the will.

He who detracts from or curses a family composed of five heads commits one sin, because he apprehends the whole family in the manner of one and reaches it by one intention of harming; nevertheless if he were thinking of the individuals and distinctly wished to harm them, he would commit five sins. He who steals a purse belonging to three owners, whom he confusedly apprehends in the manner of one owner, commits one sin; but by the same act of stealing he commits three sins if he distinctly apprehends them and intends to harm each individually.

Note. Disparate or specifically diverse objects cannot make one moral object, whether they are reached by a merely internal act or by an external act. He, for example, who desires three women of diverse condition, one unmarried, another married, a third a nun, and apprehends them as such, commits three sins distinct in species and number, because they are not apprehended by one act in the manner of one, but by several acts distinctly, and are reached by the will, nor can they be gathered into one object. He who burns a barn in order to kill his enemy sleeping there, or who by one blow kills a horse and its rider, commits two sins: of damage-infliction and of homicide.

311. Concerning the distinction of sins taken from plurality of objects, a twofold rule must be established: a. concerning internal acts; b. concerning external acts.

1. An internal act, consisting in a simple affection or purpose of the will, which is referred to several objects distinct in themselves, always contains one sin, because those several objects constitute one moral or total object: for since there is one act of the will, the several objects are apprehended by the intellect and reached by the will in the manner of one.

a. Therefore he who by one act of the will morosely delights in three women, or desires three women of the same condition, commits one sin.

b. He who proposes to omit the office for a whole month or not to fast for the whole of Lent commits one sin; yet if afterward he executes this will, he has as many sins as he omits offices or fasts, because the individual omissions are united by no bond.

c. He who wishes diverse evils upon an enemy, e.g. infamy, poverty, death, commits one sin, because he apprehends and wishes them in the manner of one evil.

d. He who by one act hates several men or desires to kill several men commits one sin, because he reaches them under the confused concept of plurality.

312. 2. An external act which is referred to several objects distinct in themselves constitutes one sin only when the physically several objects constitute one moral and total object, or are apprehended by the mind and reached by the will in the manner of one. But if several objects are apprehended individually, there are also several sins, because the individual objects are also reached by distinct acts of the will.

a. He who by one explosion wounds or kills ten men commits one sin, and it is enough if in confession he says: I wounded or killed several, if by confused apprehension and intention he reached all in the manner of one; but he commits several sins if he distinctly apprehended the individual men and intended to kill them.

b. If someone by one speech detracts from a family, house, religious community, whether it is numerous or small, he has one sin, and it is enough if he says: I detracted from a family or community, or only, I detracted gravely. Indeed even he commits one sin who by one speech detracts from several, e.g. his enemies, whom he apprehends and intends in the manner of one; yet if he distinctly apprehends the individuals and intends to injure the reputation of each, he commits several sins.

c. Not only he who injures goods which belong to a monastery or to a chapter, but also he who takes away a deposit belonging to ten diverse persons, commits one sin if he reaches the ten owners with confused apprehension and intention.

Note 1. Although he who by one act killed three, or by one act desired to approach three women, satisfies the obligation of confessing integrally by saying: I committed homicide, or I had a desire of fornicating, nevertheless he must confess with a term by which at least confusedly several persons are signified: by one act I killed several, or I wished to approach several unmarried persons, namely lest he lead the confessor into error. For these words, "I committed homicide," signify "I killed one man," and they are taken by the confessor in this sense; wherefore the killing of several would implicitly be denied and the confessor would be deceived, which would be a lie committed in confession. Therefore where deception of the confessor and an implicit lie are not contained in the words, it is not necessary to indicate the plurality of objects. He, for example, who by one act inflicted damage on several or gave scandal to several, satisfies if he says: I inflicted grave damage or I gave grave scandal.

Note 2. The theory just explained concerning the total object belongs to Cardinal de Lugo (*De poenitentia*, disp. 16, n. 104 ff.), who followed Suarez (*De poenitentia*, disp. 22, sect. 5, n. 34). There are indeed several and grave authors, among whom is also St. Alphonsus (n. 45), who, following the stricter sentence, establish that the number of the total object must be explained in confession. For according to them, he who a. by one act kills three men, b. by one act detracts from several, likewise c. by one theft injures the rights of several, commits several sins in number. Yet since this sentence does not rise beyond probability, in order to confession it must be said that the number of the total object indeed constitutes an aggravating circumstance, but not several sins necessarily to be declared in confession. And indeed their reason is that nothing prevents one and the same act from containing several malices against the same virtue. But it is not denied that one act can virtually and indistinctly contain several malices in number; rather, the question is whether these malices must be declared distinctly in confession. Now, in order to satisfy the divine precept of accusing all and individual sins, it is not necessary that all malices which are virtually present in one act be declared distinctly, unless they are either specifically diverse or formally distinct.

Note 3. Penitents are bound to declare in confession only those circumstances changing the species which they apprehend, because they are guilty only of those. Now, for someone to contract the malice of a circumstance changing the species, confused knowledge of it indeed suffices; yet since they judge concerning these matters only from common moral estimation, they do not have even confused knowledge of many species which theologians accurately distinguish. The same must be noted concerning the numerical distinction of sins. That number of sins must be declared in confession which is apprehended by the penitent while he sins; but the common judgment of men does not distinguish all those malices which authors are accustomed to indicate.

Question Third.

On the Conditions of Sin.

It is asked what conditions are required so that formal sin, or sin considered subjectively, may be mortal, and what are required so that it may be venial: for since formal sin is a voluntary transgression of law, not every sin which objectively, with the matter considered, is grave or light can be imputed to the agent as a grave or light sin.

Article First.

Conditions of Mortal Sin.

313. What they are. Three things are required so that sin considered subjectively may be mortal: a. grave matter; b. full advertence; c. perfect consent. For since mortal sin produces such disastrous effects, it must be a perfectly human act concerning a grave obligation; and therefore for committing mortal sin, grave matter is required with advertence and perfect consent.

1. Grave matter, i.e. an obligation which is apprehended by the agent as grave, whether it is grave in itself or is held as grave by the agent from invincible ignorance.

Grave matter, which is altogether required for formal sin, must not be considered as it is in itself, but as it is perceived by the agent: for conscience is the proximate norm of actions. Therefore grave sin is committed when the agent apprehends the matter of his act to be grave, whether in itself it is prohibited gravely, lightly, or in no way.

314. 2. Full advertence to the grave malice of the act or to the law obliging under grave obligation. This knowledge must be full; half-full knowledge does not suffice. Yet it is not required that it be clear and distinct, but confused knowledge suffices (n. 46, 287).

From those things which were said in the treatise on the voluntary and its imputability (n. 70 ff.), it is established that, for committing sin, it suffices that the malice of the act be apprehended in the cause of the evil act: for an evil effect which is foreseen as going to follow from a voluntarily placed cause is voluntary in that cause and is imputed to the agent, even if afterward it is placed without actual advertence. Moreover, it can happen in three ways that an evil act is apprehended not in itself but only in the cause.

a. From voluntary negligence, whether in learning those things which someone is bound to know, or in applying the consideration which the matter to be done deserves: for all the defects which he commits are imputed rightly and deservedly to him who, adverting to the obligation of learning or of acting more considerately, nevertheless neglects his obligation.

b. From voluntary sin: for the evil effects which the agent foresees as going to follow from his sinful action, e.g. from drunkenness, are deservedly imputed to him.

c. From a voluntary depraved habit: for evil acts which are foreseen as going to arise from a depraved habit, e.g. of blaspheming, are deservedly imputed to him who does not try to correct the depraved habit (n. 86).

Signs of half-full advertence are:

a. If someone, occupied and distracted by another thing, only passingly and slightly apprehends the thing to be evil, or if he attends little to the sin.

b. If someone is half asleep, or half drunk, or half delirious, or not yet perfectly in possession of reason.

c. If someone is disturbed by vehement passion or by some mania.

d. If someone immediately after the deed scarcely remembers what he did.

e. If someone after the deed, weighing the matter, i.e. the habitual disposition of his soul, judges that he would not have done it if he had fully adverted.

He who indeed knows that he acts badly, but thinks nothing at all about whether the matter is grave or light, sins only venially: for a. he does not sin gravely, because he apprehends a grave obligation in no way; b. by the very fact that he does not apprehend the matter as grave, he is judged to stop at light matter, unless the matter is so certainly grave that its grave malice cannot be hidden from him.

He who doubts whether something is grave or light and, with the doubt not yet laid aside, acts, sins gravely, because he deliberately exposes himself to the danger of gravely offending God: for he knows that his action perhaps gravely offends God and nevertheless does not abstain from it.

315. 3. Full consent, which is always had whenever the will, after full advertence, adheres to a matter prohibited by law.

Consent follows advertence, so that it is full when advertence is full, and half-full when advertence is half-full. Wherefore diverse passions, especially grave fear, impede full consent and therefore mortal sin only when they impede the perfect use of reason.

Signs of half-full consent:

a. He who habitually abhors grave sin, indeed has a firm purpose rather to die than to sin mortally, is to be presumed not to have consented fully.

b. He who could easily have executed the sin exteriorly and nevertheless abstained from the sin is to be judged not to have fully consented interiorly.

c. He who, reflecting on what he did, is immediately distressed and saddened and turns himself away from depraved thoughts and desires, likewise did not give full consent.

d. He who doubts whether he consented is to be presumed not to have consented, if he is of a timorous conscience.

What sort of sin does he commit who deliberates about committing a sin, and nevertheless does not consent?

a. If the deliberation is only a certain hesitation or omission of resistance against temptation from negligence or torpor, the sin is venial. b. If the deliberation is true and full, i.e. if one, with the grave malice of the action known, seriously weighs whether he wishes to perpetrate the gravely evil matter or not, he sins gravely. For hesitating whether to prefer God or the creature, he compares God with the creature. The sin is of the same gravity and species as that about which he deliberates.[392]

Note. From the signs of full and half-full consent it is gathered what the confessor ought to ask in order to know whether, in a doubt concerning consent, grave sin was committed. Not rarely the confessor will not be able to form a certain judgment concerning the gravity of the sin committed by the penitent, so that the matter must be left to the judgment of God.

316. A sin grave from its genus can in the individual become light. A sin grave from its genus is ordinarily also mortal in the individual; but sometimes, from defect of a required condition, a sin mortal from its genus becomes light in the individual accidentally:

1. From imperfection of the act: for since full advertence and full consent are required for mortal sin, if one of these is lacking and only imperfect advertence or imperfect consent is had, the sin will be venial.
2. From smallness of matter: namely, where a precept grave of itself is violated only in a light matter, the sin cannot be grave, because grave sin of itself necessarily also demands grave matter.
3. From an excusing cause: namely, if the excusing cause indeed does not suffice to exempt altogether from sin, nevertheless it is such as at least excuses from mortal sin. Thus grave inconvenience altogether excuses from hearing Mass or from fasting, but inconvenience not so grave can at least excuse from mortal sin and makes the transgression venial.
4. From erroneous conscience, which invincibly judges something to be venial sin which in reality is mortal: for just as an invincibly erroneous conscience excuses from every sin, so also it excuses from grave sin.

Article Second.

Conditions of Venial Sin.

317. What they are. Also for venial sin considered subjectively three things are required:

1. Light matter, i.e. an obligation which is apprehended by the agent as light, whether it is light in itself or is held as light from invincible ignorance.
2. At least half-full advertence to the malice of the action.
3. At least half-full consent to the evil thing.

a. But if the matter is light in itself, advertence and consent can be a perfectly human act, yet the sin is nothing except venial. If advertence is half-full, whatever the matter may be, the sin will be venial.

b. Sins which are committed with half-full advertence and half-full consent are customarily called half-deliberate sins, which therefore even in grave matter are venial from imperfection of the act.

Notes

392. Croix, l. 5, n. 229.

c. Indeliberate sins, if this word is taken strictly, cannot be true sins. But if nevertheless the nature of sin is attributed to them, they must be conceived in such a way "that the action itself, which is denominated sin, was done in itself with no advertence, as distraction in prayer, but proceeded from some preceding negligence," so that the action is a sin not in itself but in the cause.[393]

318. A sin light from its genus can in the individual become grave:

1. By reason of an erroneous conscience, by which someone holds a light sin for grave: for then he freely consents to a thing which he apprehends as gravely evil. Therefore children who hold every lie or theft, even of a light thing, as a grave sin not rarely sin gravely from an erroneous conscience.
2. By reason of a gravely evil end. Thus theft of a light thing perpetrated for committing homicide is a grave sin, not indeed on account of an injury in goods of fortune, but on account of the intention of committing homicide: for the means participates in the malice of the end; but the end is gravely evil.

He who, from the intention of gradually arriving at a grave quantity, in repeated instances steals some small amount, or who, from the intention of violating the fast, often eats some small amount, sins gravely in the individual acts: for the intended end is gravely evil; but the means which are applied to the end participate in the malice of the end; therefore the individual acts have grave malice. Nevertheless the individual acts, by reason of the intention from which they proceed and by which they are informed, are gathered into moral unity and morally constitute one sin, unless they are acts plainly independent of one another.

3. By reason of grave scandal which is foreseen as going to arise from a venial sin. Thus the venial levities of a priest before seculars, and the venially evil words of parents before children, can become grave sin on account of scandal.
4. By reason of formal contempt, whether of law or of the legislator: for he who transgresses a law from formal contempt contemns the legislative power itself; but he who contemns this, although in only a light matter, inflicts grave injury upon God and his ordination.

A twofold contempt of law or of the legislator must be distinguished: formal, by which the law or legislator as such, namely his authority, is contemned; and material, by which the matter of the law, e.g. as of light moment, as inept for the end, as unjust, or the legislator as man, e.g. as imprudent or wicked, is contemned. Therefore he sins from formal contempt who transgresses the law because he does not wish to be subject to the law or to the legislator, or precisely because it is commanded. To violate the law from material contempt of the precept or of the human one prescribing is ordinarily a light sin; but to violate the law from material contempt of divine law or of the divine legislator is a grave sin.

5. By reason of proximate danger of falling into grave sin, if by sinning lightly someone exposes himself to such danger: for by the same obligation by which we are held to avoid sin, we are also held to avoid its proximate danger. Thus he who seeks lightly prohibited conversation with companions, in which for the most part he sins gravely, by exposing himself to the danger of grave sin sins gravely.
6. By reason of excessive affection toward some thing, as if someone is so affected toward a game that he is actually prepared rather to offend God gravely, e.g. to omit Mass on a feast day, than to abstain from the game. Not the vehemence of the passion by which he adheres to the game is a grave sin, but the evil disposition by which he is prepared to prefer the creature to God, if indeed that disposition has passed into act.

Notes

393. Lehmkuhl I, n. 221.

7. By reason of matter coalescing with the matter of other venial sins, concerning which matter there is the following question.

Note. From the objective gravity of sin must be distinguished the subjective gravity of sin. For judging this gravity, namely, not only objective elements but also subjective ones must be considered, such as ignorance, infirmity, fear, contempt, etc., which in a determined subject can increase or diminish the malice of sin. It not rarely happens that the subjective gravity of sin is far distant from its objective gravity. In the practice of confession, attention must especially be paid to those circumstances which make a sin grave in itself light. Ordinarily, indeed, sins grave in themselves are also grave subjectively; but sometimes those which are grave in themselves and objectively become light subjectively, or at least do not have the same degree of malice in the subject which they have in themselves, because they are committed from ignorance, from infirmity, from fear, from shame, etc., all of which diminish moral malice.

319. Whether several venial sins constitute mortal sin.

1. Venial sins by multiplication alone, however great, never constitute mortal sin unless their matter coalesces: for number alone does not change the essence of sin; but between mortal and venial sin there is an essential difference.

a. Therefore a priest who in recitation of the office daily omits one psalm, even if in the course of the year the omissions are many, sins only venially; and if at the beginning of the year he proposes daily to omit a psalm, this purpose does not exceed venial sin: for the purpose does not have greater malice than the acts intended through the purpose, which individually are venial and are not united with one another.

b. Therefore a master who on a feast day enjoins thirty servants to the labor of one hour sins only venially: for the acts of the individuals do not morally coalesce.

c. Therefore he who proposes to avoid only mortal sins, not caring about venial sins, indeed he who proposes to commit all venial sins which occur, by this will of itself does not exceed venial fault: for the malice of this purpose of itself is taken from the object; but its object is constituted by venial sins alone. It is said of itself because accidentally there can be joined with this purpose of the will a danger of sinning gravely; but to will this danger, known as such, would be a grave sin.

2. Venial sins multiplied by reason of coalescing matter or by reason of an effect caused can constitute mortal sin, with advertence nevertheless supposed to grave matter or to an effect prohibited under grave obligation.

He who, without the intention of gathering a grave quantity, in repeated instances steals some small amount, sins gravely when, with advertence to the grave effect, he steals the quantity which completes grave matter: for although the matter of that theft, considered in itself and absolutely, is light, nevertheless together with the preceding things with which it coalesces it completes and constitutes grave matter. But the thief, before the last theft, adverting as supposed to grave matter and grave damage, by that small theft consents to grave sin. By equal reason a priest who in different hours of the same office omits some small amount sins mortally by that omission which completes grave matter, if he adverts to the gravity of the matter.

Question Fourth.

On the Gravity of Sin.

320. On the diverse gravity of sins. The gravity of sin is the quantity of malice which belongs to a sin from its object. Now it is asked whether grave sins, considered objectively, are of the same or of diverse gravity.

1. Not all sins are of the same gravity, but some are graver than others. Thus sins against religion are graver than sins against justice.

a. This is gathered from Sacred Scripture: He who delivered me to thee has the greater sin.[394] Yet for Tyre and Sidon it shall be more tolerable on the day of judgment than for you.[395] Everyone who is angry with his brother shall be liable to judgment; but he who says to his brother, raca, shall be liable to the council; and he who says, fool, shall be liable to the hell of fire.[396] It can be disputed what the Lord wished to signify by the name of judgment, council, hell of fire; nevertheless this is certain, that to the diverse degrees of punishment which are signified by those words there correspond diverse degrees of fault.

b. The same is clear from reason. Sin is a transgression of the divine law; but laws are not all of the same moment and perfection, but some are more excellent than others and more necessary in relation to the ultimate end, according as the good is greater for the preservation of which they were established.

The Stoic philosophers, and in the Christian age Jovinian the monk, whom St. Jerome refutes, contended that all grave sins are equal. Their argument is this: the formal nature of mortal sin consists in aversion from the ultimate end; but there cannot be greater or lesser aversion from the ultimate end, since aversion consists in something indivisible. But it is clear that aversion from the ultimate end cannot be greater and lesser insofar as it is the negation of conversion; but it can be greater and lesser insofar as it signifies positive opposition to the ultimate end, or conversion to creatures.

2. For bearing judgment concerning the diverse gravity of sins, P. Lehmkuhl (n. 1224) establishes the following rules:

a. A sin is graver in proportion as the virtue to which it is opposed is nobler and higher; but within the range of the same virtue, other things being equal, sins against a prohibiting law are graver than sins against a prescribing law.

b. A sin is graver in proportion as the person against whom the sin is directed is nobler. Thus, of themselves, sins which are directed directly against God are graver than sins which are directed against man.[397]

c. A sin is graver in proportion as the good which is injured by the sin is greater. This rule indeed must be attended to in the first place in sins against neighbor.

3. With these things premised, sins, as regards gravity, follow one another in about this order.

a. Sins which are committed directly against God, or the internal divine goods: hatred of God, infidelity, despair.

b. Sins which are committed against God's external goods: blasphemy, idolatry, superstition, perjury, and tempting God. In this place are to be inserted sins which are committed against the humanity of Christ and the most holy sacrament of the Eucharist.

c. Sins which are committed against God indirectly, or against things consecrated to God, namely diverse sacrileges, as simony, profanation of sacred things, unworthy reception and administration of the sacraments, violation of a vow, etc.

Notes

394. John 19, 11.

395. Matt. 11, 22.

396. Matt. 5, 22.

397. Cf. St. Thomas III, q. 80, a. 5.

d. Sins by which human persons are injured, and indeed in this order: sins which a man commits against himself, against those joined to him, as parents or superiors, and against strangers.

e. Sins by which human goods, of life, honor, reputation, fortune, are injured: homicide, lust, calumny, detraction, theft; drunkenness follows after these.

Question Fifth.

On the Origin of Sin.

321. Genesis of sin. 1. Sin, which is a deliberate act of the will, is completed by these, as it were, grades.

a. First there is the proposal of an evil thing, in that by the work of some power, sense, phantasy, or intellect, some object is offered to the will which it cannot embrace without violation of law.

b. Then there arises in the appetite, sensitive and rational, or in the rational alone according to the nature of the object, an inclination toward the proposed object with a certain pleasure: for by natural necessity the appetite is borne toward its object and is delighted in possession of it.

Since motions of concupiscence arise by their nature in man when an object, good or evil, has been proposed, it follows that any man experiences motions of this kind, and that they are more or less frequent and vehement according to the diversity of temperament and circumstances.

c. Afterward the intellect adverts both to the object toward which the will is inclined and to its moral malice, i.e. to the law prohibiting the volition of it, and therefore to the obligation of repelling the temptation.

If the will adheres to the object toward which it is inclined before the intellect adverts to its malice, that adherence cannot be sin.

d. Finally the will freely determines itself to the act, and indeed either turns itself away from the object offered, resisting the temptation, or does not turn itself away from it. But if it does not turn itself away, voluntary adherence to the evil thing now begins on account of the temptation not rejected, which adherence is consummated through positive consent.

Sacred Scripture graphically describes the origin of sin with these words: Each one is tempted, drawn away and enticed by his own concupiscence. Then concupiscence, when it has conceived, brings forth sin; but sin, when it has been consummated, generates death.[398] That is, concupiscence, offering the object of sin, entices the will to consent; but if the will, not repelling the temptation, begins to adhere to the evil thing, from this, as it were, marriage between concupiscence and the will, positive consent, sin, is generated as fruit, whose effect is the spiritual death of the soul.

2. The efficient cause of sin is the human will alone, freely determining itself to an act prohibited by law; nevertheless it can be allured and incited to sin in diverse ways. That which allures the will to sin is either temptation to sin or is at the same time an occasion of sin; but each contains a danger of sinning.

Article First.

On Temptation to Sin.

322. Notions. 1. Temptation is the attempt to draw the will over to sin. Temptation arises from this, that an object, some good, prohibited by law is proposed to the will: for this attempts to move the will to consent.

Notes

398. Jas. 1, 14 ff.

a. Temptation is called grave if the will is vehemently incited by an object prohibited under grave obligation to embrace it; and it is called light if the will is incited to embrace it by an object prohibited under light obligation, or by an object prohibited under grave obligation but only lightly.

b. Temptation is called internal if, once an evil object has been proposed, the appetite is inclined to embrace it; it is called external if only the evil object is proposed, without the appetite being excited to embrace it.

2. The frequency of temptations varies according to diverse internal and external circumstances of persons; nevertheless no one is altogether immune from them, because no one can escape the causes of temptations unless he goes out of this world. Christ the Lord must be excepted, in whom internal temptation was impossible, and the Blessed Virgin Mary, whom the grace of God preserved immune from internal temptation. The ascetics show at length that temptation in itself is not evil, but a good of great moment for the spiritual life.[399]

323. The causes of temptations are numbered as three, of which the first, concupiscence, is internal, and the other two, the world and the devil, are external.

1. Concupiscence. a. By the name concupiscence here is understood the sensitive appetite insofar as it is borne also toward sensible goods which are contrary to the moral order.

a. Having arisen from original sin, it remains even in the justified and consists in a positive inclination toward evil. It is not sin; nevertheless it is the most abundant source of sins, because it allures the will to sin. Therefore it is called the fomes of sin by the Council of Trent.[400]

b. Acts of concupiscence allure the will to sin in two ways: indirectly, through influence on the intellect, whose judgment concerning the malice of a good so pleasant to the senses is disturbed; directly, through influence on the will, which on account of the connection of the powers is drawn to willing the same thing toward which the sensitive appetite is borne.

c. The force and vehemence of temptation, and therefore the gravity of the danger of sinning, depends on the nature of the thing toward which concupiscence is borne, on the greater or lesser clarity and vivacity with which it is represented, on the greater or lesser intensity of the act of concupiscence, and finally on the weakness of the will, which can be greatly increased in the concrete by natural character and the habit of sinning.

d. Concupiscence is the primary and principal source of temptations: Each one is tempted, drawn away and enticed by his own concupiscence.[401] The goods prohibited by law toward which concupiscence is borne are of a threefold genus, and according as it is borne toward these goods, there is distinguished in it a threefold respect, which Sacred Scripture indicates: All that is in the world is concupiscence of the flesh and concupiscence of the eyes and pride of life.[402]

2. The world. a. Insofar as the world designates the complex of corporeal things, it tempts in this, that it represents sensible goods to the appetite by means of the senses and allures it to embrace them, even if they are prohibited by law.

Notes

399. Hense, *Die Versuchungen*^3 (Freiburg: Herder, 1902). Scaramelli-Winkler, *Geistlicher Fuhrer* (Regensburg: Verlagsanstalt, 1901). Monsabre-Drammer, *Die Versuchung* (Mainz: Kirchheim, 1892).

400. Sess. 5, can. 5.

401. Jas. 1, 14.

402. 1 John 2, 16.

b. Insofar as the world signifies men alien from God, who profess perverse principles and, indulging their passions, live in sins, it tempts: a. by its principles contrary to the doctrine of Christ, which are disseminated among men both by voice and by writings; b. by its perverse works, by which, as also by conversations, it is a scandal, and excites others to follow evil examples.

3. The devil. a. That the devil incites men to sin is a most certain fact from Sacred Scripture: for he tempted to sin not only the first parents,[403] but also Job,[404] Ananias and Sapphira,[405] the apostles,[406] and especially Judas,[407] indeed even the divine Savior;[408] whence the apostles solicitously admonish us to beware of the temptations of the demon.[409]

b. Since the devil cannot act directly and immediately on the human will and draw it to sin, he tempts in this: a. he excites representations in the senses, whether external or internal, alluring toward prohibited goods; b. he imbues the mind with illusions, that death is still remote, passions impose necessity, sins are easily remitted, virtue is too arduous, man cannot be without the pleasures of life, etc.; c. he disturbs the soul with scruples, thoughts of hatred, lust, despair, human respect, etc.

c. Although, as Scripture witnesses, every sin took its beginning from the devil,[410] all sins of men proceed from him in some way, he is named the prince of this world,[411] and sins are called his works,[412] nevertheless the intervention of the devil is necessary neither for every sin nor for all temptations; for concupiscence and the free will of man also suffice for effecting these. In fact, however, the devil is rather often the author of temptations, especially of those which are more troublesome and arise without another cause that is known, e.g. during prayer. The power of tempting in the devil is not absolute, but subordinated to divine providence. Therefore he cannot tempt except when God, by permitting, wills, and as much as he wills.

Note. Although in the Sacred Scriptures God is said to tempt men,[413] nevertheless he himself must not be numbered among the causes of temptations, because he incites no one to sin nor can he incite.[414] The temptations of which God is author are temptations of proving, not of seduction:[415] for he does not himself send these temptations, but only permits them, nor does he permit them beyond strength, and with the temptation he will also make the outcome.[416]

324. On the resistance to be opposed to temptations.[417]

Notes

403. Gen. 3, 1-6; 2 Cor. 11, 3.
404. Job 1, 12.
405. Acts 5, 3.
406. Luke 22, 31.
407. John 13, 2.
408. Matt. 4, 3 ff.
409. 1 Cor. 7, 5; Eph. 5, 11 ff.; 1 Pet. 5, 8 ff.
410. 1 John 3, 8.
411. John 12, 31.
412. 1 John 3, 8.
413. Gen. 22, 1.
414. Jas. 1, 13.
415. 2 Cor. 12, 7 ff.; Gen. 22, 1 ff.; Job 1, 12; Tob. 2, 12.
416. 1 Cor. 10, 13.
417. Cf. Ballerini-Palmieri I, n. 595 ff.

a. It is clear that neither the world nor the devil can tempt man unless they excite motions of concupiscence through the senses; wherefore the only source of temptations properly is concupiscence. Now it is asked how the will ought to have itself concerning motions of concupiscence after the mind has fully adverted to them.

b. If consent is prescinded from, the will can have itself toward these motions in a threefold way: a. it is said to have itself negatively or passively or indifferently if it does not consent, but neither applies any means to repress them; b. it is said to resist positively, but indirectly, if it applies means to suppress them, but does not elicit a contrary act; c. it is said to resist directly if it elicits contrary acts. Now it is asked whether there is an obligation of positively resisting depraved motions, whether therefore sin is committed not only through consent to the depraved motion but also through omission of positive resistance.

1. It is not licit to have oneself merely passively toward these motions unless there is a just cause; rather, positive resistance must be opposed to them. a. For motions of this kind cast one into danger of consenting to them, which danger is increased the more the longer they are deliberately admitted; hence the greater the danger of consenting to depraved motions, the graver is the obligation of repressing them. b. If a reasonable cause for omitting resistance is present, the help of grace, by which consent may be prevented, can deservedly be hoped for, provided the firm purpose of the will not to consent to sin is retained.

a. A just cause for having oneself merely passively is present: a. where the motions arise from an honorable and useful action; b. where it is deservedly feared that from positive resistance they may become more vehement, and on the contrary experience establishes that they are more easily removed by being despised; c. where long positive resistance would be too troublesome. Therefore in temptations which last for a long time, it certainly suffices to resist them from time to time. In these cases, therefore, motions of concupiscence are rather to be despised than positively attacked. Nevertheless, especially in the first case, it is preferable to oppose to them an act of displeasure or a purpose not to sin.

b. One must assent to the authors who contend that the obligation of repressing these motions does not arise already from the fact that they are disordered, but from the danger of consent: for the obligation of the will of ruling the powers subject to it indeed requires that it guard against consent to evil, but it does not require that it prevent or repress indeliberate motions arisen from nature.[418]

2. To omit resistance and to have oneself merely passively where the motions of concupiscence are great and vehement is a grave sin; to omit it where the motions of concupiscence are light does not exceed venial sin, even if they turn about an object prohibited under grave obligation. For vehement motions induce a great or proximate danger of consenting, but light motions induce only a light danger; but we are held to remove proximate danger of consent under grave obligation, and light danger only under light obligation.

a. Hence pious penitents, who in temptations are rarely accustomed to consent, are not easily to be accused of grave sin if they have had themselves merely negatively; on the contrary, those who often fall in temptations can more easily be guilty of mortal sin, although in a particular case it is most difficult to bear a certain judgment concerning this matter.

b. It must be noted that if first-first motions, and evil ones, exist in the will, these after full advertence to them begin to become deliberately evil; wherefore they must always be driven away by positive

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Notes

418. Castropalaus, *Opus morale*, tr. 2, disp. 2, p. 10, § 5. Tamburini, *Explic. decal.*, l. 10, c. 2. Lacroix, *Theologia moralis*, l. 5, n. 111 ff.

resistance or dissent. For he who has himself merely negatively toward motions of this kind gravely evil sins gravely.

3. Of itself there is no obligation of directly resisting depraved motions, but of itself it suffices to resist them positively, because this of itself suffices for obtaining the end. Accidentally, however, there can be an obligation of resisting directly if positive resistance does not sufficiently exclude the danger of consent.

a. There are temptations, e.g. against faith, against chastity, which are conquered more easily and effectively by indirect resistance, especially by the mind being seriously occupied with other things.

b. The modes of resisting positively according to St. Alphonsus are the following: a. to elicit an act of dissent or displeasure, which, even if it does not repress the motion, especially one joined with carnal pleasure, nevertheless guards against consent of the will; b. to think about the passion of the Lord or about the last things; c. by praying, to have recourse to God, the Blessed Virgin, or the saints; d. to elicit an act of love of God and of the purpose of dying rather than sinning; e. to turn the mind to other things.

Note. Concerning the occasion of sin, see *De sacramentis*, n. 412 ff.

Article Second.

On the Danger of Sin.

325. Notions. 1. The danger of sinning is constituted by everything which induces to sin, as temptation and an occasion of sin.

2. This danger is internal if it comes from an internal cause, as a base imagination; it is external if it comes from an external cause, as a thing alluring to sin.

3. This danger is called grave, or proximate, if it is morally certainly connected with sin; it is called light, or remote, if the connection with sin is not morally certain.

4. Grave danger is absolutely or of itself grave if it is such commonly for all; relatively or accidentally grave if it is such only for some on account of a peculiar disposition.

Note. If now it is asked whether and what sin he commits who exposes himself to the danger of sinning, the discussion is about sin considered objectively. Hence, for sin to be committed subjectively, it is required that he who exposes himself to the danger apprehend that this is prohibited by law.

326. Principles. 1. We are held under grave obligation to avoid grave or proximate danger of sinning gravely. And indeed by the same precept by which we are held to avoid mortal sin, we are also held to avoid its proximate danger: for he who does not avoid it when he can is convicted of loving the sin whose danger he loves.[419]

a. The sin which is committed by him who without necessity exposes himself to grave danger of sinning is of the same gravity and species as the sin itself whose danger he approaches.

b. He who exposes himself to the danger of sinning commits sin, even if he does not sin in the danger; yet he who afterward, placed in the danger, actually sins, commits only one sin: for the depraved consent by which he exposes himself to the danger and by which afterward he consents to the sin is the same.

Notes

419. Ecclus. 3, 27.

c. He also exposes himself to grave danger of sinning who approaches a danger which indeed at the beginning is light, yet in such a way that he foresees that it will afterward become grave, as is accustomed to happen in danger of sinning against chastity, because in the danger itself lust burns more.

2. From a just cause it is licit to expose oneself even to the proximate danger of sinning, provided that apt precautions are applied, by which the danger becomes remote. For he who from a just cause exposes himself to danger does not love the sin, but the good cause on account of which he undergoes the danger; therefore he can rightly and deservedly hope for the help of God, lest he fall in the danger.

a. The cause of necessity for undergoing the danger of sin ought to be greater in proportion as the sin about which there is question is greater, and in proportion as the danger of committing the sin itself is greater.

b. Apt precautions by which a fall into sin may be excluded are: to retain a firm purpose of not sinning; to pray to God; to foster a pious thought; if the danger lasts rather long, the use of the sacraments and the exercise of pious reading.

c. Without a just cause, even with the purpose of not sinning and of applying apt precautions, it is not licit to expose oneself to the danger of sinning, because we are proximately obliged to avoid the danger unless a just cause excuses. Therefore God does not aid by his help those who, by rashly exposing themselves to danger, fail in their obligation. But if someone is found in danger from a just cause, God does not desert him by his help.[420]

d. If it is certainly foreseen that sin will be committed in the danger, it is never licit to offer oneself to it spontaneously; for this to be licit, it is altogether required that there be a founded hope that the sin will be avoided with the help of God: for certain sin must be avoided absolutely.

3. We are held under light obligation to avoid light or remote danger of sinning gravely, and proximate danger of sinning lightly; wherefore it is licit to approach danger of this kind only from a reasonable cause. For some disorder against reason is had in this, that someone without cause places a useless action, with which moreover a danger of sinning is joined.

a. By light danger is understood a true danger of sinning, although small, which is founded in some special reason; a danger which morally is none and is equivalent to the mere possibility of sinning we are not held to avoid, because we cannot avoid danger of this kind, since it is found in almost every human action. Otherwise, as the Apostle says, we would have to go out of this world.[421]

b. Concerning both light danger of sinning gravely and grave danger of sinning venially, that must be noted which Lehmkuhl has (n. 486, IV): "If that from which the danger arises is an action honorable and useful in itself, from this goodness itself there is had a sufficient reason for acting, so that we ought not to attend to that slight danger, but rather fortify ourselves by applying remedies; for otherwise innumerable useful actions would be impeded by fear of sinning."

Note. The question is controverted whether it is a grave sin to expose oneself to probable danger, not morally certain danger, of sinning gravely. Very many authors indeed with St. Alphonsus[422] affirm that it is a grave sin; but it is scarcely credible that one offering himself to the danger of sinning gravely with a serious and reasonable hope that he will not fall sins gravely, since it cannot be affirmed that he wills the

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Notes

420. Cf. St. Alphonsus, l. 5, n. 63.

421. 1 Cor. 5, 10.

422. Cf. l. 5, n. 63; l. 6, n. 453.

sin, since the sin is not necessarily joined with the danger to which he exposes himself. For the rest, several authors who are cited for the affirmative sentence seem to adhere to it more in words than in reality.[423]

Question Sixth.

On Internal Sins.

327. Notions. 1. Those sins are called internal which are completed solely by the internal powers of the soul, namely by the mind and the will. All are reduced to three classes: a. to desire, b. to joy, c. to morose delectation; and desire indeed is referred to a future action, joy, as it is taken here, to a past action, but delectation to a present action; in common speech, however, all these are comprehended under the name of an evil thought.

2. Joy and delectation do not differ specifically: for the difference consists only in this, that the object is represented in delectation as present, in joy as past; but this merely external difference does not suffice for constituting a specific distinction.

3. Delectation (joy) and desire differ specifically: it is indeed one thing to be delighted concerning an injury to one's neighbor, another thing to desire an injury to be inflicted on one's neighbor. For in desire the evil thing is exhibited as to be accomplished by deed; in delectation it is prescinded from the external deed.

Article First.

On Depraved Desires.

328. Notions. 1. A depraved desire is an act of the will by which someone deliberately intends to accomplish an evil thing.

2. It is called efficacious when someone absolutely proposes to execute the evil thing by deed, and inefficacious when someone intends to execute the evil thing conditionally, e.g. if I could, if it were licit. Therefore what is said of desire is valid by equal reason concerning purpose: for purpose is efficacious desire.

Even an inefficacious desire of itself tends toward the evil thing; wherefore of itself the same theological and specific malice is in it as in an efficacious desire; and therefore it is not necessary that it be declared in confession whether the desire was efficacious or inefficacious.

329. Principles. 1. The desire, efficacious and inefficacious, of an evil thing is a sin of the same gravity and species which the object, that is, the external act toward which it tends, has. The reason for the first is that desire receives malice from the object toward which it tends, and therefore in a grave matter it is grave, in a light matter light. The reason for the second is that desire tends toward the external thing itself as afterward to be accomplished, and therefore includes all the malices which are in the thing itself, provided they are apprehended.

Hence it is that Christ says: He who shall have looked at a woman to covet her has already committed adultery with her in his heart.[424] Therefore the desire of stealing a consecrated chalice contains the twofold malice of theft and sacrilege. The desire of sinning with a relative by blood or with one consecrated to God is mental incest or mental sacrilege. Wherefore desires gravely evil, both efficacious and inefficacious, must be declared in confession in such a way that circumstances changing the species also appear.

Notes

423. Cf. Lacroix, *Theologia moralis*, l. 5, n. 252 ff. Berardi, *De recidivis et occasionariis*^3 (Faenza: Novelli, 1897), II, pr. 4 ff., who defend the affirmative sentence, which Ballerini-Palmieri I, n. 692 ff., and Genicot II, n. 372, think must be abandoned.

424. Matt. 5, 28.

2. An inefficacious desire is not a sin if the condition attached removes the malice of the act: for in this case the will is borne toward an object which contains no malice, since the attached condition excludes it.

a. The attached condition, e.g. if it were licit, if it were not a sin, if God permitted, can exclude malice from the object: a. in those things which are prohibited only by positive law: I would wish to eat meat, unless it were a day of abstinence; I would take a wife if I were not a priest; b. in those things which indeed are prohibited by the law of nature, but nevertheless can sometimes be done licitly: I would kill an enemy, I would steal, if God permitted. Nevertheless desires of this kind are not only idle, but often also dangerous.

b. The attached condition cannot remove malice from the object: a. in those things in which the condition is impossible, because they are so intrinsically evil that they cannot be changed even by God, e.g. I would blaspheme, I would fornicate, if it were not a sin; b. if the attached condition is referred not to the malice of the act, but to another circumstance. Therefore these desires are sins: I would wish to take vengeance, if I were not a priest; I would fornicate, if there were no hell; I would steal, if it could be done secretly.

c. But if the conditioned desire of a thing intrinsically evil, I would fornicate, I would avenge myself, if it were licit, is not a true and deliberate desire, but rather the signification of a natural propensity by which the will or the sensitive appetite is borne toward an evil thing, it is not a sin, because this desire is explained in this way: nature indeed draws toward the evil thing, but I do not will it, because it is prohibited.

330. Whether it is licit to wish evil to one's neighbor for a good end. It is licit under these conditions: a. if it is not done from hatred and vengeance, but merely on account of a good end; b. if it is done with the order of charity preserved, i.e. if the good on account of which temporal evil is wished to one's neighbor surpasses or at least equals the evil which is wished to him.

a. It is licit to wish death to one's neighbor on account of one's own or another's spiritual good necessary for salvation; thus it is licit for a father to wish the death of a son whom he foresees will be seduced if he lives longer: for the order of charity is preserved, since a good of a greater order is preferred to a good of a lesser order.

b. It is licit to wish death to one's neighbor also on account of a temporal good, not only common but also private, provided this good is not of lesser moment than the life of the neighbor. Thus it is licit to wish the death of a tyrant, that peace and common happiness may return; likewise it is licit for a wife to wish the death of a husband by whom, beyond hope of amendment, she is treated most harshly: for the temporal safety of the wife is a greater, or at least an equal, good than the life of the husband. In the same way a wife in this case can licitly wish death to herself: for death is better than a bitter life.[425] The reason for these things is that also in this case the order of charity is preserved: for since anyone ought to love himself more than his neighbor, he licitly prefers his own good to a lesser or equal good of his neighbor.

c. It is not licit to wish death to one's neighbor on account of a temporal good of lesser moment than the life of the neighbor, because it is against the right order of charity. Therefore it is not licit for a mother to desire the death of a daughter whom, on account of deformity, she cannot place in marriage; nor is it licit for a son to desire the death of his father so that he may more quickly enter upon the inheritance. In the same way it is not licit, without sin, to wish death to oneself on account of the daily miseries of this life.

Notes

425. Eccli. 30, 17.

Note. In desires of this kind, however, one must take care lest the will tend directly and immediately toward the evil of the neighbor, but rather toward the good on account of which the evil is wished: otherwise the will would elicit an act evil in itself, by wishing the evil of the neighbor as it is his evil, not as it is the good of the one desiring or of another.

Article Second.

On Depraved Joys.

331. Notions. 1. Joy here is taken for deliberate complacency in an evil thing done either by oneself or by others; therefore it is referred to an evil work perpetrated, which pleases the will. Boasting concerning a committed sin is reduced to joy.

2. The object of joy can be: a. the evil work itself done; b. the mode in which the evil was done; c. the effect which followed from the evil work; d. the evil work on account of a good effect.

332. Principles. 1. Joy concerning the evil itself done is a sin of the same gravity and species as the evil itself done. The reason for the first is that the internal act of joy receives malice from the object, since it is an approval of an evil thing, which is always evil, whether it is evil in itself or only evil on account of prohibition, as to rejoice concerning blasphemy or concerning a meal taken on a fast day. Therefore joy is a grave or light sin according to the gravity of the matter. The reason for the second is that the will approves the evil thing as it was perpetrated; therefore it also induces all the malices which it knows to have been joined with the thing.

Note. Hence the penitent in confession ought to explain not only the object of desire and joy, but also the circumstances changing the species, provided they were known, e.g. in joy concerning the striking of a cleric, in the desire of fornicating with a relative by blood.

As joy concerning an evil done is a sin, so also sadness concerning a good done is a sin, and indeed:

a. sadness concerning a good done which was commanded under grave obligation is a grave sin;

b. sadness concerning a good done which was commanded under light obligation is a light sin;

c. sadness concerning a good done which was not commanded, e.g. concerning a vow made, concerning the priesthood received, does not exceed a light sin, provided the will of fulfilling the obligation undertaken is retained. Whether it is a light sin or no sin depends on the motive on account of which someone is saddened, namely whether it is reasonable or not; ordinarily, however, sadness of this kind lacks a reasonable motive.

d. sadness not concerning the good itself done, but concerning the adjuncts of the good action, e.g. concerning inconvenience and labor, is not a sin.

2. To rejoice not concerning the evil work, but concerning the mode in which the evil was perpetrated, is not a sin: for the act of the will in this case is borne toward an object good or indifferent.

It is licit to rejoice concerning obscene paintings or comedies on account of the art by which they were composed; concerning theft or fraud on account of singular and ingenious cleverness; concerning an impure narration on account of the witty manner of narrating; concerning a man's fall on account of the ridiculous things which occurred in the fall. Nevertheless joys of this kind are not without danger, because the passage from the mode to the work itself is easy.

3. Of itself it is licit to rejoice concerning the good effect of an evil work, whether this was materially or formally evil, because the act of the will is not borne toward the evil thing, but precisely toward the good effect, even if it supposes an evil work.

Therefore it is licit for a son to rejoice concerning an inheritance which he obtained on account of a homicide, whether voluntary or involuntary. It is licit to rejoice concerning nature relieved or concerning a temptation quieted, which followed from pollution, whether involuntary or even voluntary. But these things are dangerous, because joy can easily pass from the good effect to the evil work.

4. It is not licit to rejoice concerning the evil work itself which had a good effect, but it is licit to rejoice concerning an evil work on account of the good effect which followed from it, whether the work was materially or formally evil. The reason for the first is that it is not licit to approve evil on account of a good end, nor does an evil work therefore become good and worthy of approval because it can produce, or in fact has produced, a good effect.[426] The reason for the second is that the object of joy is not the evil itself, but precisely this circumstance of it, that it had a good effect. For an evil work can be considered according to itself and insofar as it is the cause of a good effect; if it is considered according to itself, it is not licit to rejoice concerning it; but if it is considered precisely as it is the cause of a good effect, it is licit to rejoice concerning it; but this is rather to rejoice concerning the good effect of an evil cause.

It is not licit to rejoice concerning perjury, even if only materially evil, which freed another from punishment, nor concerning the omission of a fast, even if it happened from inadvertence. It is not licit to rejoice concerning the killing of an enemy of the Church; but it is licit to rejoice that from it the peace of the Church followed. It is not licit to rejoice concerning the sin of Adam, even if a great good followed from it. But if the Church sings, O happy fault, this is not joy concerning the sin itself, but concerning the sin because and insofar as it had a good effect.

Note. What it is licit to desire, concerning that it is likewise licit to rejoice, and conversely; therefore it is licit to rejoice concerning the evil of one's neighbor, provided the order of charity is not injured; thus it is licit for a mother to rejoice concerning the death of a little son on account of his eternal happiness.

Article Third.

On Morose Delectation.

333. Notions. 1. Delectation, as it is taken here, is the complacency of the will in an apprehended good. Delectation receives morality from the object in which the will takes complacency for itself.

By reason of the object, delectation is distinguished: a. concerning a thing thought and represented to the will, e.g. concerning the killing of an enemy, concerning fornication; b. concerning the knowledge of a thing, namely if not the thing itself, but the knowledge of it pleases, e.g. the knowledge of homicide, of fornication. It is indeed one thing to be delighted concerning homicide exhibited through imagination, and another thing to be delighted concerning the knowledge of homicide.

2. Morose delectation is free complacency in an evil thing exhibited through thought or imagination as present, without desire of doing it. Therefore he who is morosely delighted feigns to himself an act of sin, e.g. theft, a base touch, and takes complacency for himself concerning that act so represented, as if someone were executing it, yet without a will to execute it. This delectation is called morose not from the duration of the complacency, but because the will tarries in it after advertence, even for a single instant; therefore morose delectation is the same as voluntary delectation.

Notes

426. There are those who demonstrate that this same thing is illicit from proposition 15 condemned by Innocent XI: It is licit for a son to rejoice concerning the parricide of a parent perpetrated by himself in drunkenness on account of the great riches obtained from the inheritance thence. But from this proposition that cannot rightly be inferred, because the proposition is false also from another reason, namely because the joy of the son is repugnant to the order of charity.

334. Principles. 1. Morose delectation concerning an evil thing is a sin of the same gravity and species as the evil thing itself represented through imagination or thought. The reason is that morose delectation receives both theological and specific morality from the object about which it is occupied. Wherefore morose delectation is grave or light according as the thing thought, in which the will is delighted, is gravely or lightly evil, and delectation concerning theft differs in species from delectation concerning homicide or concerning fornication.

And here again the distinction between delectation and thought concerning an evil thing appears: for delectation concerning prohibited carnal intercourse is always a grave sin, but not likewise thought and imagination concerning the same thing. For if this is done from an honorable end, e.g. for teaching, it is good, and if it is done from curiosity, it is a venial sin. But thoughts of this kind concerning obscene things are always dangerous, because they easily provoke the venereal sense; and if there is added delectation, that is, free complacency, concerning the venereal sense which is excited from the obscene thought or imagination, it is not spiritual morose delectation, concerning which the discussion here is, but venereal delectation, concerning which it is spoken elsewhere.

2. Morose delectation contains the malice which the thing thought, which pleases, has from circumstances, if the delectation is occupied about those circumstances themselves; wherefore delectation concerning the killing of a priest is mental sacrilegious homicide, and delectation concerning intercourse with a nun is mental sacrilegious fornication, if the will also is delighted concerning the circumstance of priesthood and consecration.

If therefore the will is not formally delighted concerning the circumstances which are found in the evil object thought, it does not contract the malice of the circumstances: for since there is no question of an evil thing already accomplished or to be accomplished by deed, but only of a thing thought, precision being made from its execution, the malice of the circumstances toward which the will is not explicitly borne is not contracted. Therefore he who, in the example posited above, is not delighted concerning the circumstance of the object does not contract it, and therefore in confession satisfies by saying: I was delighted concerning homicide; I was delighted concerning fornication.

Question Seventh.

On Certain Kinds of Sin.

Article First.

On Capital Sins.[427]

335. Notions. 1. Capital sins are not called capital or mortal because they would be the greatest sins or always mortal, but because, having arisen from original sin, they are as heads and sources from which many other sins arise. But they are sources of sins not as acts, but rather insofar as they are depraved passions or habitual propensions; therefore they are better called capital vices than capital sins.

According to the doctrine of St. Thomas, other sins arise from the capital vices as from a final cause. For since the object which the capital vices inordinately seek vehemently allures man, as riches, which avarice seeks, in order to attain that object frequently and abundantly he applies many and diverse illicit means, which are so many sins arisen from a capital vice.[428]

Notes

427. St. Thomas, *De malo*, q. 8 ff. Holzmann, *Theologia moralis*, l. 1, tr. 3, disp. 2, c. 5. Struggl, *Theologia moralis*, tr. 2, q. 3. Ballerini-Palmieri I, n. 697-745.

428. St. Thomas I-II, q. 84, a. 3.

2. After St. Gregory the Great[429] and St. Thomas,[430] the capital vices are commonly numbered as seven: pride, avarice, lust, envy, gluttony, anger, sloth. Concerning each one the treatment must be so made that they are considered both insofar as they are vices and insofar as they are sins.

a. The seven capital vices are not enumerated by all in the same way: for some, considering pride as the root of all vices, still number seven under it, of which the first is ambition; but others, numbering pride among the seven capital vices, place ambition in the first place among its daughters.

b. The seven vices are comprehended in the mnemonic word *Saligia*, whose individual letters signify the individual vices in order.

§ 1. On Pride.

336. 1. Pride is defined as an inordinate appetite of one's own excellence. Pride is opposed by excess to the virtue of humility.

a. Inordinate: for there is also an ordered love of one's own excellence, when someone does not esteem his own goods more than is fitting, and desires to be preferred to others because he judges that it will be useful for the glory of God and his own salvation or that of others.

b. Pride arises from this, that a man, considering his own excellence and not adverting that he has it from God, values it more than is fitting. This consideration brings it about that he conceives an excessive estimation of himself, is pleased with himself, prefers himself to others, despises others, desires to manifest his own excellence to others, to be honored and praised by them, and to be placed before them.

2. Complete pride is a sin mortal from its whole genus; incomplete pride is a sin venial from its whole genus.

a. Complete pride is that by which someone so wishes to excel and to be placed before others that he wishes to be subject to no one, neither to superiors nor to God himself; such is the pride of the devil. This contains direct, not only indirect and virtual, aversion from God, and on that account belongs to the gravest sins of all.

b. Incomplete pride is that by which someone, while retaining subjection toward God and superiors, values himself more than is fitting and desires to excel above others, whom he despises and contemns as inferiors. Incomplete pride is a venial sin: for the inordinate appetite of a thing indifferent of itself is venial. But accidentally it can be a grave sin, namely if it is joined with grave injury of others, or if it induces one to commit other grave sins.

3. Pride is not undeservedly called the mother of all sins, because inordinate love of one's own excellence can move one to any sins whatever; nevertheless there are certain sins which in a peculiar sense are called daughters of pride, insofar as pride induces to them almost by a natural necessity. These are the following:

a. Presumption, which is the appetite of undertaking something above one's powers. This of itself is venial, unless someone through his lack of skill exposes himself to grave danger of injury to be inflicted on God or neighbor, as if someone without sufficient skill desires to exercise the office of pastor, physician, judge, etc.

Notes

429. *Moralia*, l. 31, c. 7.

430. *Summa* I-II, q. 84, a. 4.

b. Ambition, which is the inordinate appetite of honor and dignity not owed, as if someone ambitiously seeks an office of which he is unworthy. But to seek a dignity or honor suitable to oneself with moderation and from a good end is not a sin, but an act of magnanimity.

c. Vain glory, which is the inordinate appetite of the manifestation of one's own excellence, whether true or fictitious, as if someone inordinately seeks praise or rejoices concerning the humiliation of others. He does not commit the vice of vain glory who, on account of an honorable end, strives to excel, e.g. that he may become fit for an office to be carried out afterward, that he may please his parents, that he may obtain a prize proposed. It is called vanity if someone seeks praise and honor from goods of lesser moment, e.g. from wealth, from bodily beauty, from garments, etc.

Vain glory manifests itself in a threefold way:

a. boasting, which is the inordinate manifestation of one's own excellence through words;

b. ostentation, which is the inordinate manifestation of one's own excellence through deeds or signs;

c. hypocrisy, which is the inordinate manifestation of one's own excellence through simulated virtues.

§ 2. On Avarice.

337. 1. Avarice is defined as an inordinate appetite of temporal goods, i.e. of goods of fortune. Avarice is opposed by defect to the virtue of liberality.

a. The love of riches is inordinate if it is not ruled by a due and honorable end, such as providing for the necessities of a family, doing good to others, etc.; moreover, if through excessive solicitude for acquiring riches or excessive parsimony the mode prescribed by reason in these matters is injured.

b. The vice of avarice can be found equally in the poor man and in the rich man, since each can adhere with excessive affection to things possessed or desire things to be possessed with excessive desire.

2. Avarice is a sin venial from its whole genus: for excess in a thing otherwise indifferent and licit is venial; but the love of temporal goods is of itself indifferent.

Avarice can become a mortal sin if not only liberality, but also another virtue is injured, e.g. justice or charity toward neighbor, as if a man so inordinately loves riches that on account of them, e.g. by becoming rich from the goods of others, he violates the law of God, or by denying due alms he fails in duties toward neighbor.

3. Avarice is committed in two ways: a. by excess in retaining goods acquired (*Geiz*); b. by excess in care and solicitude for acquiring new goods (*Habsucht*).

4. Chiefly five daughters of avarice are numbered:

a. Hardening of heart toward the poor, whom the avaricious man addresses harshly, repels empty-handed without mercy, and with rigor exacts debts from them, even if they are unequal to paying.

b. Disquiet of heart, e.g. vehement and inordinate application of the mind to acquiring and preserving riches with a vain fear lest they not be acquired or lest they be lost.

c. Fraud, which is the deception of another accomplished by deed, as when weights and measures are adulterated in things to be sold.

d. Guile, which is the deception of another accomplished by words.

e. Betrayal, which is the deception of another, against faith given, accomplished to his harm.

§ 3. On Envy.[431]

338. 1. Envy is sadness concerning another's good, insofar as this is apprehended as diminishing one's own excellence, e.g. the honor of a companion as a dishonor to the one envying. It is directly opposed to charity, which rejoices concerning the good of neighbor, which good the envious man wishes destroyed and, when it is not destroyed, grieves.

It differs: a. from emulation; for an emulator is not saddened concerning the good of neighbor, but is saddened concerning his own evil because he lacks that good which he sees in another; b. from hatred, by which someone is saddened concerning the good of another insofar as it is his good; c. from that sadness which someone has concerning the good of another insofar as he fears some evil to himself from it, e.g. if someone is saddened concerning the elevation of another because he fears oppression to himself from it; d. from indignation, by which someone is saddened concerning the good of another insofar as this other is unworthy of that good. This of itself is not a sin; but it can become a sin if it is repugnant to divine providence, which for certain ends bestows goods, both temporal and supernatural, even on sinners.

2. Envy arises from pride, insofar as someone so inordinately loves his own excellence in some good, whether true or fictitious, that he is unwilling that a good of this kind be possessed by his neighbor. Envy is accustomed to be in those who are equals or nearly equals, because the glory of those who greatly excel is not accustomed to be apprehended as a diminution of one's own excellence. And although some are by nature more prone to envy than others, nevertheless this vice has been so deeply implanted in all that some first motions of envy are found even in perfect men.

3. Envy is a sin mortal from its genus: for it is repugnant to charity; but sins against charity are grave from their genus. Nevertheless it admits smallness of matter. In order that envy be a grave sin, it is required: a. that it be referred to a great good of the neighbor, whether corporal or spiritual; b. that the envious man seriously will the neighbor to lack that good, lest he himself undergo a fictitious lessening of his own good.

The greater the good is concerning which someone envies another, the greater is the sin of envy; therefore the gravest sin of envy is that by which someone envies his neighbor spiritual goods themselves: the gifts of the Holy Spirit, grace, virtue, sanctity.

4. Five following daughters of envy are numbered: hatred, susurration, detraction, exultation in adversities, affliction in the prosperities of the neighbor.

While the envious man is saddened concerning the good of the neighbor insofar as it is apprehended as a cause of his own evil, there arises in him the desire that the neighbor fall away from that good; therefore he strives to diminish it or utterly destroy it through evil speeches against the neighbor, which, if they are hidden, are called susurration, and if they are manifest, detraction. But if he obtains this end, he exults; if he does not obtain it, he is afflicted and saddened; and this sadness, if it endures, generates hatred.

§ 4. On Gluttony.

339. 1. Gluttony is the inordinate appetite of food and drink.

a. The inordination of gluttony consists in this, that the mode prescribed by reason in the use of food and drink is not preserved.

Notes

431. Lust is treated in the fascicle separately edited: *De sexto praecepto*, etc.

b. Gluttony taken generically is opposed to two virtues which pertain to temperance: abstinence, which moderates the use of food and non-inebriating drink, and sobriety, which moderates the use of inebriating or alcoholic drink. Therefore there are two species of gluttony: overeating, or gluttony specifically taken, and drunkenness, which are specifically distinct sins.

2. One can sin by gluttony in five ways, which already are comprehended by St. Thomas in this little verse:

Too hastily, sumptuously, too much, ardently, elaborately.[432]

For inordination in the use of food and drink can be occupied either about the food itself or about the taking of it, and indeed:

a. About the substance of the food, if foods more costly and more exquisite than befit the state and condition of the determined man are sought: sumptuously.

b. About quantity, if one eats beyond the appetite of nature, i.e. more than is required for good health of body and for a fitting disposition of mind: too much.

c. About quality, if preparation of foods is applied, on account of seasonings and things of this kind, that is too delicate and exquisite: elaborately.

d. About the taking, by reason of the mode, if someone eats too greedily and voraciously: ardently.

e. About the taking, by reason of the time, if someone anticipates the due time or eats and drinks more often than is fitting: too hastily.

3. Gluttony is a sin light from its genus: for from the general rule, excess in a thing otherwise indifferent or licit is of itself nothing but venial. But accidentally gluttony can become mortal, and that in many ways, but especially:

a. By reason of injured charity of God, because a man so inordinately loves the delectations of food and drink that, constituting them as his ultimate end, he is prepared rather to contemn precepts gravely obliging than to renounce these delectations. These are those whose God is the belly.[433]

b. By reason of grave harm in the body, if someone advertently gravely injures the health of the body through excessive gorging.

c. By reason of grave harm in the soul, if someone advertently renders himself unfit, through excess in food and drink, for carrying out duties obliging under grave obligation.

d. It is not a grave sin to indulge gluttony up to vomiting: for nothing else is had except excess, indeed enormous, in the use of delectation from food and drink; but this excess from its genus is venial, unless a circumstance changing the species is added.

e. Although it is a grave sin without necessity to feed on human flesh, both because this is repugnant to the piety owed to the dead and because it opens the way to human killings, nevertheless in the extreme necessity of hunger this seems to be licit, because in extreme necessity those things sometimes become licit which otherwise are prohibited by the law of nature. But it is never licit to kill a man for this end.[434]

4. St. Thomas enumerates five daughters of gluttony:

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432. St. Thomas II-II, q. 148, a. 4.

433. Phil. 3, 19.

434. Lessius, *De iustitia*, l. 4, c. 3, n. 9 ff.

a. Hebetude of mind, or a disordering of reason situated in this, that someone can neither pray nor perform other things of that kind.

b. Inept joy, or an inordination of the appetite.

c. Much-speaking, or an inordination of words.

d. Scurrility, or an inordination of external acts to which inept joy induces.

e. Uncleanness, or an inordination in the body: for from satiety arise emissions of semen, vomiting, and other excretions of superfluous things.

340. On temperance to be preserved. In the use of food and drink reason prescribes the mode which the end requires on account of which food and drink were created by the author of nature. But food and drink are ordered to the necessity and sustenance of life, namely that the body may be preserved in integrity and vigor and thus may be able aptly to serve the mind in its functions. Now indeed, not only that is called necessary for the sustenance of life which is required for existence, but also that which is required for fittingness and comfort. In the same way, that is called not necessary for life both which impedes the health of the body and the suitable disposition of the mind, and that which is not required for fitting sustenance of life. He who preserves the virtue of temperance in the use of food and drink eats and drinks as much as is required for fitting sustenance of life, but never takes what he foresees will be harmful to bodily health or to the suitable disposition of the mind for exercising its functions: for this would be the sin of gluttony. It is clear that those things which are required for living suitably and fittingly are not restricted to a definite quantity, but have a certain latitude, so that more or less can be taken, and yet no harm be brought to health and the apt disposition of the mind. Now indeed it is licit to use moderately those things which are not required for fitting sustenance and yet do not impede the apt disposition of mind and body, on account of just causes, e.g. of hospitality, festivity, extraordinary joy, etc.; for by these temperance is not injured nor is the sin of gluttony committed.[435]

On Drunkenness.

341. Notions. 1. Drunkenness taken passively signifies the defect of the use of reason induced by excessive drink, whence someone is called drunk; drunkenness taken actively denotes the very drinking which induces this effect, and is defined: voluntary excess in drink from pleasure alone unto violent privation of the use of reason. Active drunkenness is a sin; passive drunkenness is the effect of sin.

a. In drink: namely of wine or of another inebriating liquid, by which words it differs from overeating. From pleasure alone: for if drink were taken from another cause, e.g. by reason of medicine, even unto privation of the use of reason, it would not be drunkenness. Nevertheless it does not therefore cease to be drunkenness because pleasure is not perceived from the drink, provided the drink is not taken from another reasonable end. Violent: for the use of reason is interrupted in a natural manner by sleep and in a violent manner by excessive drink, whereby it happens that the drunk man, not even when awakened from sleep, can use reason.

b. From these things it is clear that the proper malice of drunkenness is not in drinking alone inducing privation of the use of reason, but in drinking which brings on privation of the use of reason in a violent manner, without sufficient cause, on account of the pleasure of drink.[436]

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435. Cf. St. Thomas II-II, q. 141, a. 6. Lessius, *De iustitia*, l. 4, c. 1, n. 9 ff.

436. Lessius, l. 4, c. 3, n. 13 f.

2. Drunkenness is called perfect if it entirely takes away the use of reason, and is called imperfect if it does not entirely take away the use of reason.

One is judged to labor under perfect drunkenness: a. who no longer knows how to distinguish between good and evil; b. who on the following day does not remember notable things which he said or did in drunkenness; c. who does utterly unusual things which he was not accustomed to do with an intact mind. Drunkenness will be imperfect if, with the use of reason preserved, or with the power of acting morally preserved, only the phantasy is somewhat disturbed, the tongue stammers, the feet stagger, the eyes see double, objects seem to be turned in a circle, vomiting follows, and things of this kind.

342. Its formal malice. 1. The sin of drunkenness consists essentially in inordinate drinking, from pleasure alone, of an inebriating liquid with foresight of the loss of the use of reason. Therefore in the sin of drunkenness, the immoderate delectation of wine is willed of itself; the loss of the use of reason is willed in the cause. Since this loss is admitted without a sufficient motive, only on account of the pleasure of drink, it is morally evil. Since the proper malice of drunkenness consists in drinking unto privation of the use of reason from pleasure alone, without necessity, if the drinking of wine is done from another motive, and that an honorable one, it is not evil, although it causes privation of the use of reason; for it is not done inordinately or against the rule of reason, as that which is done from pleasure is.

2. To indulge the pleasure of drink immoderately, or against the rule of reason, is a venial sin, even if reason is disturbed somewhat; but to indulge the same pleasure unto full loss of the use of reason is a grave sin.

3. For resolving the questions which pertain here, it helps to note that the immediate effect of abundant drinking is relaxation of the nerves and stupor of the senses, from which the loss of the use of reason follows as an effect. Since drinking from an honorable motive, or for obtaining a licit effect, is not morally evil, although disturbance of reason follows from it, in resolving particular questions it must be considered whether the harm of temporary privation of the use of reason is sufficiently compensated by the good on account of which that privation is permitted, and whether privation of the use of reason is not intended.

4. What is said concerning the use of inebriating liquid must be affirmed in the same way concerning the use of opium, ether, chloroform, and similar things: namely, their immediate effect is weakening of the nerves and stupor of the senses, from which privation of the use of reason follows. Now that stupor of the senses is licitly brought on for obtaining a sufficiently grave good effect, even if, besides the intention, the evil effect follows, namely violent disturbance of reason.

a. Therefore it is licit to make oneself drunk for driving away a disease according to the counsel of physicians, e.g. for curing the disease of cholera or for evacuating the force of poison: for temporary disturbance of reason is sufficiently compensated by the good intended.

b. It is licit to make oneself drunk or to use chloroform for lessening pains or not feeling them, e.g. in a surgical operation or in a difficult childbirth: for privation of the use of reason is sufficiently compensated by the good intended, which is the mitigation of sharp pain.

It is asked whether it is licit to use chloroform for mitigating the ordinary pains of childbirth. It is doubtful whether this cause is sufficient both for permitting disturbance of reason and especially for bringing on the danger which arises from the use of chloroform both for the mother and for the offspring.[437]

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437. Cf. Capellmann, *Medicina pastoralis*^7 (Aachen: Barth, 1893), p. 40 f., who judges that in ordinary childbirth this is not licit; nevertheless Olfers, *Pastoralmedicin*^2 (Freiburg: Herder, 1893), p. 103, contradicts him.

c. It is licit to make oneself drunk for avoiding death which someone threatens to another unless he makes himself drunk, except, however, the case in which someone demands drunkenness in contempt of God or in hatred of virtue: for from abundant drinking it follows immediately that the other desists from the will of inflicting death; but the effect of inebriation is permitted from the sufficiently grave cause of freeing oneself from death.

d. It is licit to make oneself drunk for driving away the trouble of sleeplessness (*Schlaflosigkeit*) under this condition, that other harmless remedies have been applied in vain, but drunkenness is useful for inducing sleep.

e. It is not licit to make oneself drunk for driving away melancholy or for lightening grief, both because that end is not a sufficient cause for permitting disturbance of reason, and because other means are at hand for obtaining that end. Nevertheless it is licit on account of this cause to drink up to cheerfulness.[438]

343. Its moral malice. 1. Perfect drunkenness is a mortal sin: a. Sacred Scripture numbers drunkenness among the sins which exclude from the kingdom of heaven;[439] b. it is a grave disorder violently to deprive oneself not only of the use of reason but also of the proximate power of using it, and to cast oneself down to the condition of beasts on account of the pleasure alone taken from drink.

a. Even perfect drunkenness admits smallness of matter: if therefore someone without necessity deprives himself of the use of reason for a brief time, which does not reach an hour, he does not commit a grave sin. Nevertheless for practice this note is scarcely of any moment, because it can scarcely be foreseen that drink will not deprive one of the use of reason for a longer space than an hour.

b. He who drinks so immoderately that perfect drunkenness would certainly follow, even if by committing himself to sleep he does not experience this effect, nevertheless sins gravely: for by the drinking he not only posits the cause of the evil, and indeed the whole cause, but also remains deprived of the proximate power of using reason. Nevertheless he does not sin gravely who by a medicine prevents himself from being deprived of the use of reason from immoderate drink.

2. Imperfect drunkenness of itself does not exceed venial sin; but accidentally it can become grave: a. by reason of scandal, which, for example, a priest would give, even only once, or a father of a family, if he were more often half-drunk; b. by reason of harm which is inflicted either on health or on the family; c. by reason of the end, as if someone were to drink in order to excite stronger lust in himself; d. by reason of grave sadness which is caused thence to a wife, children, or parents.

a. Ballerini prudently notes: "When someone confesses drunkenness, he will have to be asked whether he fully lost the use of reason. For commonly they think, by a false opinion, that grave sin is present if wine has provoked him to vomiting."

b. Therefore without doubt it is a grave sin to induce others to drunkenness; and so: a. to challenge someone to equal draughts with danger of drunkenness; b. to offer drink repeatedly with foresight of drunkenness; c. to urge and, as it were, compel another to drink with danger of drunkenness, even if it is done for the sake of politeness. But it is licit to offer and propose abundant drink to guests who are foreseen to become intoxicated from it, provided a sufficient cause makes honorable this remote cooperation.

c. Whether and to what extent sins committed in drunkenness can be imputed is said elsewhere; in this place let it be noted: a. insults uttered against others are not imputed to a drunk man; for since they are

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438. Gobat apud Lacroix, l. 5, n. 344.

439. 1 Cor. 6, 10; Gal. 5, 21.

not esteemed even by those whom they affect, they are not apt to injure another's honor. b. There are those who affirm this same thing also concerning blasphemies; nevertheless this sentence is commonly rejected, because the honor of God requires that even material blasphemy be avoided.[440]

344. On the use of morphine.[441] For lessening pains and for putting the senses to sleep, physicians now frequently use diverse means; and indeed morphine is ordinarily applied for lessening pains, but other "narcotics" also serve for putting the senses to sleep. The question is asked concerning their effects and concerning their liceity.

1. The effects which the use of morphine produces are diverse according to the diverse quantity which is taken. What is said here concerning morphine is also valid concerning opium, cocaine, and other remedies of this kind.

a. Drunk in a great quantity, in the same way as poison, it induces death; taken in a lesser quantity it causes stupor of the senses and privation of the use of reason, which effect indeed differs in nothing from drunkenness; finally, if a very moderate quantity is taken, it serves for quieting the nerves and restoring strength.

b. Injections of morphine, which are made under the skin in small quantity, serve for lessening pains and produce a certain pleasure that is by no means slight. But if those subcutaneous injections are repeated in greater quantity for a notable time, they gravely harm the health of the body, notably shorten life, and moreover provoke a vehement craving for morphine, which can be overcome with greater difficulty than drunkenness itself and can scarcely be cured except in hospitals erected for this end. Nevertheless these malignant effects are not caused except from the use of a greater quantity repeated rather often; a few injections, and those moderate, scarcely harm the body or the soul in any way.

345. 2. From these things, as regards the liceity of this use, the following are now gathered.

a. A use of morphine so slight that it produces no other effect except restoration of strength and quieting of the nerves is manifestly licit.

b. A moderate use of morphine, even without a just cause, applied only for calming the craving for it, does not exceed venial sin, since it does not gravely harm health nor cause a notable shortening of life; but to use morphine in that quantity and frequency such that notable detriment to health and life follows from it is a grave sin.

c. The use of morphine applied in such a quantity that the senses are put to sleep and privation of the use of reason follows:

d. without a just cause is a grave sin, equally as drunkenness arising from the drinking of wine;

e. from a proportionately grave cause of necessity or utility is licit, e.g. that the sick man in a surgical operation may permit himself without resistance to the hands of the surgeon, or that the sick man may not feel sharp pains;

f. in the article of death is illicit not only if the dying man is not yet disposed for dying well, but even if he has been duly disposed for death, because there is not a sufficient reason for depriving a dying man of the use of reason, unless a fall into sin is to be feared; since indeed at that time the use of reason is of such great utility that it cannot be compensated by any temporal advantage. For the dying man

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440. Lehmkuhl I, n. 745. Ballerini-Palmieri I, n. 731 ff.

441. Cf. Olfers, l. c., p. 103 f. Capellmann, l. c., p. 41 ff.

would lack the merits which he could gain both from pains patiently tolerated and from acts of perfect conformity with the divine will and of other virtues.

346. On euthanasia. 1. Today the dying frequently demand from physicians, and physicians procure for them, the euthanasia, as they call it, namely a placid and tranquil death without pain, because by means of morphine they induce stupor of the senses and perfect privation of the use of reason. a. If only pains are lessened by morphine, but the use of reason is not taken away, or if the use of reason is taken away only for a time, it is clear that its use is licit even in the dying. b. If by morphine the use of reason is fully taken away for the whole time of agony, its use is illicit, even in those who have already fulfilled their obligations, both because there is not a sufficient reason for admitting privation of the use of reason, unless at the same time there is danger of sinning, and the more so because in the time of agony pains are lessened of themselves; and because privation of the use of reason continuing until death is equivalent to a shortening of spiritual life, which is illicit. c. Less efficacious for demonstrating this is the argument taken from the necessity that the faculty of praying and meriting be preserved for a man. For although the faithful rightly judge it a great gift of grace if they can await death with serene mind, nevertheless no obligation exists of preserving the use of reason in death, as far as can be done, so that the dying man, master of himself, may await death and offer his life to God, nor so that he may be able to acquire merits for himself, since the neglect of this occasion of praying and meriting, if it is done not from contempt but from fear of an evil, even a temporal one, is not a sin.

2. If in the article of death, on account of excessive pains or from other causes, a fall into sin were to be feared, some indeed judge that this can be permitted, but Lehmkuhl rightly denies it (n. 743).[442] Therefore the same author judges that the priest assisting the dying ought to resist the practice of physicians of putting the dying to sleep, not only as regards those who are not yet disposed for death, but also as regards the disposed in whom there is no danger of sinning gravely; only as regards the dying who are in danger of sinning gravely can that practice be not positively permitted, but tolerated in silence. Likewise, if a dying man in good faith demands that the use of reason be taken away from him, and there is no hope that he will obey after being warned, the use of morphine could be tolerated.

347. On combating drunkenness. Drunkenness (*Berauschung*), especially if it is committed frequently, produces the most destructive consequences, both individual and social. Individual consequences: it excites and promotes the carnal appetite, lust; it dulls and blunts the sense of morality and religion; it squanders goods of fortune; but especially it brings the greatest harm to the health of mind and body. Social consequences: it disturbs domestic peace and family life, provides occasion for innumerable crimes, and, what tends to the ruin of peoples, leads to the degeneration of offspring. Especially for this reason *ebriositas* (*Trunksucht*), which signifies the habit of making oneself drunk, is so monstrous a vice that it must be attacked and overcome in every way. Since manifest signs of degeneration induced by the excessive use of alcohol were already being detected in diverse nations, there arose a zeal for introducing and propagating either total abstinence from any alcoholic drink whatever or at least great temperance in its use; and societies against alcoholism have been erected, which assume for themselves the task of preventing the abuse of alcohol. The things which pastors of souls can contribute toward eradicating this evil, so pernicious and so widely diffused throughout the world, are contained in about the following:

a. To instruct the faithful concerning the malignant effects not only of drunkenness, but also of abundant drinking, which is done beyond a determined measure almost daily; concerning the error of those who think that from the use of alcoholic liquor the organism is nourished or strengthened; concerning

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442. Cf. Lacroix, l. 5, n. 341. Villada, *Casus conscientiae* III, p. 309.

drunkenness as the destructive source of offenses and crimes; concerning the sin of those who offer alcoholic liquors to infants.

b. To promote associations which are instituted for this end, that either temperance or even abstinence may be exercised.

c. To disseminate writings and periodical sheets by which the faithful may be suitably taught concerning these matters and excited to exercising temperance or abstinence.[443]

348. On Alcoholism. By this name are signified both the abuse of alcohol, which consists in immoderate drink, and the malignant effects which drunkenness produces in the health of man. Alcoholic liquors taken in small quantity indeed do not harm health, but drunk beyond due measure they can harm health very greatly, and this indeed in all organs of the body, but especially in the nervous system. The harm which they bring to health depends not only on the quantity and quality of alcoholic drink, but also on the disposition of the subject; thus in neurasthenics and in the children of parents who are given to drunkenness, they produce much worse effects. The quantity of alcohol which can be drunk without detriment to health is determined in diverse ways by experts.[444] And so drunkenness is morally evil also on account of the harm which it inflicts on the body. When this harm is grave cannot be determined accurately.

a. Assiduous or frequent drunkenness certainly inflicts grave harm on the body and therefore also under this respect is a grave sin.

b. Abundant and assiduous drinking, which nevertheless does not cause drunkenness, harms the body more than drunkenness committed now and then.

c. Whether abundant drinking of this kind ever constitutes a grave sin on account of the harm brought upon the body is difficult to say. Indeed, the consequences of such drinking both in the individual and in the human race are most destructive, nor can there be imagined a cause excusing the drinking and its evil effects; nevertheless, because the evil effects are produced only gradually and in different persons in a different degree, it cannot be determined when a more liberal use of alcohol begins to harm gravely.

d. Frequently to offer or permit alcoholic drinks to infants and to those before puberty cannot be excused from grave fault.

§ 5. On Anger.

349. 1. Anger is usually defined as an inordinate appetite of vengeance. Anger is opposed by excess to meekness.

a. Anger, therefore, insofar as it is a vice, or irascibility, is a passion of the sensitive appetite, namely the irascible appetite, which consists in the appetite of vengeance.

b. Anger, according to the twofold element which it contains, properly includes a twofold inordination: one on the part of the motion in the irascible appetite, or on the part of the kindling of anger, which is excessive; the other on the part of the object, or on the part of the vengeance which it seeks, greater than is just or on account of an unjust cause. This definition of anger exhibits both elements, by which it is called an inordinate motion of the soul inordinately seeking vengeance.

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443. Ferstl, *Die Alkoholfrage der Gegenwart. Sechs Vortrage* (Regensburg: Verlagsanstalt, 1906). Pieper, *Die Massigkeitsbestrebungen* (M. Gladbach: Zentralstelle, 1906). A. Egger, *Der Klerus u. die Alkoholfrage* (Freiburg: Herder, 1899). Hoppe, *Die Tatsachen uber den Alkohol*^3 (Munich: Reinhart, 1904). Bunge, *Die Alkoholfrage.* In Basel, at the publishing house of the League of Opponents of Alcohol, a whole series of small writings concerning this question has appeared.

444. Capellmann-Bergman, *Pastoralmedizin*^15, p. 86 ff. Antonelli, *Medicina pastoralis*^3, n. 455 ff.

c. Inordinate: because both the passion or motion of anger and the appetite of vengeance of themselves can be indifferent, honorable, and licit, if, for example, parents are angry on account of the faults of children and vindicate them by punishment.

2. Anger, insofar as it is an inordinate motion of the irascible appetite, is a sin venial from its whole genus: for excess in an indifferent thing of itself does not exceed venial fault.

a. This anger is committed when someone is inflamed with anger concerning a thing which does not deserve anger, or beyond what the thing deserves, or more often than is fitting.

b. Accidentally this anger can become a mortal sin by reason of enormous excess utterly deforming rational nature, when someone deliberately acts so furiously as if he were deprived of reason.

c. Three species, or diverse modes, of this anger are assigned: a. rancor (*Groll*), which is anger insofar as it causes indignation, aversion, and hatred; b. madness (*Tollheit*), which is anger insofar as it deprives the mind of the use of reason; c. fury (*Wut*), which is anger insofar as it breaks forth into enormous external motions.

3. Anger, insofar as it is an inordinate appetite of vengeance, is a sin mortal from its genus: for it is directly repugnant to charity or even to justice, because it inordinately or even unjustly seeks evil for the neighbor; but sins against charity or justice are mortal from their genus.

This anger is committed: a. when someone seeks vengeance against him who does not deserve it; or b. beyond what he deserves; or c. not for the due end, namely not from zeal for justice, but from hatred of the person or for satisfying a malevolent soul or from lust for vengeance, etc.

§ 6. On Sloth.

350. 1. Special sloth, insofar as it is a capital vice, is sadness concerning the divine good, namely concerning the grace and friendship of God, insofar as it is man's proper good.

a. Sloth taken broadly is weariness or sadness concerning labor. It is divided into natural and spiritual, or moral, sloth. Natural sloth is weariness or sadness concerning bodily labor on account of its difficulty. It is clear that this sloth must be carefully distinguished from weariness of body and from lack of strength. Spiritual sloth is divided into general and special, or capital, sloth. General sloth is weariness or sadness concerning spiritual things on account of the labor necessary in exercising them. This sloth is not a special sin distinct from the sin committed through transgression of a precept from sloth, as if someone from sloth omits Sunday Mass. Special sloth is sadness concerning the divine good, i.e. concerning the grace and friendship of God, insofar as they pertain to man.

b. A special vice must be opposed to a special virtue. The virtue to which sloth is opposed is charity toward God. As hatred is opposed to the love of charity, so sadness concerning the divine good is opposed to the joy of charity. For he who loves God, on account of God rejoices concerning his own spiritual good, namely that through grace he is conformed to God and admitted to fellowship in the divine nature. But the slothful man is saddened concerning this spiritual good, unwilling that he be destined by God to such goods.[445]

2. Special sloth is a sin mortal from its whole genus, because it is directly repugnant to divine charity, from which the slothful man recedes on account of displeasure with the spiritual goods which God bestows

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445. Cf. St. Thomas II-II, q. 35, a. 3.

on men. Nevertheless it can be venial from imperfection of the act. For the rest, this worst sloth is not committed so frequently.

A young man who is saddened because he is compelled to perform works of devotion and virtues which are not prescribed does not commit the special sin of sloth, nor does he sin gravely. But he sins gravely by the special sin of sloth who is saddened that he must acquire eternal beatitude for himself, or that he has known the Catholic faith.

3. Its principal daughters are numbered as five:

a. Malice, by which someone has hatred for spiritual goods and would wish them not to exist.

b. Rancor, by which those who induce one to spiritual things are distasteful.

c. Despair concerning salvation.

d. Torpor, by which good things are not done with due fervor.

e. Wandering of mind, by which someone wanders about illicit things in the exercise of spiritual matters.

Article Second.

On Sins Crying to Heaven.

351. What they are. Sins crying to heaven are numbered as four: a. voluntary homicide; b. sodomy; c. oppression of the poor, widows, and orphans; d. defrauded wages of workers.[446] These sins contain such abominable malice that before the rest they provoke divine vengeance.

a. The external reason on account of which they are designated by this name is this, that Sacred Scripture, commemorating those sins, adds that they cry to heaven.

b. Commemorating the fratricide of Cain, it says: The voice of thy brother's blood cries to me from the earth.[447]

c. Commemorating the sin of Sodom and Gomorrah, it says: We will destroy this place, because their cry has grown before the Lord.[448]

d. It prohibits the injury of widows and orphans with these words: You shall not hurt a widow and an orphan. If you hurt them, they will cry out to me, and I will hear their cry;[449] and commemorating the affliction of the people of God in Egypt, it says: I have seen the affliction of my people in Egypt and I have heard its cry.[450]

e. Concerning defrauded wages it has these words: Thou shalt not deny the wages of thy needy and poor brother … lest he cry against thee to the Lord and it be reputed to thee as sin.[451] Behold, the wages of the workers who harvested your fields, which have been defrauded by you, cry, and their cry has entered into the ears of the Lord Sabaoth.[452]

Notes

446. They are comprehended in this memorial verse: The voice of blood and of the Sodomites cries to heaven, the voice of the oppressed, the wages withheld from labors.

447. Gen. 4, 10.

448. Gen. 19, 13. Cf. Gen. 18, 20.

449. Ex. 22, 22 f.

450. Ex. 3, 7.

451. Deut. 24, 14 f.

452. Jas. 5, 4.

f. Considered in their nature, the peculiar malice of these sins consists in this, that they are opposed to man's social inclination, which has been implanted in all by nature for constituting and preserving human society, and that through them laws are violated which tend to this, that the highest social goods be preserved; and therefore before the rest they demand divine vengeance.

Sodomy and homicide are opposed to the appetite which tends toward the preservation of the species and of the individual, and they injure the precepts looking to that; oppression of the poor and defrauding of wages are opposed to the appetite which tends toward the preservation of human society through individual ownership of goods, and they injure the precepts looking to that.

Article Third.

On Sins Against the Holy Spirit.

352. According to Sacred Scripture.[453] Christ the Lord himself speaks concerning the sin against the Holy Spirit,[454] teaching that it is not remitted: But he who shall have spoken against the Holy Spirit, it shall not be remitted to him, neither in this age nor in the future.[455]

a. By the name of the sin against the Holy Spirit, Christ the Lord designates that sin of the Pharisees by which they attributed to the demon, the unclean spirit, the casting out of demons done by the power of God and known as such, from hatred and malice. Therefore the sin against the Holy Spirit is committed when manifest divine works, which the Holy Spirit works for confirming the faith or for converting sinners, are attributed to the demon from malice of heart.

b. This sin is said to be committed against the Holy Spirit both because a sin which proceeds from hatred and malice is committed in a peculiar way against divine goodness, but goodness is attributed to the Holy Spirit; and because it ascribes to the devil works of the Holy Spirit, of which sort are miracles.

c. Therefore the sin against the Holy Spirit from the mind of the Lord is not any sin whatever which is committed for some peculiar reason against the Holy Spirit, but that one thing described above, when from malice of heart manifest divine works are attributed to the demon. In our time a similar sin is committed by those who, from malice of heart, ascribe miraculous works which are done by manifest divine power for converting sinners not to God but to the forces of nature.

d. He does not say that this sin cannot be remitted, but that it indeed is remissible, yet in fact is never remitted: it shall not be remitted. But he says this either because he foresaw that those who committed this sin would never do penance, or because God in punishment of such great malice decreed not to give them graces so efficacious that they would in fact be converted.

Those do not explain the irremissibility of this sin as is fitting who teach that ordinarily, for the most part, it is not remitted, because those sinning against the Holy Spirit rarely convert themselves; but it must be held that this sin is so excepted by Christ the Lord from the number of others, all of which are remitted, that it is never remitted. But it must likewise be held that in the concrete it can never be established whether someone has committed this irremissible sin, and therefore hope of pardon must never be taken away from anyone, provided he wishes to do penance.

353. According to the doctrine of theologians. 1. Any grave sin can be called a sin against the Holy Spirit, insofar as it is opposed to holiness, whose author is the Holy Spirit. Certain sins in species can

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Notes

453. Knabenbauer, *Commentarius in quatuor s. evangelia* (Paris: Lethielleux, 1892), I, p. 487 ff.

454. Matt. 12, 31 f.; Mark 3, 29; Luke 12, 10.

455. Matt. 12, 32. Cf. 1 John 15, 16 f.

also be signified by this name, which are committed in a peculiar way against the Holy Spirit, and indeed: a. blasphemy against the Most Holy Trinity and especially against the person of the Holy Spirit; b. final impenitence, which is voluntary withdrawal from God with the purpose of persisting in sin until death and of pertinaciously resisting the motions of truth and grace; c. any sin committed from explicit malice or with voluntary contempt of God and of his supreme dominion.

2. From various places of St. Augustine explaining the words of the Lord related above, six sins against the Holy Spirit are numbered by the scholastics, after Peter Lombard and Alexander of Hales: a. presumption; b. despair; c. attack upon known truth; d. envy of fraternal grace; e. obstinacy; f. impenitence.

It is clear that these sins have not been deduced from the words of Christ; indeed among these there is none which agrees with the sin against the Holy Spirit concerning which Christ speaks. But they are called sins against the Holy Spirit because in some peculiar way they are committed against the Holy Spirit.

3. Sins against the Holy Spirit are called irremissible; nevertheless those six sins can be called irremissible only in this sense, that they are rarely remitted, and this indeed not because God is unwilling to remit them, but because man, on account of hardness of heart and blindness of mind, rarely disposes himself to true penance.

He who, defining sins against the Holy Spirit according to the mind of the scholastics, wishes at the same time to affirm that it belongs to the nature of the sin against the Holy Spirit that it truly is irremissible, must teach these two things at the same time: a. that the sin against the Holy Spirit is properly only one, namely final impenitence, or voluntary and pertinacious resistance against truth and grace until death; but that the other five are nothing except diverse modes by which impenitence manifests itself, or diverse grades by which man gradually slides down into impenitence. b. He must teach that the reason on account of which this sin is not remitted is situated not in the gravity of the sin, nor in a defect of divine power and mercy, but in the nature of the sin itself, inasmuch as it in fact pertinaciously resists divine grace, and therefore renders remission impossible, since God does not justify one unwilling.

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A. M. D. G.

Summa of Moral Theology.

Adapted for the use of schools

by

H. Noldin, S.J.

Professor of Sacred Theology in the University of Innsbruck.

First Complement:

On the Sixth Precept and on the Use of Matrimony.

With the approval of the Bishop of Brixen and of the superiors of the order.

On the Sixth Precept

and

On the Use of Matrimony.

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Book First.

On the Sixth and Ninth Precepts of the Decalogue.[456]

"Thou shalt not commit adultery." Ex. 20, 14.

"Thou shalt not covet thy neighbor's wife." Ibid. 20, 17.

Notes

456. St. Thomas II-II, q. 151-156. St. Alphonsus, l. 3, n. 412-485. Lessius, *De iustitia et iure*, etc., l. 4, c. 2, dub. 13-16. Sporer-Bierbaum, *Theologia moralis decalog. et sacram.*^3 (Paderborn: Typogr. bonifac., 1905), III, tr. IV, n. 467-697. Holzmann, *Theologia moralis* II, n. 653-723. Reuter, *Theologia moralis* II, n. 188-221. Lehmkuhl, *Theologia moralis* (Freiburg: Herder, 1902), I, 860-883. Ballerini-Palmieri, *Opus theologicum morale*^3 (Prato: Giachetti, 1898), II, n. 959-1049. Gopfert, *Moraltheologie*^5 (Paderborn: Schoningh, 1906), II, n. 210 ff. Berardi, *Praxis confessariorum*^4 (Faenza: Novelli, 1898), I, n. 820-1073. E. Genicot, *Theologia moralis*^6 (Louvain: Polleunis et Geuterick, 1909), I, n. 386-411. Sani, *De sexto decalogi praecepto* (Ravenna: Serantoni, 1904). Antonelli, *Medicina pastoralis* (Rome: Pustet, 1908).

The sixth precept of the Decalogue explicitly indeed prohibits adultery, or moechia, but implicitly any external lust whatever; but the ninth precept prohibits internal lust, namely that committed by depraved thoughts and desires. Therefore these two precepts, insofar as they are negative, prohibit all lust, both external and internal; but insofar as they are affirmative, they prescribe that chastity be preserved, suitable to each one's state.

In prohibiting moechia, this precept prohibits everything which is contrary to the ordered propagation of the human race: for all these things are reduced to moechia as to the principal act contrary to ordered propagation.

Question First.

On Chastity and Virginity.

1. Definition. Chastity is a moral virtue which excludes or moderates the appetite of venereal delectation.

a. Chastity is a virtue annexed to temperance. Temperance, which is one of the cardinal virtues, moderates the sensible appetite in those things which especially allure, namely both in delectations of taste, abstinence and sobriety, and in delectations of touch or of the flesh, chastity. Therefore chastity, which is opposed to the vice of lust, is a special virtue, whose material object is concupiscence of venereal delectation. For just as the virtue of abstinence moderates the appetite which is borne toward delectations of foods, so the virtue of chastity excludes or moderates the appetite which is borne toward venereal delectations. The formal object of chastity consists in the natural honesty which is detected in moderating the pleasures of the flesh according to the norm of reason.

b. Excludes or moderates: for according to the diverse state in which someone is found, the precept of chastity either prohibits and excludes every venereal delectation altogether, or prescribes only its moderation. The former has place in the youthful and widowed state, the latter in the matrimonial state.

2. Division. a. Chastity is distinguished into common chastity, which in any state of life abstains from illicit venereal delectation, and the proper chastity of a determined state, which abstains from venereal delectation according to the laws of the state.

b. By reason of the state to which it ought to correspond, a threefold chastity is distinguished: a. youthful chastity, which abstains from venereal delectation for a time, namely up to the time of nuptials; b. conjugal chastity, which abstains from illicit venereal pleasures in marriage; c. widowed chastity, which after the licit use of venereal delectation abstains from it for the future during the time of life or until second nuptials.

c. By reason of the mode by which it is preserved, chastity is distinguished into imperfect chastity, which contains itself from illicit pleasures of the flesh, and perfect chastity, which contains itself from all delectations of the flesh, even those licit in marriage.

3. On Virginity. 1. Virginity, or virginal chastity, is defined as a firm purpose of the will of abstaining perpetually from all venereal delectations, both illicit and licit, in marriage, in a subject never corrupted.

a. The name of virginity is taken in a twofold sense: for it signifies either integrity of the flesh alone, or also a firm purpose of abstaining perpetually from every venereal delectation. Virginity taken in the first sense is not a virtue, but a good of nature bestowed on all from birth; but virginity taken in the other sense is a virtue.[457] In the first sense a woman can be a virgin who has never had carnal intercourse, even if she had sinned against chastity by solitary internal or external acts, because that integrity of the flesh remains which is required and suffices for virginity taken in this sense. Nor does the Church require another, more perfect virginity from those who receive the veil of virginity in the consecration of

virgins: for according to the Roman Pontifical, before consecration they are to be questioned concerning life, conscience, and integrity of the flesh.[458]

b. Therefore two things are required for virginity taken in the full sense, one of which is in the mind, but the other in the body: a. the purpose of the will, which is the formal element of virginity, wherefore without the purpose of preserving chastity perpetually, actual virginity can indeed exist, but neither virtue properly nor the reward of virtue is had; b. integrity of the flesh, which is the material element of virginity. Therefore material virginity consists in integrity of the flesh alone, and consequently does not exclude consent to venereal delectation; formal virginity consists in the will of preserving chastity, even if the integrity of the flesh is injured against the will.

c. Wherefore a virgin can be intact either in body alone, or in mind alone, or in mind and body at the same time. She who is intact in body alone has lost before God the merit and beauty of virginity, but in the face of the Church is held as a virgin and can be consecrated among virgins. She who is intact in mind alone indeed retains before God the merit and reward of virginity, but in the face of the Church has lost virginity.

d. Virginity differs from perfect chastity in this, that virginity adds the signification that the subject has never been corrupted by lust; therefore it is perfect chastity joined with integrity of the flesh. Chastity, on the contrary, prescinds from integrity of the flesh, so that he who has previously already been corrupted by lust can preserve perfect chastity.

e. A vow is not required for virginity; but for the most part the purpose of the will of abstaining perpetually from every venereal delectation is strengthened by a vow. Therefore St. Thomas writes: "Virginity, according as it is a virtue, imports a purpose, strengthened by a vow, of preserving integrity perpetually."[459] With this vow added, the state of virginity is had.

f. Virginity is common to each sex;[460] nevertheless women alone are usually called virgins, because they alone have been endowed by nature with the seal of virginity.

2. Virginity is a special virtue, which differs from common chastity in this, that it abstains not only from illicit but from all venereal delectations, and that it adds to it the purpose of preserving youthful chastity perpetually. And this indeed is that virtue which is celebrated with so many praises by the holy Fathers of the Church and is adorned in heaven with a special reward, namely the aureole of virgins.

a. Pudicity according to St. Thomas is not a special virtue distinct from chastity, but is chastity itself insofar as it moderates certain less principal acts pertaining to concupiscence of the flesh, which precede and accompany the principal act, carnal intercourse, namely looks, touches, kisses, embraces, base conversations, etc. Therefore chastity includes two things: purity (*Reinigkeit*), or abstinence from illicit effusion of semen, and pudicity (*Schamhaftigkeit*), or abstinence from every action which induces to lust.

b. Pudicity is named from shame. Shame (*Schamgefuhl*), which especially shrinks from the denudation of the body, arises neither from custom nor from education, but has been implanted by nature, so that it

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Notes

457. From these things the distinction between the vow of virginity and the vow of perfect chastity is understood. The vow of virginity taken in the first sense is the promise of abstaining from that act, namely the conjugal act, by which the integrity of the flesh is injured; the vow of virginity taken in the other sense differs from the vow of perfect chastity only in this, that this vow directly and formally does not contain the promise of preserving the integrity of the body uninjured; on the contrary, the vow of virginity directly and formally also involves this promise.

458. Cf. Lessius, *De iustitia et iure*, l. 4, c. 2, n. 120. Ballerini-Palmieri II, n. 1048.

459. *Summa* II-II, q. 152, a. 3, ad 4.

460. Cf. Apoc. 14, 4, where male virgins are praised.

is found even in barbarous and uncultivated peoples, and indeed in women with greater intensity and perfection than in men. The end, however, on account of which it has been implanted by God is this, that it may be the guardian of innocence and may aid man in restraining the carnal appetite. For this reason, on the one hand care must be taken that shame be excited, cultivated, and preserved in adolescents, but on the other hand that all things be removed which can offend, diminish, and gradually extinguish pudicity entirely.

4. How virginity is lost. Virginity can be lost in many ways: formally or materially, reparably or irreparably.

a. Formal virginity is lost: a. through any mortal sin, whether external or internal, committed against chastity; b. through the intention of marrying, i.e. through the will of entering and consummating marriage. But through marriage alone without the will of consummating it, virginity is not lost.

b. Material virginity is lost through voluntary violation of the flesh; therefore in men through pollution, in women through breaking of the virginal enclosure. Through involuntary violation of the flesh, as happens in men through effusion of semen in sleep, it is not lost; but in women, through violent oppression, it indeed is not lost before God, but in the face of the Church virgins of this kind are judged corrupted.[461]

Therefore both forms of virginity are lost through a voluntary action which injures the integrity of the body; therefore in men through effusion of semen, whether solitary or with intercourse; and in women both through intercourse and through another voluntary violation of the virginal enclosure. Nevertheless, in the face of the Church, a woman remains a virgin as long as the enclosure of virginity has not been violated through intercourse, and a man remains a virgin as long as he has not known a woman carnally.

c. Virginity is lost: a. irreparably through a voluntary act by which the integrity of the body is injured; therefore through voluntary intercourse and through voluntary pollution. For just as innocence is lost irreparably by one mortal sin, so by one act of consummated lust virginity is irreparably lost, which signifies integrity of the flesh never voluntarily injured; b. reparably through the will of marrying and of consummating marriage and through any mortal sin of non-consummated lust: for integrity of the flesh remains, but the virtue lost can be recovered either by retraction or by penance.

d. They indeed dispute whether through immodest acts voluntarily admitted without effusion of semen virginity is lost reparably or irreparably. But with Lessius (n. 121) it seems it must be said that through touches of this kind virginity is not lost irreparably: for as long as integrity of the flesh is preserved, the virtue is not lost irreparably.

e. Therefore virginity not irreparably lost can be recovered: a. through the purpose elicited anew of preserving virginity perpetually, if it was lost only by a change of purpose; b. through penance, if virginity, with integrity of the flesh preserved, has been lost only through mortal sin against chastity. But if integrity of the flesh has been lost, virginity can no longer be recovered.

Note. If a penitent who has sinned against chastity asks whether he has irreparably lost virginity, ordinarily it is preferable not to declare this openly, but prudently to dissemble, e.g. by saying that every sin can be repaired through penance, lest the penitent, becoming discouraged and afflicted, neglect care for preserving chastity.

Question Second.

Notes

461. Cf. A. Eschbach, *Disputationes physiologico-theologicae*^2 (Rome: Desclee, 1901), disp. 5, c. 2, a. 2.

On Lust in General.

Article First.

On the Nature of Lust.

5. Declarations. There is especially a twofold propensity implanted in man by the author of nature: a propensity toward the conservation of the individual and a propensity toward the conservation and propagation of the species. The means of conserving the individual is nutrition; the means of conserving and propagating the species is the commingling of the sexes in legitimate marriage. Just as the author of nature, in order more easily and more certainly to obtain the end of conservation, added the delectation of taste to nutrition, so in order more easily and more certainly to obtain the end of propagation, he added the venereal delectation of the flesh to the commingling of the sexes. Lust is the inordinate appetite or use of venereal delectation.

In this definition, by the words appetite or use, internal and external acts of lust are comprehended. It is inordinate because it is done against the end intended by nature, which is the generation of offspring, as happens, for example, in pollution. The venereal, or a venereal thing, is properly called that which proximately pertains to generation: intercourse, effusion of semen or pollution, and venereal delectation. If the venereal thing is taken more broadly, so that it comprehends the whole matter of lust, then to it also belong those things which dispose toward intercourse and pollution: obscene touches and looks and impure thoughts. Therefore, for declaring the nature of lust, it is preferable first to set forth a brief description, taken from the physiologists, both of the members and of the actions which serve generation.[462]

1. The organs which in the male serve for accomplishing generation are especially three: the testicles, the seminal vesicles, and the virile member or urinary canal, which is also called the rod. And indeed in the testicles, after puberty has begun, the virile semen or sperm is elaborated; once elaborated, it is transmitted into the vesicles, in which, as in two receptacles, it is preserved until the time of ejaculating or eliciting it has arrived; but it is elicited through the urinary canal or virile member. The semen itself is a viscous humor in which little bodies are contained, which are called spermatozoa. Through the spermatozoa which it contains, the semen becomes prolific.

2. The organs which in the female are destined for generating a man are likewise numbered as three: the ovaries, in which from the years of puberty onward each month an ovule or germ matures; the uterus or womb, into which the egg, now mature and separated from the ovary, slowly proceeds; and finally the vagina, or a certain canal, which extends from the uterus to the external surface of the body. Its mouth is closed by a thin little membrane, which they call the hymen, and this hymen is called the seal or enclosure of virginity.

6. The act of generation. 1. The origin of a new man requires that the female egg be fecundated by virile semen; wherefore without union and commingling of each sex, a man cannot naturally be generated. This union and commingling of the sexes is accomplished by carnal intercourse or concubitus; namely, the man must insert the virile member into the female vessel or into the vagina and pour out semen into the inner parts of the uterus. By this twofold action, penetration of the female vessel and virile insemination, intercourse on the part of the man is completed. Now if the sperm of the virile semen is joined with the female ovule and penetrates it, the egg is fecundated, so that the organism of a human individual can be formed and developed from it. But since the female vessel is closed by the hymen, it is clear that in the first concubitus the virginal seal is broken by the virile member and therefore the virgin is deflowered.

Notes

462. Cf. Olfers, *Pastoralmedicin*^2 (Freiburg: Herder, 1893), p. 8 f. Eschbach, l. c., disp. 1, c. 2-5. Antonelli I, n. 76-90.

From these things the distinction between active and passive generation is clear. Active generation consists in carnal intercourse, or in that action by which the virile member is inserted into the vessel, the vagina, of the female and semen is poured out there. Passive generation consists in the union of the virile semen with the female ovule in the uterus of the woman, or in fecundation. Therefore the man concurs toward generation by providing semen; but the woman concurs by supplying the egg to be fecundated by virile semen. If at the time of intercourse the woman has a mature egg and the semen of the man poured out in the uterus meets the egg, the semen is joined with the ovule, and in this way the egg is fecundated, whence conception, or the generation of a human individual, occurs.

2. The separation of virile semen and its effusion through the rod, whether it happens in intercourse or outside intercourse, is accomplished with a vehement commotion of the genital members and a sense of pleasure. Likewise, while the female in carnal congress with the man receives the virile semen, she herself undergoes irritation and commotion of the genital members, which ordinarily is followed by secretion of vaginal humor, which is joined with the greatest sense of pleasure. And this secretion the older authors indeed called female insemination, which happens sometimes before, sometimes after the insemination of the man. Women can experience the same commotion of the members, secretion of vaginal humor, and carnal pleasure also solitarily outside intercourse, and this pleasurable effusion they call female pollution. But the separation of the ovules and their passage into the womb, with nature itself guiding, is accomplished spontaneously in women without a sense of delectation or pleasure.

To the acts by which the commingling of each sex for the generation of a new man is accomplished, the author of nature added the greatest pleasure and delectation of all, and at the same time inserted into human nature a vehement concupiscence for that delectation, so that he might allure man to a thing in itself foul and burdensome in its consequences. Hence through carnal intercourse a twofold end is obtained at the same time: the generation of a new man and the quieting of concupiscence. The former is the primary end of intercourse, the latter the secondary. Therefore God ordered this carnal pleasure to the generation of a human individual, and therefore to the conservation of the species, just as he ordered the pleasure of food and drink to the conservation of the individual.

7. Venereal delectation, which is also called carnal or libidinous, is delectation arisen from the commotion of the organs and humors serving generation. By its nature it is an act of the sensitive appetite, to which the pleasurable sense existing in the genital organs is pleasing; but the pleasurable sense itself can also be called venereal delectation.

Delectation is defined as the rest or complacency of the appetite in a present or possessed good. Therefore, by its nature, delectation is an act of the appetite which takes complacency for itself concerning some good. Man obtains his good through the diverse powers with which he has been equipped: spiritual good through the higher powers, sensible good through the lower powers. He obtains it in this, that a power attains the object suitable to itself and is occupied by its activity about it. Now indeed, as often as any human power whatever, whether rational or sensitive, is occupied in acting about its object, delectation arises in the appetite: in the will indeed, if the intellect possesses its object; in the sensitive appetite, if sense possesses its object. But the power itself also rests in the object as in its own good, and the intellectual powers indeed rest in it spiritually, but the sensitive powers sensibly, i.e. possession of the object is joined with a certain grateful affection and sense of the power. Now not only the complacency of the appetite, but also that grateful affection and sense by which the power enjoys its object, pertains to delectation and constitutes its object. Therefore, according to the diverse nature of the goods which man seeks and acquires and possesses by means of his powers, diverse delectation is distinguished in the appetite, whether higher or lower.

a. Purely spiritual delectation is delectation which arises from knowledge of some thing, as when someone rejoices concerning knowledge, long sought, of some truth; or it arises from the thing known itself, as when someone rejoices concerning truth, whose beauty he considers with delectation. This delectation resides wholly in the will, to which the knowledge of truth or the known truth itself is pleasing, and morally it is good or evil according as that which is pleasing is good or evil.

b. Sensible spiritual delectation, which arises from a more vivid representation, but especially from sight or touch, an embrace or kiss, of a person loved with a tender but honorable affection, chiefly on account of spiritual qualities. This delectation resides in the will, but nevertheless it is vehement, so that it also redounds into the sensitive appetite, and it is joined with a commotion of the heart and blood. Delectation of this kind is accustomed to accompany the love by which a mother follows her son, a betrothed man his betrothed woman, a friend his friend. It is separated from carnal delectation; therefore of itself it is morally indifferent.

c. Sensible delectation is delectation arisen from the perception of a sensible object which is aptly proportioned to the sensitive power. By its nature this delectation is a grateful and pleasant affection which is perceived in the very organs of the senses, e.g. from the smell of a flower, from the sight of the sky, from the hearing of music, from the taste of sugar, from the touch of a smooth thing, etc.; and concerning this affection the sensitive appetite is delighted. Touch or sight in these things is pleasing, and indeed of itself without venereal commotion; therefore this delectation of itself is indifferent.

A twofold sensible delectation can be distinguished: purely sensible, which arises from an object which of itself is not apt for exciting the venereal sense, as delectation arisen from the smell of a flower, from the touch of a rose; and sensual, which others call sensible-carnal, which arises from an object which of itself is apt for provoking the venereal sense, as delectation arisen from the touch or kiss of the hand of a woman, boy, or girl. This also resides wholly in the sensitive appetite; it becomes more vehement if it arises from the sight, touch, embrace, or kiss of a person loved with tender affection, and it is joined with a certain commotion of the heart and blood; and although of itself it is not carnal, nevertheless it easily excites carnal commotion.

8. Distinction of venereal delectation. 1. Venereal delectation can be twofold: complete and incomplete. Complete delectation is that which satiates nature, namely which proceeds to the ultimate terminus which is possible in a venereal matter; incomplete delectation is that which does not satiate nature, namely which arises from base commotion without proceeding to the ultimate terminus.

a. If the organs which serve generation are excited, venereal delectation is perceived from their irritation and commotion. But every commotion of the genital members tends to this, that the semen be resolved and elicited. Now in the resolution and effusion of semen, whether it happens with intercourse or without intercourse, complete delectation is perceived; but if the commotion does not proceed to this terminus of effusion, incomplete venereal delectation is had.

b. Although boys before puberty do not yet have virile semen, nevertheless they are capable of complete carnal delectation: for from base commotion increased up to the ultimate terminus this delectation is perceived and is joined with effusion of urethral humor.

c. In the same way women, who do not have true semen, can perceive complete venereal delectation from commotion of the genital members. Delectation which satiates nature in women is for the most part joined with the separation of a certain vaginal humor, which nevertheless rather often is diffused into the interior parts, into the uterus or womb. This secretion of female humor, if it happens in intercourse, is called insemination; if it is provoked outside intercourse, it is called female pollution.

2. Complete and incomplete venereal delectation do not differ in moral species, but specifically constitute the same sin: for in incomplete venereal delectation the whole essence of this sin is found, namely true venereal delectation, which in complete delectation is increased only as to degree, unless the frustration of semen is added.

Therefore if those before puberty, especially boys, accuse themselves of dishonest touches, they are not to be questioned further; for since they are not capable of pollution, in dishonest touches, or rather in the venereal delectation which follows them, whether it is complete or incomplete, the lowest species of sin is already had.

9. Lust is defined as the inordinate appetite or use of venereal delectation.

a. The order of nature established by God is that the use of venereal delectation take place only in legitimate marriage and according to the laws of marriage: for delectation is for the sake of the act, and this delectation indeed is for the sake of the act of generation, which can licitly be accomplished only in legitimate marriage. Therefore lust consists in venereal delectation voluntarily admitted outside marriage, or indeed in marriage, but against the laws of marriage.

b. Delectation properly is in the sensitive appetite and has for its object the venereal sense; but the venereal sense is perceived in the very members which serve generation. Nevertheless, for the most part this same sense of libido is called venereal delectation. The sin of lust consists in its voluntary appetite or use against the order of nature.

c. Impudicity is voluntary occupation about those things which induce venereal delectation, whether by thought, or by sight, or by touch, kiss, embrace. Therefore in acts of impudicity venereal delectation is not contained, nor is it necessarily joined with them, but they bring on its danger and frequently in fact bring it on. Therefore lust, which is directly opposed to chastity, includes two things: impurity, or illicit effusion of semen, whether with intercourse or outside intercourse, and impudicity, or voluntary occupation about those things which induce to lust.

10. Division of lust. a. Some lust is consummated, in which effusion of semen intervenes; other lust is non-consummated, in which effusion of semen is not had.

b. Consummated lust either is according to nature, if the effect of generation is of itself possible; or against nature, if the effect of generation is of itself impossible.

c. Non-consummated lust either is complete, if it reaches the ultimate natural terminus; or non-complete, if it does not attain the ultimate natural terminus.

d. Non-complete lust either is lust properly so called, in which venereal delectation itself is had, or impudicity, in which venereal delectation is not had.

e. Impudicity either is interior, which consists in internal acts of the phantasy, intellect, and will provoking lust, or exterior, which consists in external acts provoking lust.

f. Lust by reason of intention is one thing directly, another indirectly, willed. The former is had when venereal delectation is intended in itself; the latter is had when in itself something else is intended, e.g. sight, reading, from which carnal delectation is foreseen to arise beside the intention.

Article Second.

On the Malice of Lust.

11. Principles. The proper malice of lust consists in this, that man abuses venereal delectation and semen, which are ordered by the author of nature only to the due propagation of the human race, for pleasure or for another end.

1. Venereal delectation directly and in itself willed outside marriage is a grave sin. a. For it is gravely illicit in a grave matter to seek delectation against the order of nature; but he who seeks venereal delectation outside marriage does this, for venereal delectation has been instituted by nature for that act alone which serves generation; but this act, with nature itself requiring, is the conjugal act. b. Moreover, that is gravely illicit which, if it were not prohibited, would redound to the gravest harm of the human race; but if men could licitly enjoy venereal delectation and in this way quiet concupiscence outside marriage, most would refuse the burdens of marriage, with the gravest detriment to the human race. c. Therefore lust of any genus whatever is gravely prohibited by God, since it is numbered among the sins which exclude from the kingdom of God: The works of the flesh are manifest, which are fornication, uncleanness, immodesty, lust … those who do such things shall not obtain the kingdom of God.[463] Every fornicator or unclean person … has no inheritance in the kingdom of Christ and of God.[464] Do not err: neither fornicators … nor adulterers, nor the soft, nor those who lie with males … shall possess the kingdom of God.[465]

a. Although not all sins of lust are enumerated in these texts, nevertheless it is gathered from them that all are grave, both because the works of the flesh are generically exhibited as grave sins, and because the supreme species of lust, namely perfect acts, pollution, sodomy, fornication, and imperfect acts, uncleanness and immodesty, are exhibited as grave sins.[466]

b. Although the sin of lust is not judged among the graver mortal sins, nevertheless, if it is perpetrated by a Christian man, a certain peculiar foulness belongs to it which is not found in other sins, because this sin is committed in one's own body. For the body of a Christian, washed in the blood of Christ in baptism, has been made the temple of God through the indwelling Holy Spirit; but through the sin of lust this body, sanctified by the reception of the sacraments, especially of the Eucharist, is profaned and execrated, inasmuch as it becomes the object of sin.[467]

2. Venereal delectation directly willed does not admit smallness of matter, and therefore always, however slight and brief, is a mortal sin. For that is a grave sin which exposes man to proximate danger of sinning gravely; but any venereal delectation directly sought or freely admitted is of this kind, although slight: for venereal delectation, once freely admitted or sought, naturally and necessarily snatches one toward complete delectation.[468]

a. Therefore any action whatever which is placed with this intention, that through it venereal pleasure may be excited and perceived, even if brief and slight, is a grave sin, whether this action in itself is honorable or dishonorable: for the depraved intention is gravely sinful. The reason why other sins which man

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463. Gal. 5, 19 ff.

464. Eph. 5, 5.

465. 1 Cor. 6, 9 f.

466. Cf. Ballerini-Palmieri II, n. 965.

467. Cf. 1 Cor. 6, 11-19.

468. Proposition 40, condemned by Alexander VII: The opinion is probable which says that a kiss had on account of carnal and sensible delectation which arises from the kiss, with the danger of further consent and pollution excluded, is only venial. Authors indeed do not agree in explaining the sense of this proposition. According to Viva, it is false because it affirms that venereal delectation, for this is the carnal delectation of the proposition, sought from a kiss is venial if the danger of further consent and pollution has been excluded.

commits against himself or against neighbor admit smallness of matter, but sins of lust do not admit it, is this: that the former, admitted in small matter, do not cast one into proximate danger of sinning gravely, but the latter, on account of the highest propensity of human nature toward delectations of the flesh, cast one into danger of this kind. Sacred Scripture also intimates this danger: for she has cast down many wounded, and the strongest have been slain by her.[469]

b. There are those who show even from the very nature of this vice that slight delectation deliberately sought contains grave injury of the moral order. For any venereal delectation, so they say, arises from commotion of semen, which commotion naturally causes pollution; indeed it must be called begun pollution. Therefore what is affirmed concerning the malice of pollution, namely that it is a grave sin, must be affirmed also concerning its natural cause and beginning. It is clear that this argument does not have universal value, since venereal delectation is perceived which is not begun pollution, namely in those who, as lacking semen, such as boys, eunuchs, the aged, and women, are not capable of pollution.

c. Authors are not lacking, especially among the older ones, who think that there is smallness of matter in venereal delectation directly sought or admitted. In the year 1612, the general superior of the Society of Jesus, Claudius Aquaviva, most severely prescribed that no one in the Society of Jesus should hold this opinion, not only as true or probable, but not even as tolerable. From that time this sentence, that there is no smallness of matter in venereal delectation directly sought, became most common among moralists. Nevertheless there are those who deny that the truth of this sentence is speculatively proved from the arguments brought forward. Whatever may be said concerning the theoretical reasons by which the opinion admitting smallness of matter is proved false and improbable, practically it is certainly false and not sufficiently safe.[470]

3. In venereal delectation only indirectly willed, smallness of matter must be admitted. For in this case the consent of the will is borne only toward the cause which provokes and excites delectation; therefore its malice must be taken from its influence upon venereal delectation. But there are causes which influence base commotion only lightly; therefore to will these causes constitutes only a light sin against chastity.

12. Principle concerning the gravity of venereal delectation willed in the cause. Venereal delectation indirectly, or in the cause, willed is only as much sin as the cause itself is in the genus of lust. Therefore if the cause is a grave sin in the genus of lust, the effect of base delectation is imputed as grave sin; if the cause in the genus of lust is a light sin, the effect of delectation is imputed as light sin. Now indeed, a grave sin in the genus of lust is any action whatever which by its nature gravely influences the exciting of libido; a light sin in the genus of lust is an action which by its nature only lightly influences the exciting of libido.

a. Venereal delectation willed in the cause is had by any deliberately placed action which is foreseen to cause base commotion and venereal delectation, whether incomplete or complete, without this effect being intended. Now the question is asked concerning the gravity of the sin of lust which is committed by him who places the cause exciting delectation, who, for example, reads obscene things or uses a bath, although he foresees that venereal commotion will follow. But the gravity of the sin of lust which one placing a cause of this kind commits is not taken from the degree of malice which is present of itself in the action causing base delectation, but from the gravity of the influence which this action exercises in exciting it. Therefore it can happen that an action causing delectation is in itself a grave sin, but by reason of lust only a light one. Thus if someone, making himself drunk, foresees that pollution will follow in

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469. Prov. 7, 26.

470. Cf. Sporer-Bierbaum III, tr. 10, n. 690.

drunkenness, the drunkenness is in itself a grave sin, but by reason of lust light, because it influences it only lightly.

b. There are actions of which some cause a base motion of themselves, others cause it accidentally. Those actions cause it of themselves which by their nature are apt for exciting venereal delectation and therefore are ordered to generation, as a base look, touch, imagination. Those actions cause it accidentally which in no way pertain to generation. There are men who, from actions, imagination or sight, which are in no way referred to venereal matters, are vehemently excited by a hidden force. Of actions which cause a base motion of themselves, some by their nature proximately and notably influence that effect, namely those from which a base effect always or almost always follows; others by their nature influence a base motion only remotely and lightly, namely those from which an evil effect rarely arises. Actions which are outside the genus of lust and only accidentally excite a base motion, such as eating and drinking immoderately, riding, using a bath, sitting or lying in a certain position, etc., are counted among those actions which influence the base effect only remotely and lightly. But if at times they influence gravely, this proceeds not from the nature of the action but from the constitution of the subject.

Note 1. There are authors who distinguish accidentally influencing causes in such a way that they say that those which, from a special disposition of the subject, vehemently excite are gravely illicit if they are rare and can easily be avoided, but lightly illicit if they are frequent and therefore cannot be avoided without the greatest inconvenience. For example, there are those who are vehemently excited by the sight of a female foot; there are those who are vehemently excited by the sight of the slaughtering of animals. Those who without cause are delighted by the former sight sin lightly; those who are delighted by the latter, according to this sentence, sin gravely. But this distinction must be omitted, since the degree of malice which is present in actions of this kind must be taken not from the actual influence which they exercise in a particular case, but from the influence which by their nature they exercise. But of themselves and by their nature actions of this kind do not influence at all, or influence only lightly, and only accidentally in a determined individual do they produce a worse effect.

Note 2. As regards this proposition concerning the gravity of venereal delectation willed in the cause, these things must be admonished: a. It is supposed that there is no just cause for placing the action from which base commotion is foreseen to arise; for if a cause of this kind exists, it is licit to place the action. b. It is supposed that there is no consent to the delectation that occurs; for every consent of this kind is a grave sin. c. An action which, without cause, is placed and foreseen to cause carnal delectation is a sin, even if the depraved effect does not in fact follow; but if that effect follows, not only is the action sinful in itself, but also the depraved effect is imputed to the agent, and indeed under grave or light obligation according as the cause influences it gravely or lightly. d. What is established here concerning the cause of venereal delectation is valid also concerning the cause of pollution: for the same action which is foreseen to excite venereal commotion can, in those who are capable of pollution, cause also pollution, or commotion joined with pollution.

13. Corollaries. Therefore venereal delectation, or pollution, willed in the cause is a grave sin if the cause itself of itself gravely influences base commotion. But it is established by experience that not all are moved in an equal way by one and the same action: for what vehemently excites a young or warm man moves an old or cold man little or not at all to libido. Hence for estimating the sin which is committed by indirectly voluntary delectation in a particular case, these things are to be noted:

a. Actions which by their nature gravely excite are always a grave sin, and therefore must be guarded against under grave obligation, except in the sole case in which someone knows certainly by experience that he is not gravely moved by an action of this kind.

Actions gravely exciting, for example, are: "more vivid practical thought concerning venereal matters; touch exercised on the obscene parts of another person, unless perhaps it is done altogether transiently on a person of the same sex without depraved affection; voluntarily continued sight of a person of the other sex entirely naked; indeed also the sight of a man upon the naked breast of a woman, or the sight of an obscene picture, at least if it is continued when commotion has already arisen."[471]

b. Actions which by their nature move only lightly are never a grave sin, not even in him who perhaps knows that he is more vehemently excited on account of a subjective disposition; therefore no one is held under grave obligation to guard against them.

Actions lightly moving, for example, are: "touch or sight upon the dishonorable parts of one's own body done in passing; a non-dishonorable and light touch of a woman done in passing; taking her hand; a light kiss from an honorable cause; vain conversation with a woman; a non-fixed sight of her breast, a fortiori other lighter looks."[472]

Note 1. Below, where there is treatment of imperfect acts of lust, as much as can be done in this very arduous matter, it will be determined accurately what actions by their nature gravely influence venereal commotion and pollution, and what actions lightly influence them.

Note 2. Recent authors after St. Alphonsus,[473] who followed the Salmanticenses,[474] distinguish, besides actions gravely and lightly influencing, actions influencing moderately. But lest this matter, which in practice is most frequent, be entangled in greater difficulties than is fitting, it is preferable to return to the theory of those older authors who reduce actions causing venereal delectation to only two genera, to grave and light causes. For, as Berardi rightly notes,[475] those which are called middle causes by their nature are light causes, but they gravely influence the base effect either from the duration of the action or from the depraved affection of the agent, in which case they must be referred to grave causes. Thus among middle causes is numbered the sight of an obscene picture; but sight of this kind ordinarily of itself does not gravely move, unless it is prolonged rather long or is done with libidinous affection.[476]

Whether invincible ignorance is found concerning sins of lust. a. Invincible ignorance is more easily admitted as regards impure thoughts and depraved desires, if they are inefficacious. b. But as regards efficacious desires it is conceded with greater difficulty: for he who knows the malice of the external action and nevertheless proposes to execute it ought also to know that he wills an evil thing. Therefore in a particular case it must be investigated whether invincible ignorance was really present. c. Even as regards the malice of pollution, invincible ignorance can be found, especially in childhood. d. Indeed even as regards other sins, invincible ignorance can be found in those circumstances in which actions of this kind can seem licit; thus to the betrothed even less honorable kisses, and to spouses burdened with numerous offspring onanism, can seem licit.

Those who from invincible ignorance think that the depraved action which they exercise either is not a sin or is not mortal are altogether to be admonished and taught where ignorance harms them. But this happens if, not admonished, they are in danger of contracting a depraved custom of polluting themselves, which afterward they will correct with the greatest difficulty. But penitents who indeed know the gravity of the

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471. Lehmkuhl I, n. 864.

472. Lehmkuhl, ibid.

473. Cf. l. 4, n. 484.

474. Cf. tr. 26, c. 7, n. 37.

475. Cf. *Praxis confessariorum*^3 I, n. 876.

476. Cf. Genicot I, 399.

base sin to which they are accustomed, but are ignorant of its specific malice, are not to be admonished concerning this, because an admonition of this kind is scarcely of any utility and only brings it about that formal sins are multiplied.

Question Third.

On Consummated Sins of Lust.

14. Declarations. Those sins are called consummated in which effusion of semen has place. They are of two genera: some are according to nature, in which the effusion of semen of itself is apt for the generation of man; others are against nature, in which the effusion of semen is unfit for the generation of man. In the former, the end which nature intends in the voluntary effusion of semen is obtained; in the latter, it is frustrated. Wherefore sins against nature are of themselves graver than sins of lust according to nature.

a. Sins according to nature are numbered as six: fornication, adultery, incest, defilement, sacrilege, and rape. These sins differ specifically among themselves, not indeed by reason of lust, but on account of another special circumstance: for they are opposed to the virtue of chastity in the same way, but to each one there is superadded a circumstance which is properly not against chastity, but against another virtue.

b. Sins against nature are three: pollution, sodomy, and bestiality. These sins differ from one another in species by reason of lust, because each includes a special deformity and opposition against the virtue of chastity.

Article First.

On Sins According to Nature.

15. On fornication. Definition. Fornication is intercourse of an unmarried man with an unmarried woman by mutual consent.

a. Intercourse is an act suitable for generating offspring. Perfect intercourse is distinguished, which consists in penetration of the female vessel with insemination made there, and imperfect, or begun, intercourse, which consists in penetration of the female vessel destined for generation, but without insemination made there. An unmarried man is one who, apart from the precept of chastity, is bound by no other bond, whether of marriage or of vow or order or kinship. By consent is added so that fornication may be distinguished from defilement. Effusion of female humor is not required for perfect intercourse, contrary to what several older authors had taught.

b. Intercourse of a eunuch with an unmarried woman is not fornication, but impure touch with complete venereal delectation. Imperfect intercourse in which semen is poured out outside the female vessel is not simple fornication, but qualified fornication, because to the sin of fornication against chastity there is added a sin which is reduced to sins against justice, because semen is frustrated against the order of nature and the end of human generation.

16. Concubinage and prostitution are referred to fornication.

1. Concubinage is frequent intercourse of an unmarried man with one and the same unmarried person. It differs from fornication in this, that a concubinarian always approaches the same person with whom he lives as if he had been joined with her in marriage; but a fornicator approaches now one, now another. Nevertheless, it has no bearing on the nature of concubinage whether they live in the same or in diverse houses. Therefore the proper malice of concubinage consists in the purpose, at least virtual, of persevering in sin.

a. Because a concubinarian is occupied in a proximate occasion of sinning, which he is held under grave obligation to abandon, he cannot be absolved unless he casts out the concubine; or if he does not have her at home, unless he has seriously promised that he will no longer approach her. And if he has a concubine at home, he ought to cast her out, even if he is in danger of death; and only where death is now imminent and time is lacking for casting her out can he be absolved, after eliciting a firm purpose of casting her out as soon as it can be done.

b. If in some parish two persons live in concubinage, one must proceed against them in this way.

c. First, they are to be admonished privately by the pastor, or by others, so that they amend themselves and make an end of a depraved and scandalous life.

d. If the admonition lacks effect, the matter is to be referred to the ordinary, who by his office ought to admonish public sinners; this can also be done by the pastor in the name of the bishop.

e. But if this admonition also is fruitless, the ordinary is to inflict excommunication, either publicly, to remove scandal, or privately through the pastor. Those who do not amend themselves are to be deprived of ecclesiastical burial.

f. If ecclesiastical admonition lacks effect, the help of the civil power can and must be invoked where this is offered.

2. Prostitution is the state of a woman prostituted to all, whether for the sake of gain or of satisfying lust. In order that she can be called a prostitute, she must admit at least more than two. The proper malice of this sin also consists in the depraved will of accumulating sins.

Note. Fornicators are to be asked whether offspring has been born from the fornication, whether they impeded generation or procured abortion, whether perhaps they neglected the offspring born. As regards prostitutes it must be noted that many and diverse seeds in the womb impede generation.

17. Malice. 1. Fornication is always a mortal sin: for it is gravely prohibited both by the law of nature and by positive law.

a. By the law of nature. Caramuel had said that fornication is illicit only by positive law, but falsely: for it is opposed to the good of offspring and therefore to the propagation of the human race. Certainly those who fornicate seek vague concubitus, i.e. venereal delectation of intercourse without the obligations and burdens of marriage; but vague concubitus tends to the destruction of human society. For offspring, whose apt education requires not only the care of the mother but also the care of the father, is not sufficiently provided for; therefore it is gravely prohibited by the law of nature. And although accidentally offspring might be educated well by a fornicator, nevertheless fornication is always a grave sin, because what happens commonly and ordinarily must be considered, not what happens accidentally.[477]

b. By positive law. St. Paul, in the places cited above, n. 11, counts fornication among the sins which exclude from the kingdom of heaven; moreover, in 1 Cor. 6, 15 ff., he shows by many internal reasons the deformity of fornication.

2. Concubinage and prostitution do not differ specifically from fornication; wherefore the circumstance of concubinage and prostitution of itself need not be declared in confession. But accidentally, on account of the occasion of sin, it must be declared to the confessor, especially when he asks. From the great

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477. Therefore this proposition, 48, was condemned by Innocent XI: Thus it seems clear that fornication involves no malice in itself and is evil only because it is forbidden, so that the contrary seems altogether discordant with reason.

number of sins which are accused, the confessor can easily suspect that there is question of concubinage or prostitution.

18. On prostitution. 1. Prostitution is lust exercised by women for pay. Public prostitution, which is distinguished from clandestine prostitution, is called that which is permitted by the civil power and is either unlimited or limited and moderated according to certain norms of morality and health.

Namely, only to women to whom a certificate of health is granted by physicians is permission conceded for exercising prostitution, and this only under certain conditions by which public morality is provided for.

Clandestine prostitution especially flourishes where public prostitution is not admitted by the civil power; but even in states which admit public prostitution, clandestine prostitution prevails.[478]

2. But if the public power is said to permit prostitution, permission must be understood in such a way that it tolerates what it cannot impede without a greater evil; and the laws by which it moderates it tend to this, that harms to public honesty and health may be avoided.

a. The magistrate can admit clandestine prostitution as a lesser evil for impeding greater evils, pollution, sodomy, bestiality, etc.

b. Prostitutes certainly cannot be permitted by reason of the vehemence by which the carnal appetite inclines toward venereal matters, nor by reason of health, which would require that satisfaction be given to the rising carnal appetite; nor can they be permitted in any village whatever, but only in great cities and under certain conditions by which scandals are removed. Recent non-Catholic physicians judge each reason brought forward sufficient so that prostitutes can be admitted. But the will ought to resist the carnal appetite, however vehement, as it resists all other temptations; moreover, according to the authorship of physicians themselves, health is not endangered by the fact that the carnal appetite is repressed.

c. Whether greater evils are truly impeded through prostitution, or whether rather sins are increased by greater opportunity of sinning, is not established among experts. According to the mind of St. Augustine[479] and St. Thomas,[480] they can be impeded through prostitutes.

d. There are those who judge that public prostitution must be reproved and abolished. For the laws by which it is moderated tend to this, that harms to public honesty and health may be avoided; but experience being witness, these evils, especially dangers to health, are not excluded. For even from those for whom a certificate of health is at hand, innumerable persons are infected with syphilis, which authors call the French disease, and from these the same plague is derived also into mother and offspring.

e. Brothels seem in no way to be tolerated: for first, through a brothel provision is not made for health; but great harm is brought to morality both because an easy occasion of sinning is offered and because sin appears as if permitted by law.

19. On adultery. Definition. Adultery is intercourse with the spouse of another. Simple adultery is distinguished, if an unmarried man sins with a married woman or a married man with an unmarried woman; double adultery, if a married man sins with a married woman.

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478. In Berlin there are 5000 public prostitutes and 40000 clandestine ones; in Vienna 2000 public ones and 20000 clandestine ones.

479. *De ordine*, l. 2, c. 4.

480. Cf. St. Thomas II-II, q. 10, a. 11, and the author of the work *De regimine principum*, l. 4, c. 14.

a. Where adultery is reserved, attention must be paid to whether only perfect intercourse or also imperfect intercourse is reserved.

b. The nature of adultery is also had by: a. imperfect acts, namely touches, kisses, embraces, which a married person commits with another person not his own, whether that person is unmarried or bound; b. acts against nature, pollution, sodomy, which a married person commits either alone or with his own partner. But venereal delectations which a married person excites in himself by imagining intercourse with another do not have the nature of adultery, because this does not injure the right of the other spouse.

c. Therefore if an adult penitent accuses himself of the sin of pollution or of immodest touches committed either in his own body or on another person, by strict right he must be asked whether he is joined in marriage. Nevertheless, because those who are untrained in moral matters do not apprehend the twofold malice which is present in these sins, the question can frequently be omitted, unless the confessor hopes that, after the penitent has been admonished concerning the greater gravity of the sin, he can frighten him away from committing new sins.

20. Malice. 1. Adultery includes two sins, each mortal: one against justice, for the adulterer violates the right of another, which by the matrimonial contract he alone has acquired over the body of the spouse; the other against chastity. And if adultery is had between two married persons, two adulteries are committed by each, and therefore three sins: one against chastity and two against justice, because the diverse rights of two persons are injured.

A married woman who commits adultery at that time when she can conceive offspring contracts another injustice besides, both against the husband, who perhaps will have to nourish spurious offspring to be conceived, and against the legitimate offspring, who are compelled to divide the inheritance with the spurious offspring.

2. Adultery is committed even if the other spouse consents, because he cannot yield his right: for the right which follows from the very nature of marriage cannot be alienated by the private will of the spouse.[481] Therefore St. Paul says generally concerning a married woman: while her husband is living, she will be called an adulteress if she has been with another man.[482]

Whether intercourse with another's betrothed woman is adultery. Intercourse with another's betrothed woman is fornication, not adultery, because this aggravating circumstance does not change the species. For it is commonly called probable that the sin of the betrothed with an external person does not contain grave injustice against the other party.[483]

In fact, doctors in resolving this question so dissent that some simply deny that the circumstance of betrothal changes the species of fornication; others say that it changes the species of fornication in the betrothed woman, but not in the betrothed man; and finally others affirm that it changes the species of fornication in each. The proper malice of this sin consists in the abuse by which a body promised to another is violated, therefore in injury to the right of another, to whom belongs a right over the body which had been promised incorrupt. Now this injury inflicted by a betrothed woman is certainly graver than that which is committed by a betrothed man; but whether it is so great that it constitutes a new species, and indeed a grave species, of sin, is not certainly established. Wherefore it is not necessary that the penitent declare the circumstance

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481. Cf. Ballerini-Palmieri III, n. 273.

482. Rom. 7, 3. Proposition 50, condemned by Innocent XI, has: intercourse with a consenting married woman is not adultery …

483. St. Alphonsus, n. 847.

of betrothal, nor that the confessor ask about it.[484]

21. On incest. Definition. 1. Incest is intercourse with blood relatives or relatives by affinity within the degrees prohibited by the Church for marriage. Therefore it belongs to the nature of incest that it be committed between those blood relatives and relatives by affinity who, according to the law of the Church, cannot enter a valid marriage, i.e. up to the fourth degree.

a. Base touches which are committed between blood relatives and relatives by affinity, whether of the same or of diverse sex, also have the nature of incest.

b. If blood relatives or relatives by affinity sin after they have been dispensed for entering marriage, they do not commit incest, because the dispensation removes the prohibition of marriage; but where marriage is not prohibited, there is no incest.

c. The sin which those bound by the impediment of public honesty commit between themselves is not incest, because it belongs to the nature of incest that it be committed between blood relatives and relatives by affinity; but those who are bound by the impediment of public honesty are neither blood relatives nor properly relatives by affinity.

2. Since, besides affinity, kinship is threefold, natural, which arises from nearness of blood; spiritual, which arises from baptism and confirmation; and legal, which arises from adoption, a fourfold incest must be distinguished:

a. with a blood relative up to the fourth degree;

b. with a relative by affinity up to the fourth, respectively up to the second degree;

c. with a spiritual relative;

d. with a legal relative.

A sin of lust committed by a confessor with a penitent does not have the nature of incest, because spiritual kinship arises only from the administration of baptism and confirmation, not from the sacrament of penance. Nor is a sin of lust committed by a pastor with a parishioner incest; but besides the guilt of lust this also puts on the malice of injustice, because a shepherd by office ought to draw back from sins the sheep entrusted to his care.

22. Malice. 1. Incest contains two grave sins, one against chastity, the other against piety: for it is repugnant to the reverence which is owed to parents and consequently also to persons joined with them either by blood or by affinity.

2. As regards specific difference: a. Incest between spiritual and legal relatives differs in species both among themselves and from incest which is committed between blood relatives and relatives by affinity; but it is commonly admitted that incest committed with a blood relative does not differ in species from incest committed with a relative by affinity. The reason is that kinships arise from a formally diverse root; but sins between blood relatives and relatives by affinity are prohibited from the same motive of piety; in each case the same reverence owed to blood is injured.

b. It is probable that incests committed between blood relatives or between relatives by affinity in any degree whatever, whether of the direct line, even in the first degree between parents and children, or of the collateral line, even in the first degree between brothers and sisters, are of the same species.

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484. Cf. Ballerini-Palmieri II, n. 1007.

> Wherefore, just as it is not necessary that the connection, consanguinity or affinity, be declared in confession, so it is not necessary that the degree be declared; but it suffices to say: I committed incest. For in all of them the same virtue is injured, namely the reverence owed to those joined, and in the same way as regards substance; wherefore diversity of connection and the nearer degree add nothing to the sin except an aggravating circumstance.[485]

St. Alphonsus, n. 448 f., excepts the first degree of consanguinity and affinity in the direct line, judging that the reverence which is owed within the first degree is morally other than that which is owed within the other degrees. But this sentence is not certain. Indeed Suarez, *De poenitentia*, disp. 22, sect. 3, n. 12, says: "Concerning the degrees of consanguinity, insofar as they are circumstances of incest … it is more probable that they do not change the species of sin."

23. On defilement. Definition. 1. *Stuprum* is taken in three diverse senses: broadly it is the violation of any woman, even a widow, a corrupted woman, or a married woman, where adultery is added to *stuprum*; juridically, in civil law, it is the violation of any honorable woman, whether she is a virgin or not; theologically, in canon law, it is the violation of a virgin, or the deflowering of a virgin, against her will.[486]

Violation is the violating of a woman without consent; therefore to fornicate with a woman out of her mind, drunk, sleeping, likewise with a girl who has not yet obtained the perfect use of reason, has the nature of *stuprum*. A virgin is said to be deflowered who is corrupted for the first time through carnal intercourse and in this way is deprived of integrity of the flesh and of the flower of virginity.

2. *Stuprum* taken strictly or theologically is distinguished as violent and voluntary, according as a virgin is violated against her will or plainly consenting. It is clear that voluntary *stuprum* properly does not differ from fornication; nevertheless it is sometimes called *stuprum* because a virgin is deflowered, even with consent. But *stuprum* is called violent not only where physical force is applied, but also where moral force is applied; for in each case injury is inflicted on the virgin.

Violent *stuprum* can be committed in five ways: a. by violent oppression; b. by threats or by fear unjustly instilled, even reverential fear, as if the defiler is a superior or a man of great authority; c. by deceit, as if someone abuses a girl's ignorance and brings her to intercourse which he had said was licit; d. by fraud, as by a false promise of marriage or of a great dowry; e. by oppressing a virgin in sleep or drunkenness.

24. Malice. 1. Every *stuprum* properly so called, or violent, contains two sins, one against chastity, the other against justice: for whatever woman is oppressed against her will, always her true right is injured, and therefore injury is inflicted on her.

a. He who corrupts a consenting virgin by non-violent *stuprum* does not commit a sin specifically diverse from fornication: for although integrity of the flesh, of which the virgin is deprived, is a good to be held at a great price, nevertheless no injury is inflicted on the virgin, since she can consent to the violation of herself and in fact consents.[487] But it is rightly affirmed that a virgin who freely consents to her own deflowering, besides the sin of lust, commits the sin of prodigality, since she rashly casts away the good of bodily integrity, and therefore that the circumstance of virginity in a woman adds a new species of sin to fornication. But since the sin of prodigality is not mortal, it is not necessary that it be declared in confession.

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485. Cf. Sporer-Bierbaum III, pr. 4, n. 609; Ballerini-Palmieri II, n. 1016 ff.

486. Cf. c. *Lex* 2, C. 36, q. 1.

487. Cf. St. Alphonsus, n. 443.

b. He who oppresses a virgin against her will properly commits a twofold injury, since he abuses her body against her will and moreover deprives her of virginity by tearing the virginal enclosure.[488]

2. *Stuprum* which is affected by an ecclesiastical penalty or is reserved is understood as *stuprum* in the strict sense, namely the unjust deflowering of a virgin, unless something else is expressly noted.

In order that a woman oppressed by force be immune from sin:

a. she cannot have herself negatively or permissively, but is held to resist both internally, lest she consent to pleasure, and externally, so that she repel force by force.

b. But she is not held to cry out if this cannot be done without danger of life or notable infamy or without excessive shame, unless proximate danger of consent to the consummated act is imminent. For the rest, as Berardi notes well, the case of a woman oppressed without fault of her own, i.e. altogether against her will, is not so frequent.

25. On sacrilege. Definition. Sacrilege, insofar as it is a sin of lust, or sacrilegious lust, is the violation of a sacred person, place, or thing through a venereal act.

Therefore carnal sacrilege, or sacrilegious lust, is likewise threefold, personal, local, and real, just as sacrilege itself considered in itself, which is a species of irreligiosity.

26. Malice. 1. Sacrilege contains two sins, one against chastity, the other against religion: for it is repugnant to the reverence owed to God in sacred persons, places, and things.

2. Personal sacrilege is committed if a person bound by a vow of chastity sins against chastity, internally or externally,[489] or if someone sins with one who has such a vow.

If one bound by vow, e.g. a priest, sins with a person likewise bound by vow, each commits two sacrileges; if a religious priest sins against chastity, he commits one sacrilege, because he injures one obligation imposed twice from the same motive.

3. Local sacrilege is committed through an external sin of lust in a sacred place. And this indeed is certain concerning pollution, fornication, and conjugal intercourse which moral necessity does not excuse; but concerning other gravely immodest acts, touches, kisses, looks, conversations, this must probably be denied.[490]

But internal acts certainly are not sacrileges, namely grave sacrileges: for some malice of light sacrilege is present in every sin which is committed in a church.

A sacred place in this question is a consecrated or blessed church, or public oratory, and this only from the roof to the pavement, and a blessed cemetery. Therefore private, or semipublic, oratories are not sacred places, nor is the sacristy, at least if it is not part of the building itself of the church, but if it is built exteriorly, nor the atrium of the church, nor the roof above the church.

4. Real sacrilege is committed through the abuse of a sacred thing for base things, as if a Mass were promised for obtaining consent to a base matter, or if a priest administering a sacrament, or refreshed by Holy Communion, at a time when the sacred species are not yet corrupted, were to sin carnally. To this also

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488. Sanchez, *De matrimonio*, l. 7, disp. 14, n. 7.

489. Cf. *De praeceptis*^3, n. 177, where the explanation of this matter is given.

490. Cf. ibid., n. 178.

belongs that gravest sacrilege of solicitation in confession, by which a confessor abuses the sacrament of penance for a base sin.

27. On raptus. Definition. Raptus, insofar as it is a sin of lust, is the violent abduction of any person whatever for the sake of satisfying libido. The proper malice of raptus consists in the injury which is inflicted through violent abduction.

a. Therefore for raptus it is required: a. that abduction or transfer from one place to another morally diverse place occur; b. with force inflicted, either physical or moral, either on the abducted person herself or on those in whose power she is: parents, guardians, a husband; c. for the sake of libido. Hence, if she is abducted for another end, e.g. that she may be used for services or for entering marriage, it is not a sin of lust; d. of any person whatever, whether this person is male or female, whether a virgin or corrupted, whether married or unmarried.

b. Hence he does not commit raptus who inflicts force on a person in the same place, nor he who for the sake of exercising libido drags her from one room into another, although in this case, besides the sin of chastity, on account of the violence inflicted he also commits a sin of injustice to be declared in confession.[491]

28. Malice. Raptus contains two sins: one against chastity, either through the intention of sinning or through carnal intercourse with the abducted person; the other against justice, on account of the force inflicted either on the abducted person or on those whose power she is subject to, or on both.

a. For committing the sin of raptus, which at times is reserved, nothing else is required except that a person be abducted with the intention of sinning with her, whether through intercourse or through another base act, even if the external sin does not in fact follow. But in order that raptus can truly be numbered among consummated sins of lust, fornication must be committed with the abducted person.

b. If a woman, for the sake of satisfying libido, abducts a male, as regards malice indeed the same sin is committed specifically; but the woman does not incur the penalty or reservation established for raptus: for penalties established are judged to be against raptus according as it is ordinarily done; but ordinarily males abduct females, not females males.

Article Two.

On Sins Against Nature.

§ 1. On Pollution.

29. Definition and division. 1. Pollution, which is also called softness or masturbation (*manustupratio*), is complete venereal delectation with effusion of semen without intercourse.

a. Since pollution consists in the effusion of semen with complete delectation, it is clear that pollution in the true sense of the name cannot occur in those who do not have true semen, namely in boys, old men, eunuchs, and women, although they can perceive complete and satiative venereal delectation.

b. The essence of this sin consists in complete venereal delectation, to which, as specific malice, there is added the fruitless effusion of semen against the order of nature. Wherefore pollution is a sin specifically diverse from complete venereal delectation without effusion of semen.

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491. Cf. *De sacramentis*, n. 573 f.

Note. In order that pollution follow, it is necessary that some cause irritate the genital nerves, from whose contraction the expulsion of semen is had. A cause of this kind can be physical, as touch, motion, frictions, pressures of the genitals, or psychic, as more or less obscene phantasms.

2. a. Pollution is either voluntary, which is willed in itself or in the cause, or involuntary or natural, which is willed in no way, but follows from natural causes.

b. Voluntary pollution is either direct or willed in itself, if something is done with the very intention of procuring it for oneself, or if consent is given to it when it happens involuntarily; or indirect, or willed in the cause, when something is done with foresight but without intention of a future pollution.

c. Pollution which is called passive is involuntary. This occurs in the waking state because of great weakness of the organs, sometimes contracted from the custom of sinning, is provoked by any very slight causes, as motion, touch, effort, etc., and is completed without delectation. Passive pollution is an illness and is free from any fault.[492]

30. On female pollution. Female pollution is the secretion or flow of vaginal humor, which is joined with complete venereal delectation; the sin of this pollution is not specifically diverse from the sin of complete venereal delectation in girls.

a. Women perceive venereal delectation in the clitoris, in the vagina, and in the uterus. If it is had with emission of humor, it is called pollution, and, as in men, it occurs both in time of waking and in time of sleep. Women are accustomed to procure venereal delectation or pollution for themselves by compressing the thighs, by touching the clitoris, by introducing fingers or some instrument into the vulva, by soliciting the uterus itself.

b. Female pollution is not an effusion of semen, since women do not have semen except the ovum, but is an effusion of vaginal humor, which nevertheless rarely is poured out exteriorly, but ordinarily flows down into the cavity of the uterus. If the humor flows down interiorly, its flow is rarely noticed; nevertheless it brings delectation. Therefore women can for the most part be judged to have been polluted only from this sign, that they have felt great delectation by which they have been libidinously satiated. They are capable of pollution of this kind already for some time before puberty.

c. Whether female pollution is a sin specifically diverse from complete venereal delectation, authors dispute. Those who call female pollution a specific sin use this argument: although that flow of humor is not necessary for generation, nevertheless it is ordered by nature to generation, and for the sake of generation complete venereal delectation is attached to it. Therefore in female pollution there intervenes a pouring forth of humor outside intercourse, which by nature is ordered only to intercourse.[493] This reason indeed does not prove the matter. For the specific malice of pollution consists in the effusion of semen against the end of nature; but women do not have semen properly so called; that which could be called female semen is only the ovum. Although the vaginal humor which is poured forth when women suffer pollution is ordered by nature to generation, nevertheless, since it is not necessary for it, its fruitless effusion is not of such great moment.[494] Therefore according to this opinion female pollution is not a consummated sin against nature, but is indeed a complete sin of lust, because it is complete venereal delectation, yet not consummated, because it is completed without effusion of semen.

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492. Cf. Olfers, *Pastoralmedizin*^2, p. 83.

493. Bucceroni, *Institutiones theologiae moralis*^4 (Rome: Typographia Augustin., 1900), I, n. 813.

494. Antonelli, *Medicina pastoralis* (Rome: Pustet, 1905), I, n. 474 ff.

d. Hence if women accuse themselves either of venereal delectation or of immodest touches, they are not to be questioned further as to whether they have been polluted; and this not only because often they do not know whether they have suffered pollution, or because pollution can be supposed, but especially because the question is not necessary, since the circumstance of pollution does not change the species of the sin. Therefore it suffices if they are asked whether they have basely satisfied themselves or have satisfied libido.

31. Whether they are of diverse species. Pollutions considered in themselves are not specifically diverse, but all are of the same species, because no specific difference appears by which diverse species would be constituted. For the diverse modes by which pollution is procured are related to the pollution itself, insofar as it is voluntary effusion of semen without intercourse, only materially and accidentally, provided only pollution is intended.

a. Therefore in confession one must not ask concerning the mode by which pollution was procured: for whether it was sought by imagination alone or by a base sight, by one's own touches or those of another, in one's own body or in another's body, it is always the same sin of pollution, provided there is absent affection toward a person or toward intercourse. Nevertheless induction or cooperation is added if it is provoked by human touches of another.

b. Many authors indeed teach that pollutions are specifically diverse according as they are provoked by the touch of a man, a woman, or a beast, because there intervenes affection toward the object which is touched; but affection is of diverse species according as it tends toward a man, a woman, or a beast. Nevertheless ordinarily it suffices if someone in this case accuses himself thus: I was polluted by touches of others, whether he himself touched others or allowed himself to be touched and thus polluted himself, because, if intercourse is not present, affection ordinarily is not borne toward sex but toward pollution alone. But if affection in fact tends also toward the object which is touched, the affection surely is specifically diverse according as it is borne toward a man, a woman, or a beast.

c. Things to be noted. a. Even that mode by which someone pollutes himself by abusing the mouth of another is only an aggravating circumstance, unless affection for sodomy is present. b. If someone pollutes another unwilling person, he commits two sins, one against chastity, the other against justice. If someone pollutes another consenting person, likewise he commits two sins, one against chastity, the other through cooperation against charity. If two persons pollute each other by touches, each commits a threefold sin, two against chastity, by polluting himself and the other, and the third through cooperation against charity.

d. Although in themselves all pollutions are of the same moral species, nevertheless from circumstances several diverse species are constituted. Circumstances of this kind occur: a. by reason of the subject; thus, if one bound by a vow of chastity is polluted, he commits sacrilege; if a married person is polluted, he commits adultery; b. by reason of the object; thus, if someone is polluted with a desire of sinning with an unmarried woman, he commits fornication, mental fornication; if with a desire of sinning with a married woman, adultery, mental adultery; c. by reason of the accomplice; if someone is polluted by touches of another, he commits the sin of induction or cooperation against charity; d. by reason of place; thus, if someone is polluted in a sacred place, he commits sacrilege.

32. On nocturnal pollution. 1. Its nature. This is completed in dreams and therefore without advertence and actual consent, but with delectation.

a. Nocturnal pollution is involuntary if it follows from natural causes independent of the will, or from causes indeed voluntary, but posited without foresight of future pollution; and it is voluntary in the

cause if it follows from an action freely posited in waking with foresight of the pollution that will follow in sleep.

b. Among merely natural causes the chief is superfluous semen, by which nature, burdened, unloads itself; wherefore nocturnal pollution does not denote a libidinous soul, although more or less indecent phantasms provoke and accompany it. The words of St. Thomas are worthy of note: "when the seminal humor abounds in the body or when dissolution of the humor has occurred, … the sleeper dreams those things which pertain to the expulsion of this kind of abundant or dissolved humor."[495]

c. Young men suffer this after the years of puberty, and celibates, at the time when nature produces semen. At fixed times expulsions of semen of this kind return; but the time varies according to the diverse constitution of men and diverse manner of living; in some nocturnal pollution occurs once, in others even twice in a week, in others scarcely once in a month.

33. 2. Its malice. a. Nocturnal pollution, both in itself and in the cause involuntary, is free from all fault, whether it pleases the sleeping person or displeases him.

b. Nocturnal pollution which sometimes happens to the half-awake must not be judged mortal, even if consent is given to it, because it occurs with imperfect cognition and will. The same must be said concerning nocturnal touches. In doubt it must be judged that no consent was present, if such things ordinarily displease in the waking state, because judgment must be made from things ordinarily occurring.

c. Nocturnal pollution voluntary in itself is a grave sin; but voluntary in the cause it is a grave or light sin, according as the action posited before sleep without reasonable cause and with sufficient advertence by its nature influences gravely or lightly toward provoking pollution.

d. Nocturnal pollution which is caused by honorable conversation with a person of the other sex, by very seasoned foods or by warm drinks moderately taken, by a certain more comfortable position in bed, is not imputed as sin, even if those causes were posited in waking with foresight of the future effect: for we are not bound to omit licit actions on account of the effect of future pollution, if there is a reasonable cause for positing them.

e. Nocturnal pollution which is caused by depraved thoughts or desires, by obscene readings, by indecent conversations, must be imputed as grave or light sin according as those causes were posited in waking with foresight that they would have a proximate or remote influence upon pollution.

34. On the malice of pollution voluntary in itself. Pollution directly willed is always a mortal sin: for a. voluntary pollution is a grave perversion of the order and institution of nature, for human semen by nature is ordered solely to the generation of man; but in pollution semen is poured out for the sake of pleasure in such a way that the end intended by nature is wholly frustrated. b. If pollution were not gravely illicit, the use of marriage would be impeded, which is so necessary for the human race; for men, content with this pleasure alone, would for the most part abstain from marriages, which are so troublesome. c. Wherefore St. Paul expressly enumerates softness among the sins which exclude from the kingdom of God: nor will the soft possess the kingdom of God.[496]

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495. *Summa* II-II, q. 154, a. 5.

496. 1 Cor. 6, 10. Proposition 49, condemned by Innocent XI, has: softness is not prohibited by natural law …

1. Therefore it is never licit directly to procure pollution, not even if ejection of semen seemed necessary for preserving health; for even pollution which is taken up as a means for obtaining some end is willed in itself and directly, although not for its own sake.

2. Every voluntary effusion of semen, however small and slight, has the nature of pollution, and therefore is a mortal sin.

3. To promote in some way, by touch or motion or position, etc., pollution spontaneously begun, whether in waking or in sleep, is gravely illicit; but there is no obligation of impeding pollution spontaneously occurring or already begun in sleep, but it can be permitted that nature unload itself, provided consent to delectation is absent.

a. The reason on account of which the older authors thought that spontaneously begun pollution did not necessarily have to be restrained is indeed of no weight; nor nevertheless for that reason must an obligation of containing the impulse of nature be imposed. They themselves thought that semen already discharged, unless it is poured forth, is corrupted and, when corrupted, brings detriment to health; but in truth semen is never actually corrupted, and even when discharged it does not infect nature, but rather assists it. Wherefore it is certainly to be advised, especially on account of the danger of consent, that pollution already imminent, where this can be done, be restrained; but no obligation of doing this exists, because that effusion is involuntary.[497]

b. In order that consent to delectation be avoided while pollution occurs involuntarily, it is best to change position, or at least, either by praying and fostering pious thoughts or by thinking about profane matters, to turn the mind to other things. To avoid cooperation with the pollution occurring, it is best to have oneself exteriorly altogether passively, by abstaining from touches and from every voluntary motion of the body.

c. Any motion or impulse of the body deliberately employed, by which the effect of pollution follows, is gravely evil; nevertheless from deliberate motions there must be distinguished the motions or impulses which arise spontaneously in the body by the force of nature unloading itself, so that the effect of pollution may be completed.

35. Concerning the malice of pollution willed in the cause, judgment must be made from those things which were said above, n. 12, namely pollution is imputed as grave or light sin according as its cause by its nature influences gravely or lightly toward provoking it; but it is not imputed as sin if a sufficient reason is present for positing that cause.

a. In order that pollution can be called voluntary in the cause, it is required that the one who posits its cause advert to the effect of pollution that will follow from it. Therefore one who, when he posits the cause of pollution, either does not advert to the effect arising from it, or prudently judges that the effect will not follow, cannot have pollution imputed to him, even if it follows.

b. One who, because of a peculiar disposition and infirmity, frequently suffers pollutions from actions licit in themselves which by their nature influence only lightly toward them, e.g. from riding horseback, is not bound to abstain from those actions, provided consent to delectation is excluded; for in positing them he uses his right. But if the action is lightly sinful, as a reading that is somewhat base, the sight of a somewhat obscene image, and is not excused by a just cause, is he bound under grave sin to avoid it on account of this evil effect? Of itself he must avoid it only under light sin; for the malice of pollution

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497. A. Eschbach, l. c., disp. 5, c. 4, a. 2, § 3.

willed in the cause is taken from the influence which the cause by its nature has, not from the influence which in fact, on account of the peculiar temperament of the subject, it has on it. But practically he will rarely be excused from grave sin for another reason: for one who, taught by experience that he is frequently polluted by an action of this kind, nevertheless posits it without necessity, is shown to posit it from a depraved intention.

Therefore if, for example, the use of alcohol or of the nicotine herb, tobacco, so excites the nerves of someone that pollution follows from it either in sleep or outside sleep, there is no obligation of abstaining from those things if the use is moderate and therefore licit; the evil effect can simply be permitted, provided consent is avoided. But if the use of those things is immoderate, from the precept of chastity he must abstain from them under light sin; otherwise he sins according to the gravity of the matter gravely or lightly against temperance, and lightly, not gravely, against chastity, because those things accidentally, and therefore of themselves only lightly, excite libido.

36. On sufficient reason. 1. Declaration. Because pollution is not imputed as sin if the action which causes it is posited for a sufficient reason, it is now asked when there is present a sufficient reason for positing an action from which future pollution is foreseen. An action of this kind, which can be the cause of pollution, is always joined with a twofold danger, namely of material pollution and of consent to the venereal pleasure joined with it. Here abstraction is made from the danger of consent to base delectation: for to that danger the principles which are set forth elsewhere concerning the danger or occasion of sinning must be applied.[498] For making a judgment concerning the sufficiency of the reason in a particular case, the principles which follow below must be noted.

A greater reason is required in order that the danger of consent can be admitted than that the danger of material pollution can be admitted. Hence it can happen that, on account of proximate danger of consent, someone is bound under grave sin to avoid an action which on account of the proximate danger of pollution alone he is not bound to avoid, or at least not bound under grave sin to avoid. Someone who, for example, in horseback riding which he undertakes for the sake of recreation, is frequently not only polluted, but also sins by consent to delectation, if he cannot exclude sin by other means, is bound to omit horseback riding, which on account of the effect of pollution alone he is not bound to omit. Erotic readings idly undertaken, tender conversations with a person of diverse sex, kisses impressed on boys, even if they are only lightly sinful on account of the danger of pollution, nevertheless must be avoided under grave sin by him whom they cast into proximate danger of consenting.

37. 2. Principles. a. If the danger of polluting oneself is proximate from the nature of the action, a grave reason is required in order that the action inducing the danger can licitly be posited; but as grave reason there is judged both necessity and true utility, either one's own or another's.

Therefore it is licit for physicians and surgeons to care for the sick and to procure births; it is licit for servants to attend to bodily necessities in baths or hospitals, even if on this occasion they suffer pollutions. But proximate danger of consent, if any is present, must always be guarded against, by the fact that it is rendered remote or none by apt remedies.

b. If the danger of polluting oneself from the nature of the action is remote, a light reason or any reasonable cause suffices in order that the action inducing the danger can licitly be posited.

c. Therefore all those reasons excuse which in good faith appear either necessary or useful or suitable, indeed even merely advantageous to soul or body. Wherefore these actions are licit of themselves, even

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498. Cf. *De principiis*^3, n. 325 ff.

if they are foreseen to provoke pollution: a. kisses, embraces, hand-claspings according to the custom of the country; b. honorable dances undertaken from suitable recreation; c. horseback riding even for the sake of recreation alone; d. performing gymnastic exercises; e. reclining in a certain position even solely for resting more comfortably; f. while sitting, placing leg upon leg; g. moderately taking very seasoned foods or warm drinks.

d. If the cause of positing an action from which pollution is foreseen to follow has indeed something of advantage and utility, but not sufficient to excuse the base effect, e.g. the study of medical or anatomical art undertaken from curiosity, probably a mortal sin is not committed, provided consent is excluded.[499]

38. Whether it is licit to drive away by touch or friction an itching which someone suffers in the privates, however much pollution follows. a. If the itching is slight and easily tolerable, St. Alphonsus does not permit touch by which it would be driven away with danger of pollution, consent excluded; but he permits touch if only some arousal would follow.

b. If the itching is great and troublesome and has its origin from acrimony of the blood, it is licit to drive it away by touch or friction even with danger of pollution, provided consent is excluded: for an action with a twofold effect is had; the good is intended, the evil is permitted from a just cause.

c. But if the itching has its origin from the superfluous semen itself or from the ardor of libido, it is not licit to drive it away by touch or friction with danger of pollution, because the good effect follows only from the evil effect: for the touch tends directly toward procuring pollution or toward quieting libido, and only by this means is the itching driven away.

In order that one can discern whence pains in the genitals arise, attention must be paid to this. If the pains do not cease unless carnal movements or pollution have followed, these must be judged the means for quieting the pain and therefore to arise of themselves from touch and friction. But if, after touches or friction have been completed, the pains cease, even if carnal movements or pollution follow either not at all or not always, it is a sign that these are not the means of quieting the pain and that the movements and pollution follow accidentally. For the rest, if the itching is very troublesome, it must be judged to have arisen from acrimony of the blood rather than from semen. If it is doubtful whether it arises from acrimony of the blood or from superfluity of semen and from the ardor of libido, it is licit to free oneself from the itching: for in order that this be prohibited, it must be certainly established that it proceeds from semen or from libido.[500]

39. For practice. Since the vice of pollution at the present time is most frequent in both sexes, though more frequent in men than in women, it will help to set forth briefly its causes, effects, and cure.

1. Of the causes some are external, others internal. The external causes are bad examples of others, to which must be added very many depraved books of every kind and base images, which excite libido. Idleness, which indeed is the origin of all vices, but especially of vices of the flesh; likewise a soft and effeminate education. Everything which excites the genital nerves, as to be occupied for a long time, for the sake of pleasure, with venereal matters; lying supine; the warmth of the bed; exciting foods, such as are very hot and seasoned, and abundant alcoholic drinks. Mothers, nurses, and maids who, in order to quiet infants, arouse the venereal sense by handling their genital members. Besides the fact that this is prohibited by the moral law, it moreover brings a disposition and inclination toward venereal things. There must be added the impious counsel of physicians which is given to adolescents, that they pollute themselves at least once in a week, since nature demands this and it does not harm health. But in truth this counsel

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499. Cf. Lessius, l. 4, c. 3, n. 118.

500. Cf. St. Alphonsus, n. 483.

provides neither for morality nor for health, since the depraved habit of polluting oneself brings with it worse carnal vices, which gradually destroy health. Internal causes are the peculiar state of the organism, such as a sanguine and nervous temperament, defect of care for the genitals, illnesses which affect the nervous system, as pulmonary phthisis and hysteria. There is added the great delectation which this vice brings, and the ease with which it can be hidden.

Note. Although the vice of pollution is ordinarily committed by men of sound mind only for the sake of pleasure, nevertheless it must be conceded that it often does not depend solely on the will, but that the temperament of the body more or less disposes and impels one toward it and diminishes its moral fault.

2. The effects of this vice continued for a long time are most destructive. Among them must especially be numbered grave irritations of the nervous system, general fatigue and weakness of the whole organism, palpitation of the heart and disturbance of circulation, from which diseases of hypochondria and melancholy easily arise, which sometimes degenerate into madness. The acuteness of the intellect and the energy of the will are weakened, so that those who indulge this vice, even if they repent after the fall, nevertheless can scarcely abstain from sin.

Note. Nevertheless, evil effects of this kind do not show themselves in everyone. For there are men of so robust a constitution of body that from this vice they suffer only slight harms to health and light disturbances of the nerves. Therefore those who try to frighten lustful youths away from the vice by setting forth its evil effects must beware of exaggerations.

3. Cure. Once this vice has been contracted, unless the help of special grace intervenes, it is removed only with pain and difficulty; nevertheless, since it brings so many harms to soul and body, all whom it concerns must be admonished to direct themselves seriously to its cure. There are no certain signs from which this vice can be recognized in adolescents; nevertheless parents and teachers, sufficiently instructed about this matter, can recognize it from certain inconveniences which children manifest to them, and can restrain it by opportune remedies, especially by removing the causes from which the vice is induced.

Natural or hygienic remedies: to distract the mind; to exercise the body even to fatigue; to use baths or cold washings; to spend due care upon the genitals: the genital organs both in boys and especially in girls, on account of menstruation, need frequent washings; to use a hard bed; not to sleep supine: since the dorsal or supine position excites the genital nerves, the posture should be lateral, and indeed on the right side; in the morning, once sleep has been shaken off, to rise immediately; morning or evening to wash the body around the genitals with cold water, mixed with vinegar; before going to bed, to empty the urinary bladder; to choose light foods, of easy digestion, not exciting, which in small volume provide sufficient nourishment; to abstain from very alcoholic drinks and, in the evening, from meats; let clothes not be too warming nor compress the genitals. There are also medicines by which nervous erections, if they are frequent and vehement, are restrained.

Moral remedies: to instill hatred and horror of the vice and to inspire, by suitable motives, the desire of recovering virtue; to exhort to flight from occasions, frequency of the sacraments, and exercises of piety; to strengthen the will, so that, despising pleasure, it energetically applies suitable remedies. For most the most efficacious remedy is marriage, which those who are given to this vice should be advised to contract as soon as possible.

4. Confessors who direct themselves to the cure of a penitent habituated in the base vice should note in particular these things, besides those which are indicated above and which are everywhere suggested to customary sinners and recidivists.

a. Let them prudently explore the time from which the penitent has been given to this vice; likewise let them strive to know both his bodily temperament and the circumstances of the sins, namely at what time, in what place, and in what circumstances of affairs the falls are accustomed to occur.

b. Let them take care that he return to the same confessor, make confession soon after a fall, and, if it can be done, also receive Holy Communion.

c. Let them inspire in him hope of victory, and to this end let them require that daily, morning and evening, he recite three times the Angelic Salutation in honor of the most pure Virgin, to obtain purity of body and soul, with the addition of a resolution not to sin.

d. There are young persons of both sexes, entangled in the habit of pollution, who because of a nervous or sanguine bodily temperament experience vehement temptations, and although they resist and pray, nevertheless are polluted. Let them know that pollutions which they truly suffer unwillingly are without sin.

e. There are others who first resist the temptation, but afterward, if the temptation continues to urge, are accustomed to yield to it. These must be encouraged to further resistance: for soon pollution will follow, which, as completed against the will, is inculpable.

f. Finally there are found others who, lying in bed, suffer vehement stirrings of the flesh, to which, if they continue to oppose positive resistance, they cannot fall asleep. These should be advised that, after imploring the help of God and eliciting dissent, with a secure conscience they may have themselves passively, whatever may happen.[501]

40. On distillation. Distillation, which differs from pollution, is the moderate effusion of another, more subtle, non-prolific humor from the glands of the urethra. In pollution the effusion of humor is more copious and joined with great stirring and delectation; in distillation, on the contrary, the effusion of humor is slight and occurs almost drop by drop, with only light or scarcely any stirring and delectation that is perceived.

a. Sometimes from weakness of the organs distillation occurs almost habitually; this is an illness to be healed by a physician, not by a confessor. Although this illness here and there is contracted from a long-standing habit of sinning, nevertheless ordinarily it arises from natural causes.

b. Sometimes distillation also occurs with stirring of the genitals and venereal delectation; this distillation indeed is akin to pollution and disposes toward it.

1. If distillation occurs without delectation, no care must be had about it, nor does there exist an obligation of avoiding its cause. For this flow must be compared with the secretion of any other humor, e.g. of sweat, which nature is accustomed to cast out.

2. But distillation which occurs with delectation, directly willed or indirectly admitted without cause, cannot be excused from sin. This distillation is a sin of the same gravity and species as pollution itself, since it induces danger of it and is joined with venereal delectation.

41. On menstruation. 1. In women a peculiar phenomenon must be noted, which they call menstruation. By this name is signified the flow of blood which women suffer from the genital organs each month, and for this reason it is called the menstrual flow, the menses. Through the vagina menstrual blood flows out, on account of which the hymen is perforated. At the time of puberty menstruation begins and continues until about the fiftieth year of age, at which time fecundity is accustomed to cease. Physiologically this

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501. Cf. St. Alphonsus, l. 5, n. 9; Aertnys, *Theologia moralis*, l. 6, n. 313; Eschbach, p. 556 ff.

phenomenon is explained in this way. Each month in the ovaries an ovum matures, which, discharged from the ovaries, is transferred into the uterus. At the same time the interior parts of the uterus are filled with blood, so that blood may contribute to the development of the fetus, if it is conceived. But if the ovum has not been fertilized, blood flows out from the torn little arteries, and with the blood the ovum flows out through the genital organs. This flow ordinarily continues for two or three days, sometimes also for more days.[502] Sometimes the affected health of women demands that the menstrual flow be provoked by art, namely by the help of medicines; this indeed is morally licit, because no venereal delectation accompanies this flow.

2. Moreover it must be noted that women, at the time of the menstrual flow, especially in the first years in which they experience it, suffer vehement irritations of the nerves and are troubled by other inconveniences. But it cannot happen that these alterations of the body do not exercise an influence upon moral life. And indeed at that time they are agitated by various affections, especially by anger and sadness, which sometimes is increased even to melancholy. On this account they are then to be treated more indulgently and kindly, and not to be reproved on account of defects committed, but rather admonished to constancy in good resolutions.[503]

§ 2. On Sodomy.

42. Nature. Sodomy is intercourse with a person of the same sex, or with a person of diverse sex but in an undue vessel.

a. Intercourse is not had when someone touches the genitals of another with the hand, foot, mouth, or arm, and in turn is touched by the other; but it belongs to the nature of intercourse that the conjunction of the bodies themselves intervene, so that at least on one side the application of the genital member to the body of another takes place, whether this occurs in the preposterous vessel, or between the thighs or arms, or in another part of the body.

It does not belong to the nature of intercourse that there be penetration of some vessel; nevertheless intercourse differs specifically from impure touch; the essential difference is in this, that in touch the base affection is borne toward pollution, but in intercourse toward the person or beast with whom intercourse occurs.

b. From the definition a twofold sodomy is distinguished: perfect and properly so called, which is intercourse with a person of the same sex, therefore of a male with a male, of a female with a female; and imperfect or improperly so called, which is intercourse with a person of diverse sex, but in an unnatural or preposterous vessel.

c. Perfect sodomy, which is intercourse with the same sex, can be committed in two ways: either by a consummated act, i.e. with effusion of semen, or by a non-consummated act, i.e. without effusion of semen. Likewise sodomy improperly so called is committed either by a consummated act or by a non-consummated act in an unnatural vessel.

Consummated sodomy can also have place among females, namely if in the intercourse which is had between them, a flow of humor with complete delectation intervenes. Nevertheless, since this circumstance does not change the species of the sin, one must not ask about it in confession.

Notes

502. Cf. Olfers, *Pastoralmedicin*^2, p. 87.

503. Cf. A. Eschbach, l. c., disp. 1, c. 3, a. 1; Olfers, *Pastoralmedicin*^2, p. 87.

d. The essence of this crime consists in affection either toward the sex or toward the undue vessel: each is against nature, because nature requires for the generation of offspring both the sex and also the due vessel.

43. Principles. 1. Sodomy is a crime much graver than simple pollution, both in itself, because it tends toward an undue sex or vessel, and by reason of cooperation, because each concurs in the sin of the other. Its specific malice consists in access to an undue sex or vessel, which is repugnant to the order of nature in a special way.[504]

2. Perfect and imperfect sodomy differ from each other in species, because affection toward an undue sex contains a special malice, diverse from affection toward an undue vessel.

a. Perfect sodomy among persons of the same sex can be committed in diverse ways; nevertheless it does not differ specifically, whether intercourse occurs in the preposterous vessel or in another part of the body. Wherefore in confession it suffices to know that intercourse with effusion of semen has taken place, nor is it necessary to ask further about the mode of intercourse.

b. Imperfect sodomy between a male and a female is committed in only one way, namely if intercourse occurs in the preposterous vessel. But if intercourse has place in another part of the body, sodomy is not committed, but fornication in affection with pollution in effect.

3. It makes no difference whether someone was acting or suffering; the species of the sin is the same. Wherefore in confession one must not ask about this matter. But whether pollution, which happens more easily in the agent than in the patient, has had place or not must be declared.

4. Where sodomy simply is reserved, perfect and consummated sodomy is to be understood, which is committed between males with penetration of the preposterous vessel and with insemination made there.[505]

§ 3. On Bestiality.

44. Nature. a. Bestiality is the intercourse of a human being with a beast. It makes no difference in what manner the intercourse occurred, whether in the natural vessel or in another part of the body, whether with effusion of semen or without it, provided intercourse has had place; for the specific malice of bestiality consists in affection toward another species.

b. If the sin of bestiality is reserved, bestiality which is committed in the natural vessel with effusion of semen is to be understood, therefore consummated bestiality, unless the one reserving declares otherwise.[506]

45. Principles. 1. Bestiality is the gravest among sins of lust, more horrible than sodomy itself. Its special malice consists in access to a diverse species, which is still more repugnant to right reason than access to an undue sex or to an undue vessel.

2. Bestiality does not differ in species, whether it was committed with a beast of this or that species; and since now it has been explored that generation cannot follow from intercourse of this kind, it makes no difference of what sex the beast was, whether male or female. For the specific malice consists in access to a species diverse from man; the specific diversity and the sex of beasts are related to this only materially.

Notes

504. Cf. Rom. 1, 24 ff.; Gen. 18, 20 f.

505. Cf. Salmanticenses, tr. 26, c. 7, n. 109.

506. Cf. Salmanticenses, ibid., n. 140.

3. Immodest touches with a beast are not the sin of bestiality unless the base affection of the one touching is borne precisely toward the beast, which rarely occurs, since the sinner ordinarily intends only to satisfy libido. Wherefore this circumstance does not have to be declared necessarily in confession if someone, by means of the tongue of a beast of burden or of another beast, has excited venereal pleasure or pollution in himself.

To complete the treatment concerning sins of lust, and specifically concerning sins of lust against nature, a few things must be treated concerning abnormal sexual appetite.

Sexual appetite deflects from the common norm in a twofold way: a. in that it is increased beyond measure, hypersexuality; b. in that it puts itself forth in another way, sexual perversion.

46. On hypersexuality. 1. Sexual affection in diverse human beings, as regards vehemence, is diverse; in men it is more vehement than in women, but even among persons of the same sex some have been allotted a more vehement affection than others; sometimes it reaches an extraordinarily great vehemence. A sexual appetite of this kind, more vehement, is found both in those who labor under a psychic defect and in those who are not psychopathic.

2. The cause of this matter is partly a disposition acquired by heredity, partly an illness of the nerves, partly abuse of alcoholic drink. Sexual excesses are added, which increase both the illness of the soul and the sexual affection: for repeated excesses generate a depraved habit, which sometimes grows so enormously that libido is excited from any even very slight cause and then almost mechanically, by physical necessity, impels toward pollution.

3. The signs from which it is discerned that the sexual appetite has been increased beyond measure, pathologically, are these: if libido, scarcely satisfied, is soon excited again; if libido is excited from the sight of things indifferent in the genus of lust; if sexual affection so occupies a human being that he thinks and speaks almost only about this matter and seeks means of satisfying the affection.

4. Imputability. Those who are sound of mind can and must repress and moderate sexual affection, even the more vehement, nor do they suffer any detriment of health from not satisfying even a most vehement sexual appetite. Therefore sins committed against chastity must be fully imputed to them. Indeed even those who labor under a psychic defect sin voluntarily and culpably, unless the defect is of a greater degree. Sexual excesses will be so much the less voluntary and culpable as the illness of the soul is greater and more intense; they are fully involuntary in those who are mentally ill or fully psychopathic.

It must be noted that physicians addicted to materialism, by the worst counsel, exhort those, especially youths, who suffer frequent pollutions and vehement sexual excitations, to go to women in order to lessen the evil: for they say that abstinence brings grave detriments to the health of body and mind. Means and medicines are not lacking by which the vehemence of sexual libido may be lessened; therefore those for whom this is necessary should be directed to a physician, but to a Catholic physician, who uses licit means for repelling the evil, and who is persuaded that chastity commanded by the law of nature, even perpetual chastity, harms neither the health of the body nor of the soul.

47. On sexual perversion.[507] 1. Sexual perversion consists in this, that sexual appetite and sexual actions are abnormal in this respect, that libido is excited not by internal and external acts pertaining to venereal matters, as ordinarily happens, but by other things altogether alien to sexual life.

Notes

507. Capellmann-Bergmann, *Past.-Mediz.*^14 (Aachen: Barth, 1904), p. 87 ff.

2. It can indeed happen that the sexual disposition, initially not alien from the common norm, has become abnormal through sins of lust against nature committed for a long time; nevertheless ordinarily the abnormal disposition has been transmitted by heredity from parents, with a morbid affection of the nervous system.

3. Four diverse forms of perverse sexual disposition are distinguished: Sadism, Masochism, Fetishism, Contrary Sexuality.

a. Sadism[508] is so called if venereal delectation is excited by imaginations or actions which contain cruelty and violence, such as: to strangle, to stab with a knife, to strike, to whip, to slaughter (*Lustmord*).

b. These actions are not performed in order to obtain intercourse from the person to whom force is applied, but in order through them to excite, quiet, and satisfy libido.

c. This perversion is found frequently in men, scarcely ever in women; for since man in sexual life is the active principle and, if it is permitted to speak thus, the aggressive principle, it seems to have arisen from the degeneration of the office which in sexual functions naturally belongs to the man.

d. Masochism[509] is so called if venereal delectation is excited by the fact that one suffers violences and torments, such as being struck, being attacked with the heel, being beaten, being whipped, being stabbed even to the effusion of blood, etc.

This perversion is especially found in women, which is easily understood from the things said above, since the woman has herself more passively in sexual functions. Indeed they are not without the sense of pain while they suffer force, but by the sense of venereal pleasure the pain is abundantly compensated.

c. Fetishism is so called if libido is excited by imaginations or actions which do not pertain to venereal things, and therefore otherwise are not apt to excite pleasure.

The things or parts of the body whose imagination or handling excite venereal sense are the hand, foot, eye, hair, undergarment, shoes, feathers, cloths, etc. For the most part these things or parts of the body have a relation to a determinate person loved by an inordinate affection; but it can happen that even of themselves, independently of relation to a certain person, they provoke venereal delectation and pollution.

d. Contrary sexuality is so called if sexual appetite tends toward a person of the same sex. Therefore the venereal sense is provoked not from the imagination, sight, or touch of a person of diverse sex, but of the same sex.

e. The sins which are committed by those who labor under this perversion are mutual pollutions and sodomitical intercourses. If the perverse inclination is borne toward boys, it is called pederasty; nevertheless ordinarily it tends toward men.

f. This perversion is also found in women, in whom it is called lesbian or sapphic love, and it induces mutual pollutions and sodomitical sins which women commit among themselves.

4. Imputability. a. Sexual perversion is not a sign of a diseased mind: perversions are found even in those who labor under no psychic defect; nevertheless this seems capable of being affirmed, that perversions are had more frequently in persons of diseased mind than of sound mind.

Notes

508. The name is drawn from the Marquis de Sade, who was affected by this perversity and presents, as it were, its prototype.

509. The name is taken from Sacher Masoch, who especially describes this perversion in his fictional narratives (*Romane*).

b. Not only those who are of sound mind, but also those who labor under a psychic defect, can repress perverse sexual appetites; accordingly the sins, or perversities, committed must be imputed to them, unless the psychic defect has reached a greater degree. It then becomes ineluctable when to the psychic defect there is added great vehemence of the sexual appetite, whether ordinary or perverse.

5. They ask whether sins with a person of the same sex committed by those in whom contrary sexuality is innate are specific sins of sodomy, since the perverse affection toward the same sex in them is without their own will and therefore inculpable. But in truth, since the specific nature of sodomy consists in affection toward the same sex, there can be no doubt concerning the nature of sodomy, even if by nature they are borne toward the same sex and suffer aversion from the diverse sex. Therefore just as others must repress an inborn fornicatory affection, so they must repress an inborn sodomitical affection.

Note. The confessor should know that certain traces of a perverse sexual disposition are sometimes found even in those whose sexual life otherwise does not depart from the common norm: for not a few are met with who are basely excited by imaginations or actions which scarcely refer in any way to venereal things, as by a chastisement of boys represented through imagination, by reading about the torments which the martyrs suffered, by imagination or touch of hair gathered into a knot, etc. Against temptations arising from images or actions of this kind, they must fight just as against other temptations attacking chastity. Those whose sexual perversion is perfect are excited only by abnormal means; by base means, however, they are excited not at all or only a little.

Question Four.

On the Sins of Lust Not Consummated.

Sins of lust not consummated, in which effusion of semen has no place, are of two kinds: some contain lust itself; others do not contain lust itself, but only a cause provoking lust. Of the first kind are carnal movements; of the second are acts of immodesty.

Immodesty is defined as voluntary occupation about things which provoke venereal delectation. To it belong both internal acts, thoughts and desires, and external acts, sights, touches, kisses, embraces, words, and readings.

Article One.

On Carnal Movements.

48. Declaration. 1. Carnal movements, base movements, venereal movements, rebellion of the flesh, are called stirrings of the genital members and of the humors existing in those organs, joined with pleasure. Ordinarily they have joined to them erection of the virile member or of the female clitoris. Erection must be attributed to blood flowing together to those members.

2. Movements are distinguished: a. light and transitory, and grave and lasting. The latter induce proximate danger of pollution, the former remote or no danger.

b. Voluntary, whether in themselves or in the cause, and involuntary, which either arise spontaneously and naturally, without the one who suffers them contributing anything, or in such a way that he indeed posits their cause, but ignorantly.

c. The cause from which carnal movements arise is either external: the mode of sitting, lying down, touch, etc.; or internal, namely images of the phantasy, which are excited either spontaneously or from sight, conversation, or reading.

d. Carnal movements ordinarily manifest themselves through erection of the virile member or of the female clitoris; this erection in this case is joined with pleasure and can be called venereal. But there is also another, merely natural erection, which arises from physical causes that are not venereal and is had without sense of pleasure. In each case erection must be attributed to blood flowing together to those members.

49. On the malice of carnal movements. Since carnal movements have venereal delectation joined to them and are evil only on account of this, those things which are said here concerning their malice are easily understood from those things which were explained above, n. 11 f.

1. Carnal movements directly voluntary, which are either deliberately excited or to which consent is given if they arise spontaneously and involuntarily, are a grave sin, however light they may be: for there is had consent to venereal delectation, which is always a grave sin, since this delectation does not admit smallness of matter.

2. Carnal movements involuntary both in themselves and in the cause, however grave, are no sin, unless consent and complacency of the will are added; for without consent of the will there cannot be sin.

3. Carnal movements voluntary in the cause, or the cause from which movements are excited beyond intention, are a grave sin if the cause by its nature gravely influences toward exciting them and no sufficient reason is present for admitting them.

Although causes lightly influencing toward base stirrings need not be avoided under grave sin, not even by those who suffer from them grave carnal movements, indeed even pollutions, unless proximate danger of consent is present, nevertheless those who admit actions of this kind from a just cause must be earnestly and insistently admonished to omit them unless they are necessary. For on account of the supreme inclination of corrupted nature toward venereal things, great danger threatens lest gradually graver things be admitted. Moreover the danger of self-deception easily occurs: for those who admit actions of this kind easily persuade themselves that in admitting them they are led only by curiosity or courtesy or friendship, but in reality they are impelled to them by the heat of libido.

50. On the resistance to be opposed to these movements. 1. If involuntary movements are light and transitory, no care must be had about them, but they are to be neglected and despised, both because the causes exciting such movements are most frequent and therefore the obligation of repressing them would be too difficult, and because they are better and more efficaciously repressed by contempt: for solicitude about impeding them is accustomed to excite the imagination and increase the movements.

2. If no reasonable cause is present for admitting carnal movements, it is not licit to have oneself passively toward them, but the obligation of resisting them positively presses, and indeed under light sin if the danger of consent or pollution is remote, under grave sin if the danger of consent or pollution is proximate. The reason for the first: one who does not repress the movements when he can is judged to consent to them indirectly and virtually. The reason for the second is that we are then bound to impede both the danger of consent and pollution.

a. He has himself passively or permissively who neither approves them nor represses them by applying means, but admits them until they vanish of themselves. Therefore some positive resistance is necessary, whatever it is, provided it is apt for the end. Since the end consists in this, that the movements themselves be restrained, an act of simple displeasure concerning the movement and carnal delectation does not suffice for positive resistance, because that act is ineffective for repressing the movements themselves.

b. Positive resistance is either direct, by which the stirred parts, covered by clothes, are compressed, or indirect. Direct resistance is not to be advised, because it does not contribute to the intended end, but

rather irritates the nerves and increases the movements. Indirect resistance is either external or internal. To external resistance belongs: to change place or position, to interrupt the work, to take up another occupation, to excite a sense of pain by pinching the hand or arm, by pricking, or by striking oneself, etc. To internal resistance belongs: to turn the mind to other things, to implore divine help, to invoke the most holy names, to elicit an act of love of God, to renew the resolution not to sin, etc.; these things also contribute to guarding against consent to base delectation.

c. When movements are excited from a voluntary action and one that is superfluous, due resistance consists in this, that their cause be removed and that the action cease. Therefore one who is vehemently excited from an action of this kind is bound under grave sin to break it off immediately; but one who notices that he is lightly stirred is bound under light sin to desist from it. But if he continues it longer, he sins gravely on account of the grave danger of proceeding to further things and finally of consenting. Therefore, for example, a prolonged idle sight of a beautiful woman, or a prolonged vain conversation with a girl, or continued impure thought, when these actions already excite libido rather vehemently, are a grave sin. St. Alphonsus, n. 422.

3. There is no obligation of positively resisting carnal movements, even the more vehement, if a just cause is present for admitting them: for the just cause itself excludes indirect and virtual consent. Therefore in this case it is licit to have oneself negatively toward the movements themselves, provided the firm resolution of not consenting is retained.

a. A just cause of permitting them is present: a. if someone knows by experience that resistance rather increases them; b. if they are excited from a necessary action or one useful in any way, e.g. from hearing confessions, from useful reading, from necessary touch.

b. Because no one is bound, in order to avoid carnal movements, to omit actions that are necessary or useful, penitents must be admonished not to abandon a good work begun for this reason, that they suffer miseries of this kind, such as base movements, provided the danger of consent is absent. The same persons must be admonished not to omit prayers or exercises of piety because they are especially troubled by depraved images and movements during prayer. The movements are to be despised and repressed by persisting in the work begun.[510]

c. Although positive resistance in this case, if, for example, more vehement movements are excited while working or lying down, is not necessary, nevertheless it is greatly to be advised, whether external or at least internal; but to avoid consent of the will an act of displeasure concerning those movements must be elicited.

d. It happens that pious women, especially nuns, in prayer or in Holy Communion are so inflamed with sensible love that they perceive venereal delectation, indeed even suffer pollution. In this case great discretion is necessary. If they are not hysterical, it must be said to them that they are not to care about these evil effects, unless on account of them they are troubled by anxieties in the spiritual life; in that case it is expedient that the affections of love be moderated. Frequently, however, women of this kind, who are carnally excited during prayer, labor under religious hysteria: for it is established that hysterical persons willingly foster obscene phantasms and consequently suffer vehement stirrings of the genitals even to pollution. These must be admonished, as far as can be done, to reject phantasms of this kind.

Notes

510. Ballerini-Palmieri I, n. 597.

Article Two.

On External Sins, Immodesty.

51. Declarations. 1. In order that judgment can be made concerning the malice of external acts in particular, first the parts of the body must be distinguished with respect to honesty. Thus the honest parts are: face, hands, feet; the less honest, not base, are: breast, back, arms, legs; the indecent, base, obscene parts are: the genitals and the parts near them.

2. In external acts venereal pleasure itself is not found; those acts in themselves are not evil, but indifferent, and therefore can be performed both from a good end and from an evil end. But all by their nature are apt to excite base movements and the sense of delectation and therefore pollution; therefore they cast one into danger of sinning through consent to delectation and through pollution. Wherefore it is not licit to perform those acts without a sufficient cause, more or less grave according to the measure of the influence which they exercise in provoking delectation and pollution.

The true doctrine must be held, that base sights and touches are opposed to the sixth precept of the Decalogue not of themselves and by their nature, but only because they bring danger of venereal delectation, pollution, and danger of consent to it. Therefore if there were any, which indeed will rarely happen, who from these actions suffered no danger either of base movement or of consent to base delectations, those actions for them would contain only the sin of idle action, of sensuality, but in no way a sin against chastity. But insofar as non-consummated acts are performed either explicitly or implicitly from a libidinous end, they must be regarded as the beginning and commencements of the consummated venereal act. They are performed implicitly from a libidinous end if they have no other end of the one acting.

3. Acts of immodesty, both external and internal, differ in species from perfect or consummated acts, pollution and intercourse: for in the former either venereal delectation is not contained, or, if it is intended and perceived, in them there does not intervene the special malice of effused semen. Therefore it does not suffice to accuse impure touches if pollution was had.

But incomplete venereal delectation does not differ in species from complete delectation, n. 8; and just as pollutions considered in themselves are of the same species, so incomplete venereal delectations or carnal stirrings are all of the same species. Therefore one who provoked in himself or voluntarily admitted carnal movements and delectation need not confess in what way they arose: by thoughts, sights, touches, kisses, or impure speeches.

52. Their moral malice from the end of the agent. To determine the moral malice of acts of immodesty, attention must be paid to the end on account of which they are performed by the agent, and to the danger which they induce, of venereal stirring, pollution, and consent to delectation. As regards the first, outside marriage they can be performed for a fourfold end: a. from the intention of venereal delectation or from libidinous affection; b. from the intention of sensual delectation; c. from play, levity, and curiosity; d. from a just and reasonable cause.

a. If they are done from a depraved and libidinous affection, although of themselves they have little influence upon libido, as the sight of a woman, handling of the hand, etc., they are always a grave sin because of the gravely evil intention; therefore it makes no difference whether the acts themselves are more or less base.

b. If they are done from the sole intention of sensual delectation, they are a light sin, unless they induce proximate danger of carnal stirring and of consenting to venereal delectation, as can happen if they are performed with some affection and delay.

c. In these acts had from sensual delectation alone, a twofold malice is found: that they are disordered, i.e. that they are not referred and cannot be referred to a rational end, and that they induce danger of venereal delectation and of consent to it; but each is a light sin unless the danger is proximate. Now the greater the affection and delay in those acts, the greater is the danger of venereal delectation and consent; indeed a longer delay with which they are performed is frequently a sign not only of great affection, but also of a libidinous soul, although a just cause for performing them is present, e.g. for giving a kiss. Therefore touches, kisses, embraces, if without a reasonable cause they occur on account of sensual delectation alone, are of themselves light sins.

d. St. Alphonsus teaches, n. 416, that there is no smallness of matter in sensual delectation, e.g. in the touch of the hand of a woman, as there is in the touch of a smooth thing, e.g. of a rose or silk cloth, because it is impossible that sensual delectation be intended and venereal delectation not also be intended, or at least because it is mortal to expose oneself to the proximate danger of consenting to venereal delectation; and one who acts from the intention of sensual delectation exposes himself to this danger. Therefore he denies that touches and kisses among young persons of diverse sex, had on account of sensual delectation, are venial sins. But it seems that it must be admitted that actions of this kind can occur on account of sensual delectation without intention and proximate danger of libido or of venereal delectation or of consent to it. For sensual delectation indeed disposes toward venereal delectation, but does not include it; therefore it can happen that sensual delectation alone is intended, both if venereal delectation is explicitly excluded and if it is only not thought about.[511]

e. If they are done from levity, play, or curiosity, and therefore briefly and cursorily, although of themselves they can excite very strongly toward libido, as base sights or touches, they are a light sin, both because curiosity is light and because the influence upon base movements in these is light and remote.

f. If they are done from a just cause, even if a sense of delectation or even pollution is excited beyond intention, they are no sin, provided consent is absent. A just cause of positing them is: decency, utility, necessity. But the more modesty is injured, the greater the cause is required which excuses the immodest action; hence only necessity excuses a gravely immodest action, as to look at or touch the indecent parts of a person of the other sex, as in physicians and surgeons.

53. Their moral species. External acts of immodesty are: sights, touches, kisses, embraces, speeches, songs, readings. Now if their moral species is treated, the question properly concerns sights and touches: for kisses and embraces are reduced to touches, but speeches, songs, and readings had from the intention of venereal delectation are of themselves the same sins as thoughts and desires which are fostered interiorly while the words are spoken.

Between sights and touches this difference must be noted, that sight is not so material and concrete, and therefore easily abstracts from the circumstances of the person as such and regards that person as a man or woman, not as married, sacred, or related by blood; but touch by its nature is more material and concrete, and therefore does not abstract from the circumstances of the person who is touched.

a. Sights and touches performed on account of venereal delectation are not sins of diverse species; therefore in confession it need not necessarily be asked whether venereal delectation occurred from touch or from sight or from a depraved thought, unless the touch was done on another, and this on account of cooperation.

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511. Cf. Sporer-Bierbaum, III, tract. 10, n. 686 f.; Elbel-Bierbaum I, pr. 4, n. 183 ff.

Although sight and touch differ essentially by reason of the act, because they proceed from essentially diverse faculties and tend toward diverse objects, by reason of moral malice they do not differ specifically: for their proper malice consists in the venereal delectation sought through them, which does not obtain a specific difference from the fact that it is procured by this or that sense or mode, but is of the same species in all these acts.[512]

b. Touches, kisses, embraces, which from a depraved intention are done on another, are sins of diverse species according to the diversity of circumstances in the persons who are touched indecently; for since touch attains the person materially and in the concrete, as happens in the very acts of lust, they are of diverse species, just as the perfect acts to which they are naturally ordered.

Therefore touch on a person of the same sex and touch on a person of diverse sex differ in species: for the latter by its nature is referred to fornication, the former to sodomy. Touch on an unmarried person and touch on a married person differ in species: for the latter naturally tends toward adultery, the former toward fornication. Hence in confession the object of the touch must be explained.

c. But base sights which from a depraved intention are done on another, unless desire is added, are not sins diverse in species according to the diversity of circumstances in the person who is seen. For sight attains the object less materially and concretely than touch, so that ordinarily it abstracts from the circumstances of the person, unless the libidinous affection is borne precisely toward such a person. Therefore in confession the quality of the person basely seen, whether she was related by blood, married, sacred, etc., need not be declared.

Nevertheless a base sight of a male and of a female differ in species, and therefore also venereal delectation sought from the base sight of a male or female: for sight can indeed abstract from the circumstances of the person, but not from the diversity of persons; wherefore sight of a male is referred to intercourse with a male, sight of a female to intercourse with a female.[513]

54. Their moral malice from danger. To determine the moral malice of acts of immodesty which are done without the direct intention of procuring venereal delectation for oneself, attention must be paid to the danger which they induce, more or less proximate, of venereal stirring and pollution, or to the influence which they exercise in exciting libido. Therefore those acts are grave sins which proximately and notably influence toward exciting libido; those acts are light sins which remotely and lightly influence toward exciting libido.

a. To determine this influence, three things especially must be considered: a. the nature of the acts; for some acts of themselves and by their nature stir gravely, others only lightly; b. their various circumstances: for acts which are done with lingering delay and are repeated more often excite much more than acts which are done in passing and only once; likewise acts which are done vehemently and with great ardor stir more than acts which are done lightly and calmly; c. the disposition of the agent: for acts which excite some vehemently stir others little because of subjective disposition. Therefore concerning each act of immodesty one must judge which ordinarily influence gravely and proximately, which lightly and remotely, upon venereal stirring and upon pollution, and therefore which ordinarily are grave and which are light sins.

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512. Cf. St. Thomas II-II, q. 154, a. 4; Bucceroni I, n. 783.

513. Cf. Ballerini-Palmieri II, n. 969 ff.

b. Although corruption of morals for the most part arises from obscene conversations: evil conversations corrupt good morals,[514] nevertheless things heard influence the phantasy, and therefore the stirring of the flesh, less than things seen; but most of all and most efficaciously the flesh is solicited from touch.

55. On touches. 1. In one's own body. a. To touch oneself in the indecent parts for the sake of necessity or utility, for curing an illness, for driving away itching, or for wiping away filth, consent to delectation perhaps arising being excluded, is licit, although carnal movements, indeed even pollution, follow.

But it should be advised: a. that as far as can be done touches of this kind be performed in passing and mechanically, with thought turned to other things; b. that one cease from touches when the movements become more vehement.

b. To touch oneself in the indecent parts without a just cause, but short of a depraved affection, in those who know that they are not stirred by touches of this kind, is not a sin, at least in the genus of lust. But for children touches of this kind, especially while they are lying in bed, must be severely forbidden on account of the destructive consequences of this matter. But those who for a longer time without cause touch themselves basely ordinarily excite carnal movements and venereal delectation; indeed for the most part they do this from the depraved end of delectation or pollution.

2. In another's body. a. To touch a person of the same sex in the indecent parts without a just cause is grave, even if it is done mediately only over clothes, because it stirs much. The same must be said a fortiori of a touch of this kind on a person of diverse sex. Nevertheless, the libidinous intention being excluded, if it is done only in passing and without delay, from levity or play, it is not a grave sin.

a. Touches of this kind had among the impubescent from levity or play and without delay are not grave sins, because at this age they are not accustomed to excite stirrings.

b. Authors who excuse from mortal sin indecent sights or touches on a person of diverse sex done from curiosity suppose that both danger of consent to delectation and danger of pollution are absent; but in truth the circumstances in which each of these dangers is absent will be rare.

c. To touch a person of the same sex in the less honest parts, a depraved intention being excluded, will scarcely be a sin, at least a grave one; but to touch a person of diverse sex in the less honest parts can scarcely be excused from grave sin, unless it is done very much in passing, from levity or play, on the arm or shoulders. For although touches at the beginning are done on account of sensual delectation, for the most part it is impossible that carnal movements, indeed pollution itself, should not follow from them.

d. To touch a woman on the breasts, even if it is done by a person of the same sex, is not excused from grave sin, because it stirs very much and therefore induces danger of pollution and consent.

e. To touch a person, even of diverse sex, in the honest parts, if it is done from a reasonable cause, is not a sin; if it is done without a reasonable cause, even with some delay and affection, a depraved intention being excluded, of itself it is a light sin, but it easily induces grave danger.

f. To touch a beast in the indecent parts ordinarily is not a grave sin unless it is done from a libidinous affection; nevertheless if the touches are continued deliberately, especially if it is done even to the pollution of the animal, ordinarily it is a grave sin, both on account of the danger of consent to base delectation, which easily arises in the one touching, and on account of grave danger of one's own pollution.

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514. 1 Cor. 15, 33.

56. On kisses. 1. Lingering kisses, often repeated, impressed with great affection between persons of diverse sex, ordinarily are grave sins, because they stir very much; besides, they often proceed from libidinous affection: for among the unmarried they rarely have another cause.

Nevertheless it can happen that they are not grave sins. Thus if someone, for example, about to depart elsewhere, kisses a person of diverse sex, related by blood or well known, more often or lingeringly from sensual affection, but does not care about the carnal movements which perhaps he experiences and does not consent to them, he does not sin gravely: for a legitimate cause is present and both libidinous affection and consent to pleasure are excluded. Since nevertheless due moderation is lacking in the use of a licit action, a venial sin is committed; but kisses and embraces of this kind, repeated and lingering, between parents and children, which are done as a sign of special love, are free from all fault.

2. Decent kisses, which are done according to the custom of the country, for the sake of courtesy, friendship, kinship, or for signifying and increasing honorable love, even between persons of diverse sex, are licit, although carnal movements are excited, provided consent to venereal delectation is avoided. The same must be said concerning embraces and handling of hands.

3. Decent kisses, embraces, hand-pressures, which are done from play, levity, or even from sensual affection, with no cause of necessity or utility making them honorable, are light sins, if venereal delectation either does not arise or arises without foresight, and if, on account of the danger of consent and pollution, there is cessation from those actions when delectation of this kind is perceived.

Likewise it is a venial sin if decent kisses, touches, embraces are done from sensual affection, n. 7, by which someone, for example, follows after an impubescent boy or girl on account of beauty. This is not mortal, because depraved intention and proximate danger of exciting delectation or pollution are lacking; nevertheless it is not without fault, because a reasonable end is lacking. But because the passage from sensual delectation to venereal delectation is easy, these acts committed from sensual affection are grave sins if they are done lingeringly and without a just cause among pubescent persons of diverse sex and there is no cessation when the increasing delectation is already perceived, because they induce grave danger of pollution, indeed of consent.[515]

4. Kisses on the less honest parts, and especially on the indecent parts, are a grave sin, because they stir very much. Besides, these can scarcely proceed except from libidinous affection, since a reasonable cause for kissing those parts can with difficulty be imagined.

57. On sights. 1. To look at oneself in the indecent parts from necessity or utility, depraved affection being excluded, is nothing. To do this from curiosity or levity, consent being excluded, is venial, because one's own parts move less; nevertheless it can be mortal if it is done lingeringly without necessity. To look at the less honest parts of one's own body even without cause is not a sin, at least in the genus of lust, because this does not stir.

2. To look at a naked person of the same sex, for example one swimming together, in passing from curiosity, is venial, because ordinarily it does not move much; but to look seriously, deliberately, and lingeringly at a naked person of the same sex even from curiosity alone is mortal, because by its nature and proximately it excites libido.

a. Nevertheless it must be required from those swimming together that they do this with the indecent parts covered, unless somewhere, as in England, in the East, common usage bears that they swim even with

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515. Cf. Ballerini-Palmieri II, n. 976 ff.

the indecent parts uncovered: for those accustomed to sights of this kind are stirred with more difficulty. In like manner the custom of certain regions brings it about that images and statues representing naked persons, angels, are looked at without danger, unless it is done studiously and lingeringly.

b. Boys and girls who from levity or curiosity uncover the genitals to one another must be gravely reproved: for although this at that age is not mortal, nevertheless it diminishes chaste modesty and disposes and leads to further things.

3. To look at the less honest parts of a person of diverse sex of itself is not mortal, because it does not notably excite; but a long-lasting sight of this kind cannot be excused from mortal sin. Likewise to look at a person of diverse sex in the indecent parts, even only from curiosity, is mortal, because this ordinarily much excites corrupted nature. There must be excepted a sight which occurs very much in passing and almost unexpectedly, or which is done briefly and from a distance; likewise the sight of a naked infant of diverse sex.

4. To look at statues or images of either sex plainly naked, without reason of necessity or great utility, with fixed, serious sight and with some delay, is a grave sin, because they much excite the rebellion of the flesh, unless perhaps they are very ancient statues which, as experience testifies, do not stir so much. But if indecent statues and images are looked at without cause in passing and cursorily, it is venial, because sights which are not intense and with delay do not excite much.

5. To look at the base parts or the intercourse of animals from curiosity without libidinous affection is venial, especially if the animals are smaller, as birds or dogs, and if they are looked at only in passing, because this is not accustomed to excite pleasure much. To look at human intercourse is a grave sin, unless it is done briefly and from a distance.

Necessity excuses those joining domestic animals, as bulls and horses, even if stirring of the flesh or even pollution should arise, consent being excluded; but this office, as far as can be done, must be entrusted to married persons or older persons, who are not so inclined to venereal things as young persons.

Note on works of art. From these things must also be taken the principle to be observed by artists, whether painters or sculptors, in the representation of the human body. For art is not exempt from the observation of the natural and divine law, but on the contrary is plainly held to the moral laws in producing its works. It is easily conceded that the human body in itself is honest and beautiful, but nevertheless apt to excite venereal sense in others. Therefore since it is prohibited by the moral law that anyone by his actions solicit others to sin, it must be said to be prohibited that those parts of the body be exhibited naked and uncovered which commonly excite those looking at them toward libido. Nor can it in any way be conceded that bodies, if you abstract from the not yet developed bodies of infants and from the withering bodies of old men, can be exhibited by artifice, stylization, idealization, in such a way that, although naked, they do not stir carnally.

58. On speeches. 1. To speak base things can be sinful in three ways:

a. by reason of the end, if someone speaks base things from a libidinous affection for taking venereal delectation, or for seducing another to sin;

b. by reason of the danger of exciting base movements or even pollution and of consenting in it;

c. by reason of the scandal which is furnished to those hearing, especially if they are of younger age.

Therefore he commits a grave sin who speaks or sings base things from the depraved end of delectation, or with proximate danger of consenting to delectation, or with grave scandal of others.

2. To speak base things, if the words are lightly obscene, or indeed gravely so, but are uttered for the sake of play for vain recreation, as is done by workmen while working, is light; indeed even if from levity very obscene conversations are mixed in, e.g. concerning the conjugal act, concerning means of impeding generation, concerning the genital members especially of the other sex, concerning the mode of polluting oneself, concerning the mode of generating, etc., they are not always mortal, because as experience testifies they frequently excite nature little.

3. From boasting to narrate grave sins perpetrated by oneself, and to adorn this with very obscene words, is grave, and ordinarily indeed in three ways: by reason of joy concerning an evil thing, by reason of scandal, and by reason of the danger of impure delectation, especially if the conversations are drawn out longer.

4. To hear base speeches is a grave sin if the hearer by his manner of acting provokes gravely base speeches, or if from a depraved affection he is delighted by them. But one who from human respect smiles or even mixes in some word, likewise one who from curiosity hears such things when he could easily leave, does not sin gravely.[516]

5. To sing songs even very obscene is not always a grave sin, namely if it is done from levity or on account of vain solace; for since the things which are sung from this end ordinarily do not stir gravely, proximate danger of grave sin can be excluded.

As regards obscene words, penitents must be asked before whom they uttered them: before adolescents or more grown persons, before unmarried or married persons, on account of scandal; for the unmarried are more easily scandalized than the married, boys and girls more than adults. But it is not fitting for the confessor to ask penitents who accuse themselves of depraved conversations what they said. Wherefore, for making judgment concerning the gravity of this sin, after the question has been made whether the conversations were very indecent, he should rather presume the gravity of the sin from the condition of the penitent. Thus it must be noted that base speeches which married persons have among themselves are rarely grave sins; but base speeches which young persons have among themselves, or married persons with the unmarried, or a married person with an external person of diverse sex, can easily be grave sins, whether on account of depraved affection or on account of danger of consent to base movements, especially if the speeches are drawn out longer.

59. On readings. 1. To read books only lightly base, from curiosity or for the sake of recreation, without depraved affection, is venial: for the danger of depraved delectation is remote if the books are only lightly base.

The reading of novels which treat of loves in such a way that they are neither altogether chaste nor altogether obscene must be greatly dissuaded for young persons of either sex, since their reading weakens character, fills the phantasy with inept images, and universally disposes toward softness. By those who know by experience that from reading of this kind they suffer grave temptations or frequent pollutions, these books must be avoided under grave sin; otherwise they are not prohibited under grave sin, even if here and there stirring or even pollution follows, to which nevertheless consent is not given. Their reading is licit if it is undertaken from a reasonable cause, for erudition, for style, and temptations perhaps arising are rejected.

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516. Cf. Berardi, *Praxis confess.*^3, I, n. 921.

2. To read books, even if not very base, is ordinarily a grave sin, because reading of this kind, as prolonged for a longer time, ordinarily stirs gravely and exposes to proximate danger of base delectation and pollution.

If nevertheless someone read only a little from curiosity, or if he knew by experience that he was not stirred by such reading or that he did not consent to the stirring that arose, he would not sin gravely. Likewise young persons who from curiosity seek obscene words in dictionaries do not of themselves sin gravely.

3. To read books even only lightly base from a libidinous intention or with proximate danger of consenting to base delectation is a grave sin.

4. To read base books from a just and proportionately grave cause, proximate danger of consent to base delectation being excluded, is not a sin.

a. Therefore they do not sin who read obscene books for acquiring due knowledge for themselves, for correcting morals, etc.; likewise those who read obscene classical books on account of elegance of speech for perfecting style, though these books must not be handed over to young persons, provided they do not consent to base delectation.[517]

b. It must be carefully examined whether the cause on account of which an obscene book is read is sufficiently grave: for the greater the danger of base delectation is, the graver the cause ought to be. Curiosity, likewise recreation, which can equally be taken from other innocent things, is not a just cause. Nevertheless stirring or pollution which is foreseen to arise from the study of medicine, anatomy, fine art, etc., consent being excluded, is not imputed as grave sin, even if the study is done without necessity from mere curiosity.[518]

60. Whether it is licit for painters and sculptors to look for a long time at naked persons of the same or diverse sex, who present themselves to them as a model (*Modell stehen*).

This certainly is not licit for painting or sculpting obscene things: for an evil end cannot make honorable a dangerous sight; but for painting or sculpting honorable things, insofar as it is necessary for the end of art, under certain conditions and with due cautions it is licit.

a. It is clear that both the persons who offer themselves to be looked at and the artists looking at them expose themselves to grave danger of sinning; wherefore these things are licit only insofar as they are necessary for the end of art. But artists contend that "studies" in the nude body are altogether necessary for the perfection of art, even honorable and religious art; and so this necessity excuses those sights.

b. The required conditions are: a. that the model be truly necessary; b. that the denudation not be extended beyond necessity, for the end of art can be obtained even if the wholly obscene parts are covered; c. that by employing cautions, especially prayer and the honorable intention of seriously devoting oneself to the study of art, danger of consent to delectation perhaps arising be excluded.

c. The use of models where these conditions are not observed is of itself a grave sin. Nevertheless, if for young painters who are compelled to attend academies for the sake of learning art, naked persons are proposed in academies as models without necessity, the young persons looking at such things indeed do not sin, provided they employ due cautions for avoiding consent, because they cannot abstain from them without being compelled to withdraw from the academies. Nevertheless, by reason of scandal and

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517. Cf. const. *Officiorum ac munerum*, n. 10.

518. Lessius, l. 4, c. 3, n. 99.

induction, both those who propose such things and the persons who offer themselves to be looked at sin gravely.[519]

Whether it is licit to admit touches or kisses which are known to proceed from libidinous affection.

If the touches are of themselves indecent and are done without necessity, this is not licit, both because it is cooperation with the sin of another without a just cause, and because the one who is touched exposes himself to the danger of sinning: for not only to touch indecently, but also to be touched indecently excites pleasure. But if the touch or kiss is of itself honorable, and it is done publicly before others who do not notice the depraved affection of the other, it can be admitted if it cannot be declined without the other being defamed. But if it is done secretly, or if it can be prevented without one's own inconvenience or another's, it is not licit, since there is no cause excusing the cooperation.

Article Three.

On Internal Sins.

Internal sins against chastity are commonly signified by the name of impure thought; but in reality three are distinguished: a. impure thoughts; b. morose delectations; c. impure desires.

61. On impure thoughts. Thoughts are called impure, or rather imaginations, which represent a base matter. Thoughts of this kind are indifferent of themselves, but they contain a twofold dangerous efficacy: of exciting libido even to pollution, and of enticing to consent, namely so that the base thing itself pleases or the desire of perpetrating it arises. Concerning impure thought, insofar as it contains danger of provoking libidinous movements, the discussion is in this number; insofar as it contains danger of consent, the discussion is in the following number.

1. Moral malice. a. To admit impure thoughts from a libidinous affection or from the depraved end of enjoying venereal delectation, which they excite, is a grave sin; likewise to have complacency in the pleasure which thoughts of this kind, arising beyond the will, provoke.

b. To admit impure thoughts which do not stir much, from mere levity or idleness, or to linger over them, is a light sin, because they do not cast one into grave danger of sinning by consent to venereal delectation or of polluting oneself.

c. To admit impure thoughts which stir much, from mere levity or idleness, or to linger over them, ordinarily is a grave sin, because they bring proximate danger of consent to delectation and of pollution. Nevertheless, in order that these thoughts be a grave sin, it is required that advertence to the grave danger of sinning be present.

d. But to admit impure thoughts or to foster them from an honorable end is licit, even if they cause carnal movements, indeed even pollution itself, provided nevertheless that consent to delectation is excluded.

Where someone adverts that from an indecent thought he is carnally stirred, he is bound to repel it if he does not have a just cause of lingering over it; and where nevertheless he adheres to it lingeringly and for a longer time, he sins gravely on account of the proximate danger of consenting to delectation and of arriving at pollution. But if a just cause is present for continuing that thought, he ought to guard against consent to delectation at least through an act of displeasure.

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519. Cf. Genicot I, n. 407.

2. Specific malice. Impure thoughts which are sinful insofar as they excite libidinous movements are not specifically diverse according to the diversity of the object represented, but all are of the same moral species: for all agree in this, that they excite libido; but the affection and complacency of the will are borne only toward this effect. Therefore it is not necessary that the object of the impure thought be declared: for it makes no difference whether venereal pleasure arises or is sought from this object or from another.

62. On morose delectations. Morose delection signifies complacency concerning a base sin represented through thought and imagination, as if it were now being done, as if someone represents to himself base touches, pollution, fornication, sodomy, as if they were now being done either by himself or by another. Concerning it the question is how great and what kind of sin it is.

1. Morose delectation concerning a base thing is a sin of the same gravity and species as the base thing itself represented by thought and imagination: for an act of the will receives its theological and moral species from the object toward which it tends.

Voluntary delectation concerning a base touch on a male differs in species from delectation concerning a base touch on a female; likewise delectation concerning fornication differs in species from delectation concerning sodomy. As regards the gravity of the sin, each of these latter is grave; delectation concerning touch can be grave or light according to the nature of the touch.

2. Morose delectation does not contract the specific malice of circumstances which are contained in the base object, unless the will is delighted in the circumstances themselves: ordinarily the will, by abstracting from the circumstances, is delighted in the object alone.

a. It is a great question whether morose delectations receive specific malice also from the circumstances of the object concerning which the will is delighted: whether, for example, one who is morosely delighted concerning a base touch on a blood relative admits not only delectation concerning venereal touch on a female, but also concerning an incestuous touch; likewise whether an unmarried man who is morosely delighted concerning intercourse with a married woman commits not only delectation concerning fornication, but also concerning adultery.

Since in morose delectation abstraction is made from the execution of the evil thing, one can abstract, and ordinarily in reality one does abstract, from the circumstances of the object, which therefore do not pour back their malice into the delectation. Certainly delectation receives specific malice from the object insofar as the object pleases and delights; but the circumstances of the base object, that it is a blood relative, a married person, are not apt to delight. Therefore it can be said that the will is not delighted in them unless it is explicitly borne also toward the circumstances.

Therefore, although the object of morose delectation must be declared in confession, nevertheless it is not necessary that the circumstances of the object changing the species also be declared: for true probability cannot be denied to the opinion which denies that morose delectation puts on specific malice from the circumstances of the object, unless the will is delighted in those very circumstances.[520]

b. Although simple delectation or complacency concerning a base action represented through thought and its inefficacious desire can be distinguished theoretically, nevertheless in the concrete an inefficacious desire is almost always joined with simple delectation. Therefore the faithful ordinarily do not know how to distinguish between morose delectation and base inefficacious desire. Likewise simple delectation

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520. Cf. Lacroix, l. 6, pr. 2, n. 1028; Reuter, l. c., n. 209; Lehmkuhl I, n. 255 ff.

concerning a base thing and venereal delectation concerning the same thing are in reality distinguished; but because simple delectation almost always excites venereal delectation, or venereal sense, the faithful do not sufficiently distinguish the latter from the former.

For confessors it follows from these things that the faithful who accuse themselves of impure thoughts must be asked whether they also desired something base. But if they deny it, it is not necessary that confessors be solicitous about the object of the base thought; it suffices that they ask whether they experienced delectations or base senses and consented to them. But if they affirm base desires, the office of the confessor of itself requires that he prudently and directly investigate their object and circumstances; nevertheless, because this investigation is frequently too arduous and renders confession burdensome, and because moreover the faithful do not sufficiently distinguish between thoughts and desires, there will often be cause for omitting that investigation.

63. On impure desires. An impure desire is the will by which someone intends to complete a base thing. It is twofold: efficacious, when someone absolutely intends to complete the base thing; and inefficacious, when someone conditionally, if I could, intends to execute the base thing.

Even in an inefficacious desire there is of itself affection toward the base thing; wherefore the same theological and specific malice belongs to it as to an efficacious desire, and therefore it is not necessary in confession to declare whether the desire was efficacious or inefficacious.

1. Impure desires, whether absolute or conditioned, are sins of the same gravity and species as the external work which is wished for: for the internal act receives specific malice from the object toward which it tends.

That a depraved desire is a sin of the same gravity and species as the desired object is clear also from the words of the Lord: Everyone who sees a woman in order to desire her has already committed adultery with her in his heart.[521] What is said here concerning adultery must be said concerning any other base work: he who desires it has already performed it in his heart.

2. Impure desires take specific malice not only from the object, but also from all circumstances of the object apprehended: for since the depraved will is borne toward a determinate object, it is necessarily borne toward all things which are contained in that object, provided they are known.

Therefore the desire of fornicating with a blood relative is the sin of incest, and the desire of fornicating with a married woman is adultery, namely the same sin which would be committed if the desire were fulfilled. Hence one who confesses a base desire is bound of himself to declare its object and all circumstances of the object changing the species.

Whether it is licit to desire merely natural pollution.

a. Merely natural pollution is called that which occurs spontaneously and involuntarily, whether in dreams or in waking, from the abundance of semen by which nature tries to unload itself.

b. It is not licit to desire it on account of the venereal delectation which accompanies it; but it is licit to desire it from an honorable end, e.g. as a means of quieting temptation, of unloading nature: for the object of this desire is not evil and the end is good.

Pollution which arises naturally, i.e. through causes instituted by nature, is not evil in itself. There are those who say that pollution which occurs from a base dream or from movements and touches following sleep is

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521. Matt. 5, 28.

evil, and therefore that it is illicit to desire it or to rejoice about it. Others, however, think that even pollution occurring in this way is indifferent, because the causes provoking it are natural, n. 34.

Whether it is licit for betrothed persons to rejoice concerning future intercourse. The desire of future intercourse to be had after marriage has been entered, and joy concerning it, is not a sin in betrothed persons, because its object is licit; nevertheless the matter is not without danger. For thought of intercourse to be had easily excites venereal sense; but joy and delectation concerning venereal sense in betrothed persons is as grave a sin as in the unmarried.

Note. Pious penitents who are importunately troubled by depraved images are not to be blamed or rebuked, but suitably instructed in this way: a. imaginations of this kind are not of themselves sins, but temptations excited by nature or by the devil; wherefore b. they are a cross to be borne patiently, by which the merit of good works is increased; and c. they are to be efficaciously fought by ejaculatory prayers interposed from time to time, but otherwise by contempt.

Book Two.

On the Use of Marriage.[522]

64. The use of marriage consists in that action of spouses which was instituted by nature for conserving and propagating the human race, namely in carnal intercourse. By the Apostle this action of spouses is called the debt,[523] because spouses, from the matrimonial contract, mutually owe it to one another. We must treat: a. of the liceity of the conjugal act in itself; b. of its liceity by reason of circumstances; c. of its obligation; d. of those things which are licit for spouses in marriage; e. of the impediments of the conjugal act.

a. Intercourse or the conjugal act, from the things said above, n. 6, on the part of the man consists in penetration of the womanly vessel and is completed by effusion of semen joined with carnal delectation; on the part of the woman it consists in reception of the virile semen and is completed by effusion of vulvo-vaginal humor likewise joined with carnal delectation. From these things it is understood what is signified by the name of insemination. Insemination on the part of the man is the emission of semen; on the part of the woman it is the emission of vulvo-vaginal humor.

b. For effecting generation in the woman neither the sense of pleasure nor insemination is necessary: for experience establishes that women have been made pregnant without these things. Nevertheless insemination helps to render fecundation easier, because the spermatozoa can move more easily and more swiftly in the vulvo-vaginal humor and proceed toward the interior organs of the woman.

Question One.

On the Liceity of the Conjugal Act in Itself.

Article One.

On the Liceity Itself.

65. Whether it is licit. The conjugal act in itself is licit and honorable: for it is a means ordained by God for propagating the human race; wherefore, if the right end is not excluded, it is not only licit, but, with the

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522. St. Alphonsus, l. 6, *De usu matrimonii*, n. 900-954; Thomas Sanchez, *De matrimonii sacramento*, l. 9, *De debito coniugali*; Sporer-Bierbaum, *Theologia mor. sacram.* (Paderborn: Typograph. Bonifac., 1901), III, pr. 4, *De peccatis coniugum in usu matrimonii*, n. 467-520; Ballerini-Palmieri, *Opus theolog. mor.*^3 (Prati: Giachetti, 1900), VI, n. 306-416; Lehmkuhl II, n. 833-859; Jos. Aertnys, *Fasciculus theol. mor.*^5 (Leipzig: Kittler, 1888), tr. 2, *De usu matrimonii*; Antonelli II, n. 354-479.

523. 1 Cor. 7, 3.

things to be supposed having been supposed, also meritorious. Moreover, in Sacred Scripture the conjugal act is directly commanded to the first parents in those words: increase and multiply;[524] but it cannot be said without blasphemy that God commands anything which is not licit and honorable. Finally Christ raised the matrimonial contract, by which spouses mutually confer on one another the right to conjugal acts, to the dignity of a sacrament; but only a contract by which those contracting obligate themselves to a licit and honorable thing could be raised to so great a dignity. Therefore St. Paul praises marriage and commands the conjugal act to spouses.[525]

66. The conjugal act is licit even in those circumstances in which generation of offspring cannot be obtained, provided it can be performed in a natural way. For by marriage legitimately contracted spouses have the right to the conjugal act as long as at least one of the essential ends of marriage can be obtained through that act; but since each is an essential end of marriage, both the generation of offspring and the quieting of concupiscence, although offspring cannot be generated, the conjugal act is not without its proper end, which is the quieting of concupiscence.

a. Old persons and sterile persons licitly have intercourse, even if generation of offspring from it is impossible, provided they are capable of natural intercourse, at least in an imperfect mode.

b. Intercourse is licit during pregnancy, even if at that time conception cannot occur, unless intercourse is prohibited on account of another cause.

c. A husband whose two testicles have been amputated on account of illness licitly has intercourse; likewise a wife whose ovaries have been extirpated or whose uterus even has been cut out.

Therefore through impotence supervening upon a valid marriage, spouses do not lose the right to the use of marriage: namely, removal of the testicles and excision of the ovaries or uterus are causes of impotence arising after marriage. There are authors who say that spouses in this case lose the right to the use of marriage and cannot licitly exercise anything except imperfect acts. Nevertheless they admonish that, since spouses upon whom impotence supervenes ordinarily use marriage in good faith, they are to be left in good faith.[526] But the opinion of those who say that intercourse in the case of supervening impotence is licit seems altogether probable. Generation indeed in this case is impossible, but after marriage has been entered it is not necessary that its primary end be able to be obtained, provided one of the essential ends is obtained. Moreover the right to intercourse acquired by a valid marriage is not taken away through that which happens accidentally; but it is accidental that a spouse, after entering a valid marriage, becomes impotent from illness or misfortune.

67. How it must be completed. The conjugal act ought to be completed in such a way that the essential end of marriage, which is the generation of offspring, as regards the act itself, can be obtained in a natural way. It is not necessary that this end actually be obtained; but this is altogether required, that from the side of the act it can at least be obtained. For virile semen is not supplied by nature for any other end except that it serve for generating offspring by natural intercourse.

Therefore spouses sin gravely if they do anything by which generation is impeded, or if they come together in such a way that generation is either impossible or at least improbable: for they act against nature and the primary end of marriage.

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524. Gen. 1, 28; 1 Cor. 7, 3.

525. Heb. 13, 4; 1 Cor. 7, 3.

526. Cf. Antonelli, *Medicina pastoralis* II, n. 426 ff.

a. If the man, after insemination has been completed, withdraws himself without awaiting the insemination of the woman, he does not sin, because nothing is done by which generation is impeded, since the insemination of the woman is not necessary; moreover a reason for acting in this way is easily present.

b. If the man withdraws himself before insemination, when the wife has already inseminated or is in proximate danger of inseminating, he does not sin, provided the danger of pouring forth semen is excluded and a reason for acting in this way is present: for since the insemination of the woman is not necessary for generation, nothing is done in this way by which generation is impeded.

c. If the wife restrains insemination when the man has already inseminated, the omission itself of insemination is not a sin, because it cannot impede generation. But the intention on account of which insemination is restrained can be gravely sinful, namely if it is done to impede generation.

d. Sometimes women, while they exercise the conjugal act, turn the mind to other things or procure sensible pain for themselves, lest they be aroused to insemination. If they do this to impede generation, they sin gravely from this depraved intention. But if they know that the insemination of the woman is not required for generation and therefore that conception cannot be impeded by this manner of acting, they certainly do not sin gravely; whether they sin lightly depends on the end on account of which they do these things.

e. Although the so-called insemination of the woman is not necessary for conception of offspring, nevertheless, according to the very probable hypothesis which physiologists now establish, the hope of future conception increases where the woman not only is herself aroused even to the effusion of humor, but moreover her insemination occurs at the same moment of time at which the man pours forth semen.[527]

68. Conditions required for generation. For obtaining generation by natural intercourse, two things are required on the part of the act:

1. That the man penetrate the vessel of the woman with the genital member and pour forth semen there.

a. From recent physiology it is established that generation can occur, provided the virile semen is poured forth at the mouth of the womanly organ. Therefore, if the conjugal act cannot be had in another and more perfect mode, it is licit to exercise it in this way: for in order that the conjugal act can be exercised licitly in this case, nothing else is required except that the essential end of marriage, which is the generation of offspring, can be obtained, even if part of the semen is frustrated. But if the more perfect mode is possible, it is not licit to exercise the conjugal act in this imperfect mode, because this would be the same as morally impeding generation: for by this mode of coming together generation follows very rarely and only accidentally.

b. The conjugal act which is completed in such a way that the man only penetrates part of the vagina of the wife and there pours forth semen is not illicit of itself, unless it is done from the depraved intention of impeding generation, because in this way conception is indeed rendered more difficult, but not impossible nor improbable. But spouses are not bound to choose the more certain mode by which offspring may be conceived. Nevertheless, if without another cause they come together in this way only for rendering conception more difficult, they sin venially, because there is some disorder in rendering conception more difficult without cause.

c. Although spouses can omit the mode of coming together which leads to easier and more certain conception, provided the act remains truly apt for effecting conception, nevertheless it is not licit for

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527. Stohr-Kannamuller, *Handbuch der Pastoralmedicin*^4 (Freiburg: Herder, 1900), p. 467 f.

them directly to posit a positive action by which conception is impeded, even only probably. Therefore it is illicit to introduce into the vagina of the woman not only means by which the semen is killed, but also means, a certain kind of fat or butter, by which the semen is not destroyed, yet conception is rendered less probable.

d. Spouses who on account of old age or another indisposition for the most part pour forth semen outside the vessel can licitly exercise the conjugal act, provided there is a probable hope of pouring forth semen within the vessel: for as long as a probable hope of generation is present, spouses have the right to intercourse; but if the semen in fact is poured forth, this occurs accidentally.[528]

But if spouses, from supervening impotence, whether on the part of the man or on the part of the woman, cannot complete the conjugal act in such a way that the semen is at least in some measure received within the female vessel, intercourse is rendered illicit.

c. Spouses who exercise the conjugal act but both restrain insemination, i.e. break off intercourse before insemination, do not sin, the danger of pouring forth semen outside the vessel being excluded, if they do this by mutual consent and a sufficient cause is present for acting in this way, e.g. lest insemination harm health, or lest poor spouses be burdened by new offspring. The conjugal act in this case has the nature of an immodest touch, which in married persons, the danger of pollution being excluded, is not gravely illicit; and if it is done from a just cause, e.g. for quieting concupiscence, it is free from fault. But if one withdraws without the consent of the other, he sins gravely, because he injures the other's right in a grave matter; for the other has a right to completed intercourse. Nevertheless the hypothesis, namely that proximate danger of pollution is not induced by an act of this kind, will very rarely have place.

d. If the man withdraws himself and restrains insemination when the wife has already poured forth humor or is so aroused that she cannot impede the effusion, he does not commit mortal sin, and from a reasonable cause this manner of acting is excused: for since the insemination of the woman is not necessary for generation, its frustration is not grave.

The opinion of many authors, whom St. Alphonsus followed, l. 6, n. 91, 8, namely that by this action a grave sin is committed, rests on a false supposition, namely that the semen of the woman, necessary for generation, is frustrated. These authors indeed concede that that frustration is not so intrinsically evil that it cannot be excused for any reason; but they require a most grave cause, e.g. danger of death or scandal, in order that it be licit. But in truth Capellmann,[529] whom Berardi[530] rightly follows, does not require so grave a cause; they think, for example, that the sense of great pain by which either party is affected suffices for the man to withdraw himself, whether because the wife has already poured forth humor or because he exposes himself to grave danger of pollution: for to permit the frustration of virile semen, and a fortiori of female humor, so grave a reason is not required.

69. 2. That the woman retain the received semen.

a. The wife does not sin who immediately after intercourse rises, walks, works, or urinates: for since the vaginal walls immediately cohere with one another and close the vagina, so that the received semen ordinarily is not emitted, by that manner of acting nothing is done by which generation is impeded. Nevertheless, if this were done with the intention of expelling the semen and impeding generation, this depraved intention would be a mortal sin.

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528. St. Alphonsus, n. 954.

529. *Medicina pastor.*^9 (Aachen: Barth, 1893), p. 146.

530. *Praxis confessar.*^3, I, n. 993.

b. Every action by which a woman tries to expel the received semen for impeding generation, as to wash out the vagina with an irrigator, is a grave sin: for although the action which she uses may be insufficient for producing that effect, at least from the depraved intention she commits a grave sin. Neither the annoyances, however great, which perhaps women experience unless they cast out the semen by washing out the vagina, nor the miscarriages which they are accustomed to suffer, excuse this manner of acting: for if they do not wish to preserve the received semen, they ought to abstain from intercourse.

Vaginal washings rarely impede generation, even if they are done soon after intercourse; but there is absolutely no danger of losing the semen if they are done some hours after intercourse.

c. Just as a woman is bound to preserve the received semen, so also she is bound to avoid impeding its ascent into the uterus. Therefore it is in no way licit, by applying medicine before intercourse, to close the mouth of the uterus, by which the ascent of the semen is impeded and the fecundation of the ovule is rendered impossible: for every action which tends to this, that generation be impeded, is illicit.

Nevertheless, it is licit for a woman who was compelled by force or deceit to have intercourse to expel the received semen immediately after intercourse, before conception has occurred, by washing or another means: for the semen then has itself in the manner of an unjust aggressor, whom it is licit to repel.[531]

d. If intercourse is completed in the natural and fitting mode, but the woman cannot retain the received semen on account of indisposition of the organs, intercourse is licit, because the ejection of the semen occurs accidentally.

70. On things licit in the conjugal act. In the use of marriage, acts of imperfect lust, whether mutual or solitary, which are either necessary or useful for completing the conjugal act, are licit for spouses: for to him to whom the end is permitted, the means are also permitted; and to him to whom the consummated act is permitted, acts which by nature itself are destined as a disposition and preparation for it are also permitted.

a. Hence when the intention of completing intercourse is present, sights, touches, etc., which excite toward intercourse, whether they are performed before intercourse or in intercourse itself, are licit for spouses. But spouses ought to take care that pollution not follow by lingering too long in acts of this kind; nevertheless, if it should sometimes follow beyond intention, it would be free from fault.

b. If intercourse on the part of the man has already been consummated and he withdraws before the woman has completed the act, she herself can complete the act by touches or in another way and procure full pleasure for herself.

c. For although this completion by the woman is not necessary for generation according to recent physiologists, nevertheless it cannot be denied that the insemination of the woman contributes something to the conception and formation of the fetus; and this natural destination of female insemination suffices for it to be licit for the woman to complete the act. Moreover, no reason appears why the woman cannot from her own part complete an act which she began by her own right and licitly. Finally, since from the institution of marriage she has a right to taking full pleasure from intercourse, she can procure it for herself from intercourse licit in every respect. Therefore for a wife who cannot inseminate either during or after intercourse, it is licit even immediately before intercourse to obtain for herself complete delectation, pollution or insemination, since delectation belongs to the complete conjugal act.

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531. Lehmkuhl, *Theol. mor.* I, n. 849; Genicot, *Theol. mor.* I, n. 378.

d. Capellmann judges that this completion is licit for the woman even when the conjugal act is not completed because of the fault of the man, who withdraws before insemination,[532] and Berardi agrees with him, because an act legitimately begun can be brought through to the due end.[533] But one must plainly agree with Lehmkuhl, who, n. 858, pronounces this illicit: for since insemination on the part of the man has not occurred, insemination on the part of the woman has the nature of mere pollution, since it can contribute in no way either to completing the conjugal act or to assisting conception.

e. But it is not licit for the man by touches to excite himself to insemination if the woman, after her insemination has been completed, withdraws without awaiting the insemination of the man: for this emission of semen would not be the completion of the act of generation, but voluntary pollution and frustration of semen.

Article Two.

On Sodomy and Onanism.

Against the primary and essential end of marriage spouses can sin in two ways: a. by imperfect sodomy; b. by onanism.

71. On sodomy. Imperfect sodomy is committed when the man penetrates the preposterous vessel of the woman, whether he inseminates in it or outside it.

1. Sodomy committed between spouses is a grave sin, both because it is opposed to the natural end of the conjugal act and of virile semen, and because it is opposed to conjugal fidelity, which requires that spouses not use the body otherwise than in a mode apt for generation; nor can spouses remit this fidelity to one another.

Therefore if sodomitical intercourse occurs by mutual consent, it is a most grave sin on each side; if it occurs with the wife dissenting, certainly the man sins most gravely by a sin against nature; but it is asked whether the wife can ever permit this and cooperate with the sin of the man.

2. Positive cooperation with sodomy is never licit. Nevertheless, from a most grave cause a wife can licitly suffer the sodomitical intercourse of the man under this twofold condition: a. that she tries to impede this intercourse and permits it only then when she cannot impede it without danger of a most grave evil; b. that she does not consent to the venereal delectation then arising.

Note. In this matter one must altogether insist on the principle: apart from those things which are against the end of nature, there do not occur actions between spouses, however disordered and filthy they may be, which can certainly be accused of grave sin. Wherefore, sodomitical affection being excluded, this twofold action is not to be called gravely culpable: a. to begin intercourse in the preposterous vessel with the intention of consummating it in the natural vessel; b. to touch the preposterous vessel of the wife with the genitals, provided effusion of semen is guarded against.

72. On onanism. Onanism is called intercourse completed in such a way that generation cannot follow from the semen poured forth.

This can occur in two ways: a. if the man, after intercourse has been begun in the natural vessel, withdraws himself before insemination and pours forth semen outside the vessel; b. if by the help of an instrument he impedes the semen from reaching the vessel of the woman and scatters it.

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532. Cf. Capellmann, *Medicina pastor.*^9, p. 143 f.

533. Cf. *Praxis confess.*^3, I, n. 993.

a. Medical doctors by the name of onanism also designate the sin of softness or solitary pollution; but theologians distinguish the sin of pollution from the sin of onanism, and by the name of onanism signify only the effusion of semen outside the female vessel which is joined with intercourse. Sometimes onanism is also called Malthusianism from the Englishman Malthus, who sought means of impeding the excessive multiplication of human beings.

b. The sin of onanism received its name from Onan, who, as Sacred Scripture testifies, "entering to the wife of his brother, poured forth semen on the earth, lest children be born in the name of his brother."[534] The same sin had already been perpetrated before Onan by his brother Her.

c. The former mode of committing onanism was once the only one, wherefore by older authors onanism is customarily defined as: the breaking off of intercourse already begun, so that semen is poured forth outside the vessel and thus generation is impeded. But in recent times certain preservative or preventive means have been invented, by which it is brought about that semen does not reach the vessel of the woman, or, if it has reached it, that it is killed there.[535]

d. The reasons on account of which today spouses frequently come together in an onanistic manner are chiefly these: a. lest they generate children whom they either cannot or do not wish to nourish; b. lest, with the patrimony divided among many, the nobility of the family suffer detriment; c. for satisfying libido and at the same time for escaping the inconveniences of pregnancy, childbirth, and education.

73. Its malice. 1. Onanism committed by mutual consent of spouses is a grave sin on each side, both because it is opposed to the primary end of marriage, and because it is opposed to conjugal fidelity, and finally because it is opposed not only to the health of the spouses but especially to the good of human society. Therefore in Sacred Scripture it is called a detestable thing,[536] and the Holy See declares it prohibited by natural law[537] and intrinsically evil.[538] Where it is committed by the man alone without the consent of the wife, he certainly sins gravely, nor is the wife bound to render the debt to a man who completes intercourse onanistically: for she obligated herself only to the use of marriage which of itself is apt for generation. But it is asked whether the wife can permit this mode of coming together and cooperate with the sin of the man.

From onanism must be distinguished the interruption of intercourse which occurs from fortuitous necessity, e.g. to avoid scandal which a person unexpectedly arriving would suffer. But if, after intercourse has been interrupted, semen were poured forth, the effusion would be free from fault: for since intercourse is interrupted from another end, the effusion occurs beyond intention, and therefore must be equated with involuntary pollution.

2. To break off intercourse already begun before semen is poured forth, without proximate danger of pouring it forth outside the wife's vagina, a. is a grave sin if either party is unwilling, because it is against the right which the other party has to completed intercourse; b. is not a sin if both consent, provided there is a reasonable cause for acting in this way and danger of pouring forth semen is excluded, because intercourse of this kind is like an immodest touch, which is licit between spouses.

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534. Gen. 38, 9.

535. Cf. Seved Ribbing, *Die sexuelle Hygiene* (Leipzig: Hobbing, 1898), p. 102 f.; G. Adolf, *Die Gefahren der kunstlichen Sterilitat* (Leipzig: Kruger, 1899); Antonelli I, n. 458 ff.; Nardi, *De Sanctitate matrimonii vindicata contra onanismum*^3 (Rome: Desclee, 1907).

536. Gen. 38, 9-10.

537. Holy Office, 21 May 1851.

538. Holy Office, 19 Apr. 1853.

Today it not rarely occurs that men, from true or vain fear lest the wife will die if she conceives again, break off intercourse already begun before the effusion of semen. Although they must be exhorted to abstain from this kind of thing because of the danger of pollution, nevertheless, if they assert that pollution follows only rarely, this cannot be prohibited to them.

Note. a. The more this lamentable and detestable practice, such as the prohibition of offspring, gains strength even in Germany, not only in families of the rich but also in families of laborers and the poor, the more the necessity appears, both in the examination of betrothed persons and in the confessional, of openly declaring that the prohibition of offspring never in any case becomes licit, and that abstinence is the only licit means of preventing offspring. Nor should it be said that continence, especially for younger spouses, is morally impossible on account of proximate danger of sinning. For Christian spouses who must abstain from the use of marriage, not from egoistic motives but only from truly just causes, either for a time or perpetually, have in prayer and other exercises of piety the means of obtaining from God the gift of continence, who will not suffer anyone to be tempted beyond what he is able.[539]

b. In most cases the fault of frustrated generation is in the man, more rarely in the woman, except that women are more indulgent toward men abusing marriage and by their complaints about fear of illness and of death itself, about the inconveniences of pregnancy and education, and by their moroseness in rendering the debt, give the man an occasion of abusing marriage. Wherefore women must be treated in different ways according to the diversity of circumstances. Some must be taught concerning the obligation of obeying; innocent women must be consoled and taught how they ought to conduct themselves toward onanist husbands, lest they themselves also commit sin; the fainthearted must be lifted up and admonished to trust in God and not too readily to believe physicians exaggerating the dangers of pregnancy and childbirth, and that they themselves can impede many sins of the husband and in this way contribute to his eternal salvation. But women who complain concerning the inconveniences and difficulties of pregnancy, childbirth, nourishment, and education should remember that these are consequences of original sin: I will multiply your toils and your conceptions; in pain you shall bring forth children,[540] and therefore are to be borne in a spirit of humility and penance.

74. On the cooperation of the wife with onanistic intercourse. 1. It is clear that formal cooperation, by which namely the wife consents to onanism, is gravely illicit. And indeed the wife sins gravely even then when, by her complaints concerning the pains of childbirth, concerning numerous offspring, etc., with foresight of the sin to be committed, she gives the husband an occasion for onanistic intercourse.

2. Material cooperation with the first mode of onanism is licit from a moderately grave cause.[541] It is not necessary that this cause be plainly grave, because the wife does not cooperate with a thing already evil from the beginning; nevertheless this is required, that she prudently admonish the husband to complete the act rightly: for from charity she is bound to impede the sin of the man. But she ought to admonish the husband cautiously and prudently, lest, if perhaps he were in good faith, afterward he sin formally. Nevertheless, she is not bound to admonish on each occasion if no fruit is hoped for; and if she cannot admonish without grave inconvenience, e.g. without fear of indignation, discord, adultery, etc., she can omit the admonition.

a. That the positive, material cooperation of the wife with the onanistic intercourse of the husband is not intrinsically evil and therefore is not illicit in itself is admitted by all today: for immediately she

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539. 1 Cor. 10, 13.

540. Gen. 3, 16.

541. This is confirmed by several responses of the Sacred Penitentiary, the last of which is from 8 June 1842.

cooperates with licit intercourse and only mediately with the illicit effusion of semen. Nor is this cooperation argued to be illicit from the fact that cooperation with sodomitical intercourse is illicit. Certainly onanistic intercourse cannot be compared with sodomitical intercourse: for onanistic intercourse, licit at the beginning on each side, begins to become evil on the part of the man when the man withdraws himself, while the woman has herself merely passively. On the contrary, sodomitical intercourse at any instant is intrinsically evil on each side, and therefore is never licit on either side.

b. If women accuse themselves because they rejoiced about the onanistic practice of the husband, they must not immediately be accused of mortal sin: for often they rejoice not about sin but about an altogether licit thing, namely either about the pleasure of intercourse or about the effects of the sin, as about preservation from the troubles of pregnancy and childbirth.

c. But the wife can give consent to the pleasure arising from intercourse, because she herself, in rendering the debt to an onanist husband, does a licit thing. Sometimes, as experience testifies, offspring is conceived even from onanistic intercourse of the first mode. Now if it were probable that conception could follow even from onanistic intercourse, or at least if the wife judged it probable that she had received the semen, she would have the right of exciting herself to complete pleasure.

d. A sufficient cause which renders cooperation with the onanism of the man licit for the wife would be this: a. fear of inconvenience, as of quarrels, disputes, etc.; b. fear lest the husband commit adulteries; c. if otherwise she would have to abstain from the use of marriage for a long time with her own inconvenience; d. if she would be impeded from exercises of piety and from the use of the sacraments; e. if, with domestic peace disturbed, cohabitation would be rendered troublesome.

3. Material cooperation with the second mode of onanism can be permitted only from fear of a most grave evil, and consent to delectation must be excluded; for in this case the wife cooperates proximately with a thing wholly illicit, but in the former case she cooperates with an act which is licit apart from the pouring forth of semen. Therefore in the former case, in which intercourse is rightly begun, the wife can render the debt and have herself simply passively toward the breaking off of intercourse; but in the latter case it is not licit for her to have herself passively, but she is bound, by resisting positively according to her strength, to impede the act sinful in itself; and only from a most grave cause can she permit what she cannot impede.

a. The wife not only can, but also is bound to render intercourse to an onanist husband in the former case: for since the husband seeks a thing to which he has a right, the wife cannot deny it, although she knows that he will abuse it. Nevertheless, because the one rendering cooperates with the sin of the husband, she cannot render it without a just cause.[542]

b. From a moderately grave cause, the wife in the former case licitly seeks the debt from an onanist husband. For since the act which she seeks is not evil in itself and the husband, if he wishes, can furnish it without sin, nothing stands in the way of the petition except the precept by which from charity she is bound to impede the sin of the husband. But since charity does not obligate with grave inconvenience, she licitly seeks it whenever it is grave for her to lack the conjugal act.

75. Means of avoiding onanism. a. The crime of onanism today spreads widely and is propagated more widely day by day especially for this reason, that spouses wish to enjoy the pleasure of marriage without undergoing the burden of nourishing numerous offspring. For avoiding onanism, wives especially must be

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542. Cf. St. Alphonsus, l. 6, n. 947.

admonished to induce husbands by blandishments, prayers, and exhortations either to complete the act rightly or to abstinence.

Motives by which spouses can be deterred from the crime of onanism: a. onanism is a cause of adulteries: for since spouses, especially women, are not satiated by imperfect acts of this kind, they seek illicit pleasures; b. it destroys conjugal peace and concord; c. it causes the joys of father and mother to withdraw from families, into whose place succeed remorse of conscience and fears lest God punish so horrible a crime and snatch away from the living the only offspring; d. onanism is the cause on account of which a family in which only one or another offspring is procreated soon perishes; e. finally, it brings pains of body and manifold detriment of health, especially in women.[543]

b. Since no licit means of impeding generation exists, the confessor can advise spouses who wish to prevent further generation of offspring, cautiously and prudently however, that at the time at which conception more easily occurs, namely three or four days before and fifteen days after menstruation has begun, they should contain themselves, but at another time, at which conception rarely occurs, they may use marriage.

c. That this mode of acting is licit is clear not only from the nature of the matter, since nothing is done which is against the end of marriage, but is also established from the declaration of the Holy See.[544] But the reason on account of which this practice should be suggested only cautiously and prudently is twofold: both because it can give spouses an occasion at any time either of denying the debt or of committing onanism, and because this means is not certain: for experience establishes that conception sometimes has place even at this time.[545]

76. As regards the manner of treating penitents given to onanism, from several responses of the Holy See[546] these things must be noted:

a. The confessor is bound prudently and discreetly to question penitents when a founded suspicion is present that they are altogether silent concerning onanism to which they are addicted. But he can question by inquiring whether there is something which troubles the conscience concerning the sanctity of marriage, the generation of offspring. But if the penitent denies it, for the most part he can abstain from further questioning.

In those regions in which the vice of onanism spreads widely, the confessor can almost always reasonably suppose that the penitent deliberately conceals that sin. Nevertheless, let him abstain from special questions: whether they have poured forth semen outside the vessel; whether they have impeded generation by withdrawing themselves, etc.

b. When the confessor, either from spontaneous confession or from prudent questioning, has known that the penitent is an onanist, of himself he is bound to admonish him concerning the gravity of this sin, to reprove him with paternal charity, and to impart absolution to him only when it is established by sufficient signs that he sorrows concerning the past and has the resolution of no longer acting onanistically.

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543. Eschbach, p. 569 ff.; Stohr, *Handbuch der Pastoralmedizin* (Freiburg: Herder, 1900), p. 497 ff.

544. The Sacred Penitentiary, 16 June 1880, responded: spouses using marriage in the aforesaid way are not to be disturbed, and the confessor can suggest, cautiously however, the opinion in question to those spouses whom he has tried in vain to lead away from the detestable crime of onanism by another reason.

545. Cf. Olfers, *Pastoralmedizin^2*, p. 70 f.; Capellmann, *Die fakultative Sterilitat* (Aachen: Barth, 1889).

546. Holy Office, 21 May 1851; Penitentiary, 14 Dec. 1876; 10 Mar. 1886.

c. Nevertheless, if he discovers that the onanist penitent is in good faith, but that admonition will have no fruit, according to the general rule concerning admonishing those who sin in good faith, he can omit the admonition or speak in such a way that he does not disturb the good faith of the penitent.[547]

Although invincible ignorance enduring for a long time cannot be admitted as regards secondary precepts of the natural law, nevertheless if those precepts are joined with circumstances apparently excusing, especially in those who are untrained in moral matters, ignorance will have to be admitted, as if the husband knows that the wife cannot bear children without danger of life, or that he cannot nourish children.

77. Artificial fecundation is called that by which virile semen is injected into the uterus of the woman apart from perfect intercourse. Now artificial fecundation must be said to be illicit.[548]

a. Spallanzani, a priest of Modena and professor of physiology in the University of Pavia, was the first to teach that fecundation can be done in an artificial mode; he had introduced male semen into the female organs in animals with successful outcome. Physicians have tried the same thing and with the same outcome in human beings, and day by day they perfect it when spouses desire offspring, the wife indeed being capable of conception, but the husband incapable of rightly performing intercourse.

b. Since it is not licit for a woman to receive semen except that of her own husband, in the fecundation concerning whose liceity the question is asked, it is supposed that the semen of the proper husband is introduced into the uterus of the wife; this is customarily done in two ways.

c. The first mode consists in this, that the man has intercourse with his spouse, but when insemination is imminent withdraws himself and pours forth semen in some vessel, which afterward the physician gathers by the help of an instrument and injects into the uterus. This mode is illicit, because onanism or effusion of semen outside the female vessel has place.

d. The second mode consists in this, that the man, apart from intercourse, pours forth semen in some vessel, which afterward the physician gathers by the help of an instrument and introduces into the uterus of the wife. This mode is illicit, because fecundation is obtained only through an illicit means, namely through voluntary pollution.

e. Nevertheless the wife, for avoiding truly grave inconveniences, could admit artificial fecundation, because she herself does not cooperate actively in the evil action, but has herself merely passively and permissively in receiving the semen of her husband.

f. There is a twofold mode of fecundation which can be called artificial, but is licit. The first consists in this, that the man places an instrument in the female vessel, either so that the vagina may be dilated, or so that the uterus may be placed in its natural position; this being done, they have intercourse in the accustomed manner. This mode is licit, since nature is only assisted in performing intercourse. The other consists in this, that the man has intercourse in the usual manner and pours forth semen within the vagina, which afterward the physician draws by the help of an instrument and injects into the fundus of the uterus. This mode also is licit, because natural intercourse is had; this being posited, by the help of an instrument the defect of nature is supplied.

Whether by illicit artificial fecundation marriage is consummated if offspring follows from it, Sanchez

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547. Cf. Ballerini-Palmieri VI, n. 247; Genicot II, n. 551.

548. The Holy Office, to the question "Whether artificial fecundation of a woman can be employed," responded on 25 Mar. 1897: It is not licit. Cf. Eschbach, *Disputationes physiol. theolog.*^2, p. 70 ff.; Berardi, *Praxis confessariorum*^3, I, n. 1009 ff.; Antonelli I, n. 115 ff.

affirms,[549] who judges that marriage is consummated whenever semen is received within the natural vessel of the woman, by whatever art this occurs. Gasparri denies it,[550] and rightly indeed: for marriage is not consummated except by intercourse, to which marriage is ordered by nature; but this is intercourse which occurs with penetration of the female vessel and effusion of semen in the same. Wherefore marriage is not judged to be consummated even when the husband applies semen to the mouth of the vagina, although offspring is born from it.

Question Two.

On the Liceity of the Conjugal Act by Reason of Circumstances.

The circumstances which can bring it about that the conjugal act becomes illicit and morally evil are its end, mode or situation, time, and place.

§ 1. On the End.

78. There are several ends on account of which the conjugal act can be exercised; some of these are proper and essential, others improper and accidental. The proper ends are: a. for generating offspring; b. for avoiding incontinence or quieting libido; c. for satisfying the obligation toward the other spouse. Of these essential ends the first indeed, the generation of offspring, is the primary end; the others are secondary ends of marriage. Besides this threefold proper end, there are other improper ends, e.g. for conserving and fostering mutual love, for preserving or recovering health of body, etc.

1. The conjugal act can licitly be exercised on account of any honorable end whatever. If a proper end is in question, the reason is that an action fitting to nature is licitly exercised on account of those ends for which the author of nature instituted it. But if an improper end is in question, the reason is that an action not evil can licitly be applied to an honorable end for the obtaining of which it is useful.

a. There are those who with St. Thomas say that the conjugal act performed for avoiding one's own incontinence, not the spouse's, is a venial sin.[551] But in truth a. this end is not only honorable and laudable in itself, but also belongs to the essential ends of marriage; but to exercise an act indifferent in itself on account of an honorable end cannot be sin. b. St. Paul teaches that this end was intended by God in instituting marriage, 1 Cor. 7, 2, 5, and since the Apostle assigns this end alone to the conjugal act, he manifestly supposes that the work of marriage performed for this end alone is licit. c. The Church blesses the nuptials of old persons whom it knows to enter marriage for avoiding their own incontinence; this indeed the Church could not do if the use of marriage performed on account of that end were illicit.[552]

b. To exercise the conjugal act with affection toward another person whom one represents to himself, so that from that person he may take venereal delectation, is mental adultery and therefore a grave sin. In the conjugal act to represent another person to oneself, so that from that person's beauty one may take delectation and be excited to the conjugal act, is indeed not a sin but is very dangerous. Finally, if spouses put beautiful images before their eyes and look at them, either to excite themselves or to conceive more beautiful offspring, they do not commit sin, provided the images are not sacred.

2. To exercise the conjugal act on account of pleasure alone is a venial sin: for it is a disorder, although not grave, to will to rest in some thing as an end which the author of nature willed as a means to an end.[553]

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549. L. 7, disp. 99, n. 37.

550. II, n. 1302.

551. *Supplementum*, q. 49, a. 5.

552. Cf. Roman Catechism, pr. 2, c. 8, q. 14; St. Alphonsus, n. 882.

But if no honorable end is positively intended, and the conjugal act occurs with this positive intention of taking pleasure, the act seems to have to be called honorable, provided in its exercise nothing is exceeded on any side against the prescriptions of reason, and the act is apprehended as licit or at least not as illicit. For the act itself is licit; the delectation which is sought is likewise licit; in the manner of exercising the act and taking pleasure, the order prescribed by reason is preserved, i.e. concupiscence is ruled by reason and will. Therefore nothing is understood to be lacking to the act that would prevent it from being fitting to rational nature and therefore orderable and objectively ordered to God, the ultimate end.[554]

Whether the conjugal act is licit if it is established that the woman will suffer miscarriage or bring forth dead offspring. It must be affirmed, at least if it is done for avoiding the danger of incontinence: for on the one hand, even for such offspring it is better to exist with original sin than not to exist at all; on the other hand, exclusion from supernatural beatitude is permitted by the parents from a grave cause, for avoiding the sin of incontinence.

3. It is not necessary that spouses in the use of marriage will the generation of offspring; indeed, from a just cause they can wish that it not be generated and from this desire restrict the use of marriage to that time at which there is less hope of future conception. Nevertheless, it is required that the intention of offspring not be positively excluded, i.e. that nothing be done by which offspring is impeded, but that the order of generation be preserved.

§ 2. On Situation and Place.

79. On situation. The natural and ordinary situation of the conjugal act is this, that it occur lying down, in such a way that the woman lies beneath and the man lies above: for this situation is most apt for the infusion of semen into the vessel of the woman. Any situation is unnatural which departs from the natural one, as if intercourse occurs sitting or standing, or in such a way that the man lies beneath and the woman lies above. Through an unnatural situation generation is indeed rendered more difficult, but not impossible, because the semen reaches the ovaries not by descent, but by attraction.[555]

To choose a mode of coming together by which conception is actually rendered more difficult, from the intention of rendering conception more difficult, is a venial sin if it is done without a just cause: for since the generation of offspring is the primary end of marriage, to act thus without a just cause is against reason; nevertheless not gravely, because conception is not impeded.

1. An unnatural situation, whatever it may be, does not exceed venial sin, provided grave danger of pouring forth semen outside the vessel is excluded: for any situation by which intercourse can be had is apt for generation.

Therefore spouses must never be questioned concerning the situation which they employ in performing the conjugal act, since the matter is not necessary for confession; and if the penitents themselves ask about this matter for the sake of counsel, let the confessor respond only in general, that they complete the act duly and, as far as can be done, in the natural mode. But if penitents accuse themselves concerning an unnatural situation, let him ask whether generation could have followed from that intercourse, because it suffices for the confessor to know whether generation was altogether impeded.

Notes

553. This proposition, 9, was condemned by Innocent XI: "The work of marriage exercised on account of pleasure alone is entirely without all fault and venial defect."

554. *De principiis*^3, n. 87 ff.

555. St. Alphonsus, n. 917; Capellmann, *Medicina past.*^9, p. 151.

2. If a change of the natural situation is done from a just cause, e.g. on account of danger of miscarriage or on account of difficulty of coming together in the natural mode, there is no sin, even if some part of the semen is scattered; indeed, if another mode of intercourse is impossible, even if a great part of the semen is lost: for on the one hand the scattering occurs accidentally, and on the other hand generation is not impeded, since a small part of semen suffices for it.[556]

80. On place. 1. Natural shame and the law of charity, by which we must avoid scandal, require that the place be secret.

a. To have intercourse before others is a grave sin by reason of scandal.

b. Parents ought to take care lest children acquire knowledge of this matter and thus suffer scandal.

2. In a sacred place ecclesiastical law prohibits intercourse under grave sin, unless necessity presses: for through the effusion of human semen irreverence is inflicted on the sacred place, and if the effusion becomes notorious, the church is polluted.[557]

§ 3. On Time.

It is asked whether the conjugal act is licit first in sacred times, then in certain other times in which the conjugal act brings greater or lesser harm either to one spouse or to the conceived offspring. These times are: the time of menstruation, pregnancy, purification, lactation, and infirmity. Concerning these universally it must be said: if there underlies danger of grave harm in health or life, the conjugal act is gravely illicit; if the danger of harm is light, it is prohibited under light sin; but a just cause, especially if the harm which is feared is light, renders the use of marriage licit. But the cause is judged to be just if the inconvenience which arises from abstinence outweighs, or at least equals, the harm which is feared from use. Therefore if only light harm is feared, but abstinence would be long-lasting, intercourse must be said to be licit, both because to abstain for a long time is very burdensome for spouses, and because long-lasting abstinence brings danger of incontinence.

81. 1. In sacred time, i.e. on feast days, during Advent, Lent, and Holy Communion, the conjugal act is licit, because it is prohibited by no law. And although it is counseled that spouses abstain from asking the debt on days which are especially dedicated to doing penance, and especially on days of Holy Communion,[558] nevertheless if on the preceding night they have had intercourse honorably, they are not kept from Holy Communion. But if in completing the act they have sinned venially, reverence toward the most holy sacrament requires that on that day they abstain from Holy Communion, unless there is a particular reason for communicating on that very day.

a. There does not exist, nor has there ever existed, an ecclesiastical law which prohibited the use of marriage on sacred days; but the words of the holy Fathers and the ecclesiastical canons which seem to prohibit it must be understood not of a law obligating in conscience, but of counsel.[559]

b. The opinion of St. Alphonsus is stricter, n. 922, affirming that one commits venial sin who after intercourse had from pleasure approaches Holy Communion. For spouses who are moved to perform intercourse by no other cause than pleasure do not sin even venially, and therefore can approach Holy Communion without sin, n. 78. But Laymann wisely teaches that the wife must be admonished not to

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556. Capellmann, *Medicina pastor.*, p. 151.

557. Cf. St. Alphonsus, l. 3, n. 458; cf. *De praeceptis*^3, n. 178.

558. Cf. 1 Cor. 7, 5.

559. Ballerini-Palmieri VI, n. 366.

show herself difficult in rendering the debt, especially if she is accustomed to communicate frequently, e.g. on all feast days. Hence she can indeed ask her husband to be willing to abstain from the conjugal act on days of Holy Communion; but if the husband bears this with difficulty, she herself is obliged to render the debt.[560]

82. 2. During the time of menstrual flow. One must distinguish between the menstrual flow or ordinary flow of blood, concerning which above, n. 41, and the extraordinary flow, which comes from illness and sometimes continues for a longer time, up to fifteen days.

a. Intercourse which is had during the time of extraordinary flow never fails to bring harm to the health of the woman; wherefore abstinence from the use of marriage through that time is advised. But intercourse cannot be called altogether illicit unless, according to the judgment of a physician, grave harm threatens the wife, because it is burdensome for the man to abstain from intercourse so long.

b. During the time of ordinary flow, intercourse indeed is not illicit; nevertheless, for a twofold reason abstinence from the use of marriage is to be advised, especially since it is only of a few days. First, on account of a peculiar indecency, not moral but physical; wherefore the man, even with natural and innate nausea, turns himself away from a woman who suffers menstrual flow, and in like manner the woman at that time experiences an innate aversion from every marital intercourse. Then, on account of the danger to health which threatens the wife, whose genital organs at that time are already irritated of themselves.[561] Nevertheless, since each of these reasons is not grave, intercourse during the time of menstrual flow must be called licit, provided there is a reasonable cause of coming together. What the older authors feared, namely that offspring conceived at this time would be born infirm or leprous, is empty.[562]

In the old law the use of marriage during the time of menstrual flow was prohibited by a particular precept;[563] the older theologians also in the new law held the use of marriage at this time to be gravely illicit, especially on account of harm to future offspring: for they thought that offspring, if conceived at this time, would be infirm or monstrous. Others said that intercourse through that time was at least lightly illicit, because the woman is then unfit for generation. Since today it is established that these reasons do not stand, the opinion of the older authors in this matter must be omitted: for offspring can be conceived more easily at this time than at another, and of itself it is healthy and firm.

83. 3. During the time of pregnancy, intercourse can be illicit because it induces danger of miscarriage, especially if it is completed often and impetuously. But since danger of miscarriage properly exists only in the first months of pregnancy, and gradually vanishes as the fetus matures, but the state of beginning pregnancy can scarcely be known, intercourse at this time will have to be called simply licit; nevertheless moderation in both the number and the manner of intercourse is to be commended to spouses who suspect pregnancy.

What some authors teach is difficult, namely that intercourse with a pregnant woman is not free from fault because the semen is frustrated: for marriage is ordered not only to generation, but also to other ends, and especially as a remedy for concupiscence.

Notes

560. Cf. Laymann, *Theologia moralis*, l. 5, c. 6, n. 16.

561. Capellmann, *Medicina past.*^9, p. 152.

562. Olfers, *Pastoralmedicin*^2, p. 64.

563. Lev. 15, 19-20; 18, 19.

84. 4. During the time of purification after childbirth, conception indeed does not occur, and therefore from this side harm does not threaten the woman; but from intercourse itself danger of illness threatens the woman, both because of the great weakness contracted from the pains of childbirth and because of the genital organs wholly altered after childbirth. The danger, which in the first days after childbirth is greater, gradually diminishes and lasts as long as the genital organs have not yet been restored to their prior state. After about two months have elapsed, returning menstruation indicates that the organs have been restored to their places and that a new conception can occur. Wherefore in the first days after childbirth intercourse is gravely illicit on account of the danger of harm, afterward lightly illicit.

Capellmann judges that the danger of grave harm after childbirth continues for two weeks, and of light harm for the following four weeks.[564] Men must be told that they should either restrain concupiscence arising at this time or take care to quiet it by other licit modes. Nevertheless, if a grave cause, especially danger of incontinence, makes intercourse honorable, it is excused from sin even at this time.

85. 5. During the time of lactation, a new conception ordinarily is not to be feared; nevertheless, if it occurs, soon the milk is also diluted and diminished, and in a short time ceases altogether. Since intercourse had at this time does not bring another harm, it will have to be called licit: for the offspring can be nourished in another way, namely by artificial lactation; moreover spouses would have to abstain too long from the use of marriage, since lactation continues beyond a year, if intercourse were not conceded during this whole time.

86. 6. During the time of illness, the conjugal act of itself is illicit if it brings danger to life or health; but from a grave cause it is licit, namely if otherwise spouses would have to abstain for a long time with danger of incontinence, provided proximate danger of death is not induced. In particular, one must distinguish between contagious diseases, syphilis, phthisis, and non-contagious diseases. A physician must be consulted concerning the quality of the disease. Therefore:

a. If one party labors under syphilitic disease, the French disease of theologians, the use of marriage seems illicit on account of the horrible consequences which it brings both to the other party and to offspring. Moreover the danger of infection is certain; but if the disease is light, it can be removed within a short time.

In this assertion the more recent authors, Lehmkuhl, Ballerini-Palmieri, Marc, etc., agree, led by the reasons which are brought forward by physicians. These are unanimous in describing the most grave evils which arise from this disease for spouses and offspring and gradually affect innumerable families, indeed an entire nation.[565] St. Alphonsus, who does not absolutely forbid the use of marriage in this case, n. 909, perhaps can be reconciled with recent theologians. For diverse degrees of the French disease are distinguished; therefore it can happen that the more recent authors deny concerning the highest degree what St. Alphonsus concedes concerning the milder degree. Let others judge whether, speaking absolutely, the use of marriage can be conceded even in the highest degree of the French disease, because it does not induce proximate danger of death to be undergone within a short time.

b. For those laboring under phthisis, the use of marriage is not illicit, both because phthisical persons ordinarily experience vehement concupiscence, and because grave harm does not come from a moderate use of marriage.

Notes

564. Capellmann, l. c., p. 153.

565. Cf. Capellmann, l. c., p. 158; Olfers, l. c., p. 67; Antonelli I, c. II, n. 393 ff.

c. Although phthisis of itself is a contagious disease, nevertheless from the use of marriage it must rather be called hereditary, because danger of infection through intercourse is scarcely ever induced. Offspring generated from phthisical parents is not born affected by phthisis, but afterward very easily contracts it on account of the very great disposition to this disease received by heredity from the parents.

d. Because more frequent intercourse can harm those laboring under this disease greatly, great moderation in this matter is to be commended to them.

e. The fact that phthisical offspring, or rather offspring disposed to phthisis, is born does not impede the use of marriage, both because it is not certain that offspring will be generated from this particular intercourse, and if it is generated, it is not certain that it will be generated infected, since hereditary disposition often proceeds by a leap; and finally because for offspring which is generated infirm, "it is better thus to exist than not to exist at all."[566]

f. If diseases are not contagious, intercourse is licit where the diseases are lighter and not greatly weakening, because they are not made worse by intercourse; but it is illicit where the diseases are greatly weakening and joined with fever or great pain: for these ordinarily become much worse through intercourse. To this genus of diseases must be numbered illnesses of the genitals in the woman, which are accustomed to be so increased through the use of marriage that afterward they are healed with difficulty.[567]

Women for whom, according to the judgment of a physician, the next childbirth will bring death, ordinarily are not to be obliged to abstain from the use of marriage, both because conception is uncertain, and because judgments of this kind by physicians, as experience testifies, are often false.

Question Three.

On the Obligation of the Conjugal Act.

87. Declaration. Of itself it belongs to the man to ask, and to the wife to render the debt: for to women, on account of their innate modesty, asking is ordinarily very troublesome; but men, on account of modesty, are ordinarily not kept from asking. Wherefore the wife is not bound to render the debt unless the husband asks: for if he does not ask, the wife can presume that the husband does not demand the debt. But accidentally even the woman is bound to ask: for if the husband is in danger of incontinence, she is bound from charity to free him from danger; but since charity does not oblige with grave inconvenience, she is not bound to ask if she cannot do so without grave inconvenience, e.g. great shamefacedness.

From express asking, which is done by words or equivalent signs, interpretative asking must be distinguished, which is gathered from certain indications. Thus if a wife existing in danger of incontinence wishes to use marriage, but because of shamefacedness does not dare to ask expressly, she is said to ask interpretatively, and the husband, noticing these things, is bound himself to ask, or rather to render the debt to one asking interpretatively.

88. Principles. 1. There exists no obligation of asking the conjugal debt except sometimes accidentally from charity: for there exists for individual spouses no obligation of using marriage, but they have only a right to that use; but no one is bound to use his own right.

Notes

566. Antonelli, *Medicina pastoralis* II, n. 418.

567. Cf. Capellmann, l. c., p. 161.

Accidentally, however, there can be an obligation of asking, especially in the man: a. if he judges that the other party is placed in danger of incontinence and because of shamefacedness does not ask: for each one is bound from charity to impede the sin of another if he can conveniently do so; b. if the use of marriage is necessary for fostering love or for averting dissensions.

Although the use of marriage is ordinarily to be advised to spouses, especially to those who can nourish offspring and suitably educate them, nevertheless by mutual consent it is also licit for them to abstain from the use of marriage, provided there is no danger of incontinence. And indeed, if they abstain from a motive of virtue, with danger of incontinence excluded, this is to be praised; if it is done from another reasonable motive, and there is no danger of sin, it is at least to be permitted.

2. There exists an obligation of justice, of itself grave, of rendering the debt whenever the other spouse expressly or tacitly asks seriously.

a. For by the matrimonial contract the spouses mutually transfer to each other the right and power over the body in order to the conjugal act; but to the right of asking there corresponds in the other the obligation of rendering the debt. The Apostle expressly teaches the same: let the husband render the debt to the wife, and the wife likewise to the husband.[568] Moreover, one who denies the debt often exposes the other party to danger of grave sins.

Wherefore it is not licit voluntarily to render oneself impotent, e.g. by excessive labors, vigils, austerities, etc.: for the spouse has a right to the conjugal act; therefore one who renders himself impotent makes himself unable to pay the debt. Nor is it licit, without necessity or the consent of the other party, to be absent for a notable time: for an absence of this kind would be equivalent to denial of the debt.

b. The object of the mutual contract is of itself a thing of grave moment: for it concerns the generation of offspring, the avoidance of incontinence, and the signifying of conjugal love for preserving peace; therefore to render the debt is of itself a grave obligation of justice when the other asks seriously, namely in such a way that, when asked, he would not wish to yield. Nevertheless denial of the debt can be a light sin in a twofold case: a. from smallness of matter, if it is done only rarely, if, e.g., it is denied once in a month to one asking often, or if it is not denied altogether, but is only deferred for a short time, e.g. until the night; yet with danger of incontinence excluded; b. if the other asks not seriously but only weakly, so that he is judged benevolently to remit the debt.

c. Therefore of itself a spouse sins gravely who denies the debt to the other asking seriously, even only one time, especially if in the other party there is danger of incontinence or grave trouble; and indeed not only against justice, because he denies what is owed, but also against charity, because he exposes the other party to danger of grave sins.

d. Men also sin gravely who, whether from avarice, lest they have to nourish offspring, or from malevolence, never or almost never know their own wives, although they ought to presume that the wives bear this with the greatest difficulty.

e. Women, especially those who are already of more advanced age and burdened with numerous offspring, sometimes think that by denying the debt they do not sin gravely unless it is done almost always or unless the husband is placed in danger of sinning. But if the confessor discovers this, let him beware lest he fruitlessly take good faith away from them.

Notes

568. 1 Cor. 7, 3.

f. For the rest, women must be seriously and gravely admonished not to show themselves difficult and peevish to their husbands if the husbands demand intercourse, or other things which are licit for spouses, from them, lest namely they expose them to the danger of leaving their own wives and approaching other women.

3. A spouse is bound to render the debt to one asking seriously, even if from this he fears light harm or inconvenience: for light harm or inconvenience in no way excuses from a grave obligation, which moreover is one of justice.

Although a light inconvenience, e.g. a bad odor which the wife emits from her mouth and nostrils, does not excuse from asking or rendering the debt, nevertheless an inconvenience truly grave excuses even from this obligation, as from others, as will be said in what follows, n. 91 ff.

4. Within the first two months, by a special concession of law, spouses are not bound to render the debt.[569] This privilege is indeed conceded to spouses by law for deliberating about entrance into religion; nevertheless they can probably use it even if they do not wish to enter religion. But once the debt has been rendered, the privilege ceases. Spouses, however, are not accustomed to use this privilege, both because they are ignorant of it and because, even if they know it, they do not wish to use it, and indeed deservedly, on account of the danger of sinning.[570]

a. Although many authors deny this privilege to those who do not think about entrance into religion, nevertheless, since St. Alphonsus (n. 958) affirms it, a spouse who wished to use it could not be compelled to render the debt.

b. This privilege refers only to a religion in which solemn vows are emitted, since marriage is dissolved only by solemn vows.

c. The two-month period begins from the day of the contracted marriage (others think from the day which the ecclesiastical judge determines), and when this period has elapsed the privilege ceases.

d. A spouse who contracts marriage with the intention of entering religion, without the other party being forewarned, sins because he deceives the other party.

e. The obligation of rendering the debt, which presses from the time of the contracted marriage, is suspended by force of this privilege. But if the bride enters religion, the husband, in order that he may be able to enter another marriage, must wait until, after the novitiate has been completed, or rather after the three-year period has been completed, she emits the profession of simple vows, by which the bond of marriage is dissolved.

89. When the right of asking is lost. The cases in which the right of asking is lost are chiefly the following:

1. If one of the spouses has committed adultery, and a fortiori if he has committed incest. The right of departing from an adulterous spouse is conceded to the innocent party, whether it is the man or the woman, from the very nature of the matrimonial contract: for fidelity is not owed to one breaking fidelity. In order that the right of asking be judged lost, it is required that the adultery be formal, certain, not committed by both, and not explicitly or implicitly condoned: for if it has been committed by both, there is compensation, and if the innocent party asks the debt or freely renders it to one asking, the injury is judged implicitly condoned.

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569. Council of Trent, sess. 24, canon 6. C. *Ex publico* 7. *De convers. coniug.* (III. 32).

570. Cf. *De sacramentis* n. 522.

A husband who, without his wife's knowledge, has committed adultery can ask: for by adultery he is not deprived of the use of marriage as by incest; moreover he does not lose the right of asking by the adultery itself, but when the innocent party, after the adultery has been known, deprives him of his right by denying the debt for a long time (n. 100), nor is he bound to manifest his crime to the other party.

2. If the one asking lacks the use of reason, as if he is insane or drunk, because the asking of one who lacks the use of reason is not a human act; moreover by marriage there has not been contracted an obligation except to the conjugal act to be performed in a human manner. But it is licit for the party in possession of reason to render the debt to an insane or drunk person, especially if he is in danger of incontinence. But if the insanity is not perfect, of itself there exists in the other party an obligation of rendering.

Whether a spouse is bound to render the debt to one perfectly drunk or insane if the one asking is in danger of committing pollution, there is not one opinion of authors. Many affirm it, because the spouse is bound from charity to impede the sin of the other, even if it is only material.[571] Their opinion is to some extent confirmed by the judgment of those physiologists who assert that harm is not to be feared for offspring from intercourse had at the time of drunkenness: for if offspring of a drunken spouse is born infirm or dull, this does not arise from intercourse had at the time of drunkenness, but from the organic constitution of the drunken person, altered by frequent drunkenness.[572] Some, however, deny this obligation, because a spouse is excused from the precept of charity by a just cause; but a just cause is a founded fear lest offspring arisen from intercourse of this kind contract not only grave defects of body, but also depraved habits of soul.[573] Practically, therefore, a spouse cannot be obliged to render the debt to one perfectly drunk, even if the one asking is placed in danger of incontinence.

90. Whether the wife is bound to render the debt to one asking illicitly. If the conjugal act is illicit on account of some circumstance which is had on the part of the person asking, the wife not only can, but also must render; but if the act is illicit either in itself or on account of a circumstance which is referred to the conjugal act, she is not bound and cannot render.

a. He asks illicitly to whom the conjugal act is illicit; but the conjugal act can be illicit on account of a circumstance which is in the one asking himself, as if he asks from a depraved end, for taking pleasure alone, or if the one asking is bound by a vow of chastity; moreover the conjugal act can be illicit in itself, as if an onanistic or sodomitic act is asked; finally the conjugal act can be illicit because of some circumstance which is on the part of the act, as if it is asked in a public or sacred place.

b. Now there are some who with Pontius answer the proposed question, with no distinction made, that it is not licit to render the debt to one asking illicitly: for he asks formal cooperation with sin, with the single case excepted in which the one asking, if he wished, could also actually have intercourse licitly, as if he asks for pleasure alone; but it is never licit formally to cooperate with sin.[574]

c. But others, making the distinction which is set forth above, with Sanchez teach that the wife can and must render the debt if the conjugal act is illicit on account of a circumstance which is in the one asking: for the conjugal act on the wife's part is licit, and because the husband, on account of that circumstance which renders the act illicit, has not lost the right of asking, the act is also owed from justice. And Sanchez indeed illustrates this doctrine by these examples: if someone demanded coins deposited with

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571. St. Alphonsus n. 984. Sanchez l. 9, disp. 23, n. 11.

572. Olfers, *Pastoralmedicin*^2, p. 70, to whom however others are opposed, judging that from intercourse with a drunk person there arises danger lest offspring be born infirm.

573. Cf. Ballerini-Palmieri VI, n. 407 ff.

574. Cf. Pontius l. 10, c. 3, n. 3.

another in order to fornicate, the latter would have to return the coins; and if one having a credit with another vows that he will not exact the credit and nevertheless exacts it, the other can and must render the debt.[575]

91. When the obligation of rendering ceases. A spouse is not bound to render the debt if from this he ought justly to fear grave harm, which is not of itself annexed to marriage, for himself or for conceived offspring: for those entering marriage are not judged to bind themselves to the conjugal act with so great an inconvenience. The cases in which for this reason a spouse is not bound to render are chiefly the following:

1. If the asking is immoderate: for intercourse performed immoderately exhausts strength and harms health. Asking can be immoderate absolutely, if it is asked more than once in one night, or relatively by reason of illness or weakness of body, according to the judgment of prudent men.

a. How often spouses can perform the conjugal act without detriment to health cannot be determined by a general rule: for it depends on the physical constitution of the spouses themselves and on other circumstances. According to medical authors, the use of marriage which occurs twice in a week does no harm, and if spouses are vigorous and of firm constitution, they can use it even three or four times, excepting times in which nature itself advises that they abstain from the conjugal act, as at the time of menstrual flow, pregnancy, etc. But spouses who are weak and of infirm constitution, especially men who are occupied for a long time and seriously with mental labors, can exercise the conjugal act without detriment only once in a week. If in a concrete case doubt arises about this matter, it will be helpful to consult a physician.[576]

b. Therefore a wife does not sin by denying the debt to a man for whom intercourse had once on any night is not sufficient, so that he asks even during the day or more often in the same night, unless this occurs in an extraordinary case, e.g. in danger of incontinence.

2. If grave danger of life or health is to be feared according to the judgment of a prudent physician.

a. Therefore there is no obligation of rendering the debt to one who labors under a contagious disease, nor to one who labors under a strong fever or another grave disease. If, e.g., a wife labors under an organic disease of the heart, intercourse can bring sudden death, and therefore she is not bound to render the debt; if the husband labors under the same disease, he cannot ask, and the wife is not bound to render to him asking; if nevertheless because of danger of incontinence he asked, the wife could render the debt, unless sudden death were certain.

b. Likewise a woman is not bound to render the debt who has experienced that she cannot give birth without danger of death; nevertheless a woman is not excused from rendering the debt who underwent danger of death in the first childbirth or suffered extraordinary pains, because experience establishes that women experience greater difficulties in the first childbirth than in those following.

c. If from the judgment of a skilled and prudent physician it were established that the one rendering would be exposed to a grave disease or to death itself, he would not be bound to render; nevertheless in these circumstances it would be licit to render if the danger is not altogether certain and proximate, because always to abstain would be most difficult.

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575. Sanchez l. 9, disp. 6, n. 7. Cf. St. Alphonsus n. 944. 947.

576. Cf. S. Ribbing, *Die sexuelle Hygiene*, p. 58 f.

d. If a woman rendering the debt is exposed to danger of grave and long-lasting infirmity, which would bring only a slow death, she is not bound to render: for she is not bound to this with danger of death, even if only of a slow one.

3. Inconveniences which are internal to the condition of marriage do not excuse from rendering the debt: for those entering marriage are judged by that very fact to wish to undergo these inconveniences. Inconveniences of this kind are held to be: a. ordinary inconveniences of pregnancy and of nourishment; the ordinary difficulty of childbirth; b. some weakening of health; c. pains which are indeed grave but not long-lasting, or long-lasting but moderate, such as headaches for several months after childbirth.

92. 1. If spouses already gifted with numerous offspring are so poor that they cannot nourish further offspring, with danger of incontinence of each party excluded, they are probably excused from rendering the debt on account of the grave harm which is to be feared for the wife and for the offspring already born.

Although spouses already gifted with numerous offspring can abstain from the use of marriage, nevertheless if danger of falling into grave temptations is imminent, it is rather to be advised to them that, committing themselves to divine providence, they use marriage, supported by this hope, that God who gives fecundity will also give nourishment.

2. A husband who, having no care of the family, leaves the burden of nourishing the offspring to the wife, loses the right of asking; wherefore the debt can be denied to him without sin. And this indeed can be done even when the husband is placed in danger of incontinence: for the wife cannot be obliged to rescue the husband from this danger with so great an inconvenience.[577]

Whether and what kind of harm to offspring excuses from rendering the debt. Universally it can be said: if for the offspring it is better thus to exist than not to exist at all, harm to offspring, at least when danger of incontinence exists, does not excuse from rendering the debt. Wherefore fear does not excuse, lest offspring be born infirm, nor fear lest it have to live in need and want; indeed not even a fear founded on experience lest offspring be brought forth by abortion or be born dead, because it is better for it to exist in original sin than not to exist at all. Nevertheless, if offspring is already conceived, it is not licit for spouses to perform intercourse or any other action whatsoever which may harm its life or formation.

In all these cases the wife not only can licitly render, but also, for avoiding the danger of incontinence, which scarcely is not always present or must be presumed in one or the other party, she is even bound to render if the husband asks seriously, especially because these harms occur accidentally, and therefore do not certainly happen.

Question Four.

On Licit Things in Marriage.

93. Principles. The question is whether and when internal acts of lust (thoughts, delectations, and desires) and imperfect acts (touches, kisses, embraces, looks, and conversations) are licit for spouses. Further, spouses perform these acts either alone or mutually; and if the acts are mutual, they either have an order to intercourse or do not have this order. Here, however, we consider actions which do not have an actual order to having intercourse, since above (n. 70) it has been said concerning those which are ordered to intercourse actually to be had. Now, for solving the proposed question, two principles must be noted:

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577. Lehmkuhl, II, n. 853.

1. In spouses that alone is a grave sin which is against the primary end of marriage; but apart from voluntary pollution, whether solitary or onanistic, and the crime of sodomy, nothing is against the primary end of marriage, which is the generation of offspring. All other actions in themselves, or considered in their nature, are licit for spouses, and become sins if they are exercised for pleasure alone or with foreseen danger of pollution without a just cause.

a. Pollution and its proximate danger are no less illicit in married persons than in the unmarried; indeed both pollution itself and actions which induce its proximate danger are a graver sin in married persons than in the unmarried, because through them not only chastity, but at the same time the right of the other spouse, is injured. For this reason married persons are bound under grave sin to avoid pollution and its danger, just as the unmarried are bound to this.

b. They ask whether also in wives pollution, namely complete venereal delectation which occurs with the effusion of vaginal humor, and its proximate danger, is a grave sin. Those who affirm this bring forward these reasons: because there occurs an effusion of humor, not indeed prolific, which nevertheless is uniquely destined by nature to generation, namely to rendering it easier and more pleasurable; because the effusion occurs with the greatest organic commotion; because it brings complete delectation.

2. Venereal delectation sought within marriage is in itself licit for spouses: for marriage, since it grants a right to the conjugal act, brings it about that the delectation instituted for that act, which is gravely illicit for the unmarried, becomes licit for the married. Nor is it licit to them only when they intend intercourse, but also when they either cannot have intercourse or do not wish to have it.

a. Sought within marriage, i.e. by acts ordered by their nature to the conjugal act, such as mutual touches, looks, conversations, etc., which by their nature are apt to dispose to intercourse and prepare it. And since even touches and looks which a married person exercises upon his own body can be ordered to the conjugal act, the married person who shamefully touches or looks at himself does not seek delectation outside marriage, but within marriage.

b. Venereal delectation is licit for married persons, upon whom there lies the office of conserving and propagating the human race, just as the delectation of food and drink is licit for men universally, upon whom there lies the office of conserving the human individual. And just as excess in the use of the delectation of foods is a venial sin because of defect of an honorable end, so excess in the enjoyment of venereal delectation, with proximate danger of pollution excluded, is a venial sin because of defect of an honorable end.

c. Therefore those acts which by their nature excite lust, such as touches, kisses, looks, etc., are in themselves licit for spouses apart from proximate danger of pollution, provided they have an honorable end. The honorable end on account of which acts of this kind are performed by married persons is chiefly this, that conjugal love may be manifested and fostered.[578]

94. Corollaries. From these principles the following corollaries are now inferred: a. concerning mutual imperfect acts; b. concerning solitary imperfect acts; c. concerning morose delectations in spouses.

1. Mutual imperfect acts which are not joined with proximate danger of pollution are no sin if they are done from a reasonable cause; they are a venial sin if they are exercised without a reasonable cause from pleasure alone.

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578. Cf. Sanchez l. c., disp. 41, n. 2 ff. Sporer l. c., n. 502 ff. Gobat, *Experient. theol. de sacram.*, tr. 10, n. 666 ff.

a. Therefore one who looks at or touches his wife immodestly, without the intention of intercourse and from mere pleasure, does not sin mortally, provided danger of pollution is absent: for looks and touches of this kind are licit for spouses of themselves; but if they are done without an honorable end, they are a venial sin, because the disordered use of a thing otherwise licit is only a venial sin.

b. There are some who condemn enormously obscene acts between spouses as grave sin, even apart from danger of pollution. Among acts of this kind they recount: if they touch themselves with mouth or tongue on the genitals, and similar things. But in these acts, as in the rest, two elements must be distinguished. The first is danger of pollution. This is common to them, even though in a greater degree, with all imperfect acts; therefore insofar as this danger is considered, a special malice does not belong to them. The other element is the obscenity or foulness, as it is called. But between married persons there is no action, nor can one be imagined, which on account of foulness alone is so intrinsically evil that it can never become licit. Therefore authors are not lacking (Sanchez, Filliuci, Sporer, Ballerini, Berardi, etc.) who judge that those acts are not to be exempted from the common rule concerning the liceity of imperfect acts. Therefore if by experience it were established that in determined persons those acts do not induce proximate danger of pollution, at least they would not be gravely sinful.

2. Mutual imperfect acts which are foreseen to be joined with proximate danger of pollution are no sin if they are exercised from a grave cause of necessity, utility, or decency, and there is no danger of consent. For just as the unmarried can perform licit acts from a grave cause, even if pollution follows from them besides the intention (n. 36 ff.), so married persons can perform licit acts from a grave cause, even if pollution is foreseen to follow; but acts of this kind are licit for married persons.

a. A cause of this kind, sufficiently grave, is: for fostering or restoring mutual love; for averting suspicion of infidelity or of love toward another person; for obeying the other party asking that those acts be permitted or rendered.

b. Since pollution itself is illicit in itself, it is not permitted to consent to the delectation joined with pollution; nevertheless most spouses are ignorant of the malice of this consent, and it is not expedient to admonish them about this matter, lest from material sins there be made formal sins.[579]

3. Mutual imperfect acts which are foreseen to be joined with proximate danger of pollution are a grave sin if by their nature they induce that danger and are exercised without a just cause: for pollution is no less illicit for spouses than for the unmarried; therefore whatever of itself induces its proximate danger is also illicit for them.

Spouses who, because of supervening impotence, cannot have the conjugal act can licitly perform mutual imperfect acts from an honorable end, provided proximate danger of pollution is excluded, even if sometimes it follows accidentally. Nevertheless they must beware of consent to its pleasure, since it is illicit.

95. Solitary imperfect acts in married persons are venial sins if they are done without danger of pollution; and they are mortal sins if by their nature they induce proximate danger of pollution. The reason for the first is that they are done from pleasure alone; the reason for the second is that married persons must avoid pollution and its danger no less than the unmarried.

It is said that imperfect acts, e.g. shameful touches which a spouse performs upon his own body, apart from danger of pollution are light sins, because the opinion teaching that they are grave sins is not certain. The reason of St. Alphonsus, who says that the contrary opinion is more probable (n. 936), is this: marriage does

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579. Cf. Lehmkuhl, II, n. 836.

not confer upon a spouse a right over his own body, except that he may dispose himself for intercourse; therefore if he does not dispose himself for this, he can no more use his own body than an unmarried person. The reason of those who with Sanchez[580] hold that those acts are only a venial sin is this: they would be mortal because of venereal delectation directly willed; but venereal delectation directly willed, apart from foreseen danger of pollution, pertains to those things which in marriage are licit by their nature; therefore in married persons, if it is admitted from pleasure alone without a just cause, it is a venial sin (n. 93).

96. 1. Morose delectations (joys) and desires concerning those things which are licit for spouses are no sin; concerning those things which are prohibited under light sin, they are a light sin; concerning those things which are prohibited under grave sin, they are a grave sin, because delectation receives its morality from its object.

a. Therefore delectation concerning intercourse thought of as present, joy concerning intercourse had or to be had, and desire for it, with proximate danger of pollution nevertheless excluded, is not a sin, even if venereal delectation arises from them: for it is joy and desire concerning a licit thing. In practice, however, complacency of this kind concerning conjugal intercourse, although by reason of the object it is licit in itself, nevertheless is not free from light sin, because it is an idle occupation and has no other end besides pleasure. But if a thought of this kind and the delectation arising from it is admitted from a reasonable end, e.g. for driving away melancholy, it is altogether without sin.

b. If a married person is spiritually delighted about intercourse with another person, he commits grave sin, because the object of the delectation is gravely illicit; for he is delighted about adultery.

2. Venereal delectation from a licit thought, voluntarily admitted outside intercourse, with proximate danger of pollution excluded, is of itself not a sin, because the matrimonial state makes it licit; moreover, considering the circumstances in which spouses are found, venereal delectations easily and frequently arise; hence an intolerable burden would be imposed upon them if they had to avoid consent in those things.

From these things it is clear that morose delectations, and venereal delectations arising from them, of spouses concerning acts had or to be had with the other party are not sins except by reason of idleness; but delectations concerning gravely dishonorable acts with an extraneous person are grave sins, because they are delighted about an illicit object. Therefore spouses who accuse themselves of morose delectations should be asked whether they were delighted about their own spouse or about an extraneous person, and they should be suitably instructed not to take delectation from an illicit object.[581]

Question Five.

On the Impediments of the Conjugal Act.

The impediments of the conjugal act are of two kinds: some arise from marriage itself, others from the married persons.

97. On the part of marriage there arises an impediment of the conjugal act: a. if the marriage is certainly invalid; b. if the marriage is doubtful.

1. If the marriage is certainly null and both spouses know the nullity, they must abstain from the conjugal act until a dispensation is obtained. If only one knows the nullity, he is bound to admonish the other

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580. Cf. Sanchez l. 9, disp. 44, n. 16.

581. Cf. St. Alphonsus l. 5, n. 25. Ballerini-Palmieri I, n. 555 ff.

party about this matter; but if he cannot do this, certainly he must abstain from intercourse under some pretext (e.g. that intercourse is harmful to him, intolerable), until a dispensation has been obtained: for intercourse, as being fornication, would be evil in itself.

a. It can happen in a twofold way that a spouse who certainly knows the nullity of the marriage cannot instruct the other party about it. Namely, a. it can happen that his proof is rejected by the ecclesiastical judge as insufficient, and therefore the spouse is compelled, even under penalty of excommunication, to cohabit with the putative spouse and render the debt to her; b. it can happen that he cannot reveal the impediment without danger to life or reputation.

b. I said above that the spouse knowing the impediment must abstain from intercourse. Nevertheless, if the case should ever occur, the confessor could permit intercourse where the impediment which induces nullity is of ecclesiastical law and a dispensation cannot be obtained at once. For the opinion is probable that in this case of most grave inconvenience the impediment ceases for the same reason as, in a perplexed case, according to the probable opinion of many, the impediment ceases. Meanwhile, however, for caution a dispensation is to be sought.[582]

98. 2. If the marriage is doubtful, whether the doubt already exists before marriage, or whether it supervenes only after the marriage has been contracted:

a. If the doubt is light, it is to be disregarded; if the doubt is grave, the truth is to be investigated.

b. During the investigation, if both spouses doubt, they must abstain from intercourse to avoid danger of fornication; if only one party doubts, this party cannot ask, lest he expose himself to danger of fornication, but he can and must render if the other has not lost the right of asking, lest he expose himself to danger of injuring justice.

c. If, after investigation has been made, the doubt persists, the marriage must be considered as valid both in the external forum and in the internal forum, because in doubt one must stand for the value of the act.

99. On the part of the spouses an impediment of the conjugal act can arise from a threefold head: a. from incest; b. from adultery; c. from a vow of chastity.

Concerning the case of supervening impotence, see n. 66.

From incest. a. One who has committed incest inducing supervening affinity, as a penalty imposed by the Church, loses the right of asking,[583] but he can and must render the debt to the innocent party, even before a dispensation is obtained.

b. In order that an incestuous person incur this penalty, there is required: a. knowledge of the imposed penalty, because extraordinary penalties are not incurred by those who are ignorant; b. immunity from force and fear,[584] because force excuses from transgression of any law, and grave fear from transgression of ecclesiastical law and therefore also from incurring the penalty. Since these conditions are rarely had in spouses, they scarcely ever incur this penalty unless they have been warned about it.

c. If in the meantime the incestuous person is placed in great danger of incontinence, he can ask the debt, because ecclesiastical law does not oblige with so great an inconvenience.[585]

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582. Cf. Ballerini-Palmieri VI, n. 532 f. Lehmkuhl II, n. 826.

583. C. *Si quis* 1. *De eo, qui cognovit* (IV. 13).

584. C. *Discretionem* 6. *De eo, qui cognovit* (IV. 13).

585. St. Alphonsus n. 930.

But the innocent other party, who notices the danger of sinning in the spouse, is bound neither to ask the debt nor to comply with one asking: for charity, from which of itself one is bound to remove a spouse from danger of sinning, does not oblige with grave inconvenience; but this is a grave inconvenience for the innocent other party. For since incest contains adultery, the innocent party has from it the right of demanding separation; but by asking or by rendering the debt this right is lost, which can be a grave inconvenience for the innocent party.

d. The innocent spouse is not indeed bound to comply with the incestuous other party asking the debt; nevertheless he can render the debt to her, even if he has knowledge of the incest of the other party and of the penalty laid upon the incestuous: for since only the asking, not intercourse itself, is illicit, the spouse does not cooperate with an evil thing.

For practice these things must be noted:

a. If a married person accuses himself of incest, first he must be asked in what degree he committed the incest: for affinity from illicit intercourse, just as it does not annul marriage, so neither does it take away the use of marriage beyond the second degree.

b. Then he must be asked whether he knew the ecclesiastical penalty, and if, as mostly happens, he was ignorant of this penalty, he must be warned about incurring it through a new incest.

c. Finally it must be investigated whether perhaps he consented to incest from grave fear: for the opinion of those whom St. Alphonsus also follows (n. 1071) is probable, namely that grave fear excuses, not indeed from grave sin, but from incurring the ecclesiastical penalty.

d. Incest always involves adultery; but the penalty of incest is one thing, that of adultery another. The injured party can condone the penalty contracted because of adultery, but cannot condone the penalty contracted because of incest: for the former has been enacted in favor of the innocent party, but the latter solely for punishing incest; therefore its removal must be sought from the Church itself.

e. Imperfect acts are not prohibited by this ecclesiastical law: for a penal law prohibiting intercourse, since it is of strict interpretation, is not to be extended to touches and other imperfect acts.

f. From this impediment, to dispense, or to restore the lost right of asking, not only bishops, who can also delegate this faculty to others,[586] but even regular confessors can do this, and indeed outside confession.[587]

g. For granting the dispensation validly a cause is indeed required; nevertheless it is scarcely not always present, namely danger of incontinence.

h. Authors dispute whether regular confessors need the permission of a superior for granting this dispensation. The opinion which denies the necessity of permission seems safe, because the faculty has been conceded by the supreme pontiff without this condition; in practice, however, one must stand by the statute or custom of individual orders.

Notes

586. Formula for petitioning from the bishop the faculty of restoring the right of asking the debt: "Most Illustrious and Most Reverend Lord. Caius, a married man, has had carnal intercourse with his wife's blood-relative in the first (or second) degree, and has thereby lost the right of asking the debt. But since he cannot preserve chastity with his spouse and the incest is occult, I most humbly beg that the faculty be granted to me of restoring to him, by dispensing, the lost right."

587. St. Alphonsus l. 6, n. 1076.

100. From adultery. a. One who has committed adultery can ask the debt, because he has lost not the right of asking, but the right of exacting the debt; nevertheless he probably does not lose this right before the innocent party has known the crime.

Whether an adulterous spouse loses the right of exacting the debt by the adultery itself, or only by the quasi-sentence of the innocent party, namely when the latter has known the crime and has not condoned it, but has determined to deprive the guilty party of the right, is disputed. Nevertheless the opinion which holds that the adulterer retains even the right of exacting the debt as long as the innocent party is ignorant of the crime is probable, because this privation of right has the character of a quasi-penalty, which the guilty person is not bound to impose upon himself. Wherefore the adulterer can not only ask the debt, but also exact it, until the innocent party, after the crime has been known, deprives him of this right by denying the debt.[588]

b. By condonation the lost right is acquired again; furthermore adultery can also be tacitly condoned by rendering the debt.

Some suspicion or probability concerning adultery committed by the other party is not sufficient; rather, such indications are required as generate moral certitude, so that the innocent party may be able to deny the use of marriage to the other guilty party.

101. From a vow of chastity. a. If one of the spouses is bound by a vow of chastity, he indeed cannot ask, because by vowing he has promised abstinence from every venereal act, which promise indeed he must fulfill as far as he can; but he can fulfill it by not asking. Nevertheless he can and must render, because an emitted vow cannot deprive the other of his right.

a. The vow of chastity which a spouse emits without the knowledge of the other spouse can be twofold: either of not using marriage and therefore not rendering the debt even if it is asked, or a vow of not asking. The first, once the marriage has already been consummated, is invalid, as being about an illicit thing; the other indeed is valid, but can be indirectly annulled by the other spouse. According to others, however, this vow is valid only in the wife, but not in the husband: for in the husband it would be about an illicit thing, because it would be grave for the wife if she herself were always compelled to ask the debt.[589]

b. If a spouse bound by a vow of chastity notices that the other is most gravely tempted and is placed in danger of pollution, he licitly asks the debt in order to free the other from the danger of sin, because in this case he must be said not so much to ask as to render to one asking interpretatively; but he can licitly render.

c. If both spouses by common consent have vowed to abstain from the work of marriage for a certain time, neither can ask or render. But if one asks contrary to his vow, the other is bound to render, because the former has not renounced the right of asking by the vow. Nevertheless, from the precept of charity the other is bound to admonish the one asking, where he can do so without grave inconvenience, that he desist from the illicit asking.[590]

If because of the emitted vow they are placed in grave danger of incontinence, recourse to dispensation is to be advised; but probably even the husband can indirectly annul the vow of the wife, and the wife the vow

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588. Cf. Sanchez l. 1, disp. 68, n. 2 ff. Lehmkuhl II, n. 846.

589. Cf. *De praeceptis* n. 232.

590. Cf. St. Alphonsus n. 944.

of the husband: for by the fact that they vowed by mutual consent, they do not seem to have renounced the right of annulling the vow of the other party.

c. Regular confessors can dispense with married persons who, either before or after the marriage has been entered, have emitted a vow of perpetual chastity, to this extent, that they can licitly ask the debt (even outside confession).

d. That they can dispense in a vow emitted before marriage is established from the privileges conceded by the supreme pontiffs to mendicants;[591] that they can do the same in a vow emitted after marriage is established from the known canon, that regulars can dispense in all vows in which bishops dispense by ordinary law.

e. But they cannot dispense if both spouses by common consent have emitted the vow, or if only one has done so, but with the consent of the other, who by this very fact yields his right. The dispensation in this case remains reserved.

f. Since spouses have been dispensed only for the use of marriage, they sin against the vow if outside the use of marriage they sin against chastity; moreover after the death of the other party they cannot enter a new marriage without dispensation.

Appendix.

Notes for Confessors.

102. In general. 1. In examining penitents concerning shameful sins, the confessor must be very cautious. In this matter it is better to fall short than to abound, lest the penitent from the questions of the confessor learn sins which he previously did not know and thus take an occasion of committing them, and lest confession be rendered odious, because the questioning of the confessor is for the penitent a cause of temptation or an occasion of scandal. For this reason one must not only refrain from asking about circumstances of sins, however notably aggravating, or about the mode in which the sin was perpetrated, but even in those things which of themselves would be necessary for an integral confession, it is better to omit questions from which, rightly and deservedly, grave inconvenience is feared to follow. In this case, therefore, once the certain species (although not the lowest species) and the number of the sin are known, one must abstain from further investigation, even if the integrity of confession is lacking.

2. If an adult accuses himself only in general of sins committed against chastity, and the confessor rightly and deservedly can suppose several sins of this kind, the examination is more suitably begun not from depraved thoughts, but from graver sins, according to the mode which is indicated in the volume *De sacramentis*, n. 441.

Since questions about shameful sins, as those which wound shamefacedness both in the penitent and in the confessor, are of such great difficulty and trouble, those opinions are to be well retained which remove the specific differences of sins, provided they are still truly probable, so that in practice we can safely follow them.

3. Those who accuse themselves of voluntary pollution sometimes, in sinning, desire a person of the different sex and therefore fornication. Younger persons, however, should not be explicitly asked about this matter, lest they learn sins which perhaps up to this point they do not know; but first they should be asked whether meanwhile they had depraved thoughts. If they deny this, beyond the number of the

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Notes

591. Cf. St. Alphonsus l. 6, n. 1128.

sin there is nothing else about which they should be asked; but if they affirm it, they should be asked whether they desired something shameful, and what.

4. If someone accuses himself of intercourse with a person of the other sex, besides fornication there can be present the sin of onanism or another sin perpetrated for impeding generation. In order that this may be discerned, he or she can be asked (whether man or woman): whether she could have become pregnant; if the answer is affirmative, none of these things occurred; if it is denied, let the person be asked further: why not? From the response there is had what is necessary to be known.

5. From boys or girls it must not be asked whether an effusion of semen (humor) occurred, lest perhaps they learn what they still do not know and from curiosity be stirred up to experience it. For the same reason they should not be explicitly asked about touches committed with others, whether of the same or of a different sex, but only about touches performed on their own body and about the pleasure perceived from them.

6. Although it is most certain that every venereal delectation freely admitted is a grave sin, nevertheless it is equally certain that very many of the faithful exist, especially from those who live with little Christian spirit, who in good faith judge that a slight venereal delectation, e.g. one taken from a light shameful touch or from a kiss, is not a grave sin. Therefore let the confessor consider whether it is better to admonish penitents of this kind about the gravity of any carnal delectation, or rather to omit this admonition. But lest those things which are dissembled for the salvation of the soul be turned into a lax practice, penitents of this kind must be admonished and exhorted with grave words that they abstain even from slight delectations, lest from slight things they proceed to graver ones.

103. In particular. 1. Those who accuse themselves of impure thoughts must be examined in diverse ways according to the quality of the persons.

a. Those whom the confessor rightly supposes to have sinned against chastity can be asked: whether they have done anything shameful; whether they desired to do it. For penitents frequently accuse sins of lust under the name of shameful thoughts, because they either do not wish or are not able to express anything else, and they expect to be examined about this matter by the confessor.

b. Those who are not accustomed to sin gravely against chastity can be asked: whether they also had depraved desires; whether they had depraved sensations (*Gefühle*) and consented to them.

c. If it can rightly be supposed that they have not sinned gravely, as frequently happens in the impubescent, they are not to be questioned further; but, with an admonition added, if there is need, that temptations of this kind are to be vigorously and diligently repelled, they are to be dismissed.

2. Those who confess impure touches on their own body can be asked: whether the touches were necessary; if they deny this: whether they were long-lasting or morose; if they deny this, nothing further is to be asked; if they affirm it, either pollution can simply be supposed, or it can be asked whether they polluted themselves, unless they are impubescent.

3. If imperfect acts (looks, touches, conversations, readings, etc.) occurred without a complete venereal act (pollution, intercourse), without commotions or venereal delectations having followed, or if, when they arose, consent was not given, the individual acts are grave or light sins according as the danger which they cause is grave or light. In confession, therefore, the acts themselves are to be accused distinctly, or it is to be said: I exposed myself to a light or grave danger of sinning against chastity. Likewise, if someone by those acts either intended commotion or delectation, or admitted it when it had arisen without intention, either the acts themselves are to be accused distinctly, or it is to be said: I voluntarily had carnal motions or venereal delectations, with their number added.

Since, however, the confessor sometimes ought to know how the commotions or delectations arose - namely where they arose from an object furnishing a voluntary occasion of sin, e.g. from obscene reading, from conversation, from frequenting the theater, etc. - it is necessary that the confessor ask about the occasion, so that it may be removed, unless the penitent himself declares it.

104. Concerning married persons. 1. Married persons who do not accuse themselves of abuse of marriage and do not furnish any suspicion of this abuse are not to be asked about this matter; but if the confessor prudently fears that they abuse marriage, let him cautiously ask them whether there is anything which in this matter gnaws at their conscience. Prudence, decency, and the sanctity of the place require that he speak nothing in particular about this matter unless he has been asked.

2. If spouses accuse themselves that they have had intercourse in a preposterous way or from behind, by these words they signify either the sin of sodomy or an undue position. To discern the matter it is sufficient to ask whether generation was possible; but if they deny this, the sin of sodomy is supposed. It can indeed happen that even in a case of undue position generation was impossible because of the effusion of the whole semen outside the vessel; if this had been foreseen, the undue position would be a grave sin; but in this slippery matter it is not necessary that everything be asked about.

3. Concerning the mode of acting with onanistic spouses, cf. n. 76.

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A. M. D. G.

SUMMA OF MORAL THEOLOGY.

Adapted for the use of schools

by

H. Noldin, S.J.

Professor of Sacred Theology in the University of Innsbruck.

First Complement:

On Ecclesiastical Penalties.

With the approval of the Bishop of Brixen and of the Superiors of the Order.

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Introduction.[592]

I have thought that the treatise on ecclesiastical penalties, which pertain to the proper object of canon law, should be added to moral theology, because in some schools the professor of moral theology also treats ecclesiastical penalties.

1. a. The power which Christ conferred upon His Church, that through it the faithful might be directed to the supernatural end of eternal life, is twofold: the power of order, which is an aptitude acquired by sacramental ordination for performing certain sacred actions, but especially the offering of the eucharistic sacrifice and the administration of the sacraments and sacramentals; and the power of jurisdiction, which is the power of ruling the faithful in order to eternal salvation.

The power of jurisdiction is again twofold: the power of teaching, or the power of ruling the faithful with respect to the intellect through precepts of faith; and the power of government, which is the power of ruling the faithful with respect to the will through precepts of morals.

b. That Christ instituted His Church as a true, visible, and perfect society, to which He conferred every power which is necessary for directing the faithful to the end of eternal salvation, is shown both by dogmatic theologians in fundamental theology and by canonists in public law. But in particular the same authors show that the power of jurisdiction with which Christ willed the Church to be furnished is not only the power of making laws, but also of exercising coercive force and of restraining transgressors of both divine and ecclesiastical laws by penalties. Now, therefore, after laws have been treated, the sanction of laws, or ecclesiastical penalties, must also be treated.

c. Namely, law needs a sanction, by which a reward is decreed for those observing it, but a penalty for those violating it. The sanction of the Christian law is twofold: one of the future life, another of the present life. The sanction of this life consists chiefly in ecclesiastical penalties, by which the Church strives to deter the faithful at least from violation of the graver laws and to compel them to fulfill their duties.

First Book.

On Ecclesiastical Penalties in General.

Only Question.

On Ecclesiastical Penalties Themselves.

2. Definition. A penalty is an evil inflicted by legitimate authority because of transgression of law.

Notes

592. Thesaurus-Giraldi, *De poenis ecclesiasticis.* J. Hollweck, *Die kirchlichen Strafgesetze* (Mainz: Kirchheim, 1899). Ballerini-Palmieri, *Opus theol. morale*^3 (Prati: Giachetti, 1901) VII, *De poenis ecclesiasticis.* Lehmkuhl, *Theologia moralis*^10 (Freiburg: Herder, 1902) II, 860-1030.

a. The evil inflicted by the Church as penalty consists in the privation of a good, either the possession or the use of which depends upon the Church, and of which therefore she herself can deprive the delinquent. Goods of this kind are only external goods; but they are not only spiritual goods, but also temporal goods, such as goods of fortune, reputation, liberty, etc.

b. Although the Church can also inflict temporal penalties, nevertheless ordinarily, especially with respect to lay persons, she does not employ for obtaining her ends except spiritual penalties, which consist in the privation of a spiritual good either already received or afterward to be received; wherefore ecclesiastical penalties are accustomed to be called spiritual penalties.

c. A penalty by its nature supposes fault, because it is inflicted because of a committed fault; wherefore there is no penalty where there is no fault.

3. End of ecclesiastical penalties. The threat of a penalty must be distinguished from the infliction and execution of the penalty.

a. The end of the threat is that subjects be deterred from violation of the law and be compelled by fear of the penalty to its observance.

b. The end of infliction and execution is fourfold: a. that the order which has been injured may be restored and confirmed; b. that the guilty person may be amended; c. that both the delinquent himself and others may be deterred from crime and restrained; d. that by the example of the penalty the scandal given by the crime may be repaired.

In all penalties, indeed, this fourfold end is more or less intended; nevertheless in diverse genera of penalties one end is chiefly regarded before the others. The primary and essential end is restoration of the injured order. For the injury of order, which was made by this, that the delinquent, having despised the good of order, indulged his own concupiscences, demands a certain kind of expiation and satisfaction, because the same delinquent is compelled to yield something from his own goods and to undergo an evil.[593]

4. The cause of ecclesiastical penalty is a crime or delict. Although the names of crime and delict are for the most part used indiscriminately, nevertheless in law those actions are called crimes which are punished by graver penalties, and those actions delicts which are punished by lighter penalties.

A crime or delict is understood to be an external action or omission which disturbs the social order of the Church. And since ecclesiastical penalties are established against actions which disturb the public order, a crime or delict can also be defined: an action against which an ecclesiastical penalty has been established. But the social order of the Church is preserved by both divine and ecclesiastical laws; therefore a crime or delict is the transgression of a penal law, or of a law in whose transgression a penalty has been sanctioned.

5. Division of penalties. Ecclesiastical penalties are divided in manifold ways.

a. By reason of the subject, into personal penalty, which affects the person only, such as suspension from hearing confessions, fasting; real penalty, which punishes a person in his goods, such as privation of a benefice; and mixed penalty, which embraces both, such as excommunication, suspension from celebration.

b. By reason of quantity, into ordinary penalty, which does not exceed the measure customarily observed in this matter; and extraordinary penalty, which is imposed beyond the measure on account of special circumstances, and therefore cannot be foreseen even confusedly.

Notes

593. Cf. St. Thomas I-II, q. 87, a. 1.

c. By reason of the mode by which the guilty person is deprived of the good, into negative penalty, by which he is barred from acquiring a good, such as the impediment of crime, irregularity from delict; privative penalty, by which he is deprived of an acquired good (a right, the exercise of a right), such as privation of active and passive voice, suspension from order; positive penalty, by which an evil is inflicted, such as a monetary fine, beating. The execution of this requires some positive action either of the delinquent himself or of another.

d. By reason of the object, into spiritual penalty, which deprives the delinquent of a spiritual good; and temporal penalty, which deprives the delinquent of a temporal good or affects him in a temporal mode, as by prison or blows.

It cannot be doubted that the Church can also inflict temporal penalties; for since she has the power of applying all means which are necessary for the end, and temporal penalties are sometimes altogether necessary so that external order can be preserved, it is certain that the Church can apply temporal penalties. Nevertheless, concerning the penalty of death and mutilation, almost all teach that the Church herself cannot inflict it; indeed, according to the opinion of many, the Church cannot even demand that it be inflicted by the secular arm: for the axiom is solemn, the Church does not thirst for blood. But according to the discipline now in force, temporal penalties are accustomed to be applied by the Church only to clerics, not to lay persons.

e. By reason of form, into a penalty of a sentence already passed, which is incurred by the very fact, i.e. by perpetration of the crime or transgression of the law; and of a sentence to be passed, which is not incurred unless it is inflicted by the sentence of a judge.

f. Only the Church inflicts penalties of a sentence already passed; the civil penal code contains no penalties of sentence already passed, but only of sentence to be passed.

g. The sentence of a judge is either condemnatory or only declaratory of the crime committed; the former falls upon the penalty which is inflicted by the judge, the latter falls upon the fault against which the penalty has been laid by law.

h. Some penalties of sentence already passed are incurred before, others only after, a declaratory sentence of the crime committed.

Before sentence there are incurred: a. censures of a sentence already passed; b. penalties which only prevent a right from being acquired, and have more the character of an inability than of penalty properly so called, as if non-resident clerics are prohibited from making the fruits their own; c. conditional penalties, which properly are a condition under which something is given; therefore if someone does not fulfill the condition, before sentence he must give up what he received under it; thus one elected bishop, if he is not consecrated within six months, must give up the episcopate.

After sentence there are incurred penalties by which the guilty person is deprived of a right already acquired, as if someone is deprived of a benefice, active and passive voice, etc.[594]

f. By reason of the internal end which is chiefly intended, into vindicative or punitive penalty, which chiefly tends to the punishment of the crime; and medicinal penalty, which chiefly tends to the amendment of the delinquent.

Notes

594. Genicot, *Theologiae mor. institut.*^2 (Louvain: Polleunis et Ceuterick, 1905), I, n. 140.

The distinctions between each must be noted: a. by a vindicative penalty the guilty person can be punished for a past delict, even after he has returned to his senses; but by a medicinal penalty the guilty person cannot be punished if he has already returned to his senses; b. a medicinal penalty is removed by absolution, which remits the penalty to one rightly disposed; but a vindicative penalty does not need absolution, but either ceases of itself when the time has elapsed or is removed by dispensation, which exempts from the penal law.

6. What ecclesiastical penalties are. All penalties which the Church inflicts can be reduced to three genera:

a. to censures;

b. to vindicative penalties;

c. to penances.

1. Censures, which chiefly tend to the restoration of external order and to the amendment of the delinquent, are divided into three species:

a. Excommunication;

b. Suspension;

c. Interdict.

2. Vindicative penalties, which chiefly tend to the restoration of external order and to the punishment of the crime, are some inflicted upon all, others upon clerics alone.

a. Vindicative penalties which are inflicted, or can be inflicted, upon all, both clerics and lay persons:

b. Irregularity from delict;

c. Ecclesiastical infamy;

d. Privation of ecclesiastical burial;

e. Privation of particular rights or privileges;

f. Temporal penalties, such as monetary penalty, public correction, canonical admonition.

g. Vindicative penalties which are inflicted upon clerics alone:

h. Penalties of prison;

i. Privation of the fruits of a benefice;

j. Translation to a worse benefice or complete privation of a benefice;

k. Deposition;

l. Degradation.

3. Penances are public works of penance enjoined by the Church chiefly for this end, that public scandal may be repaired.[595]

Exercises of several days are now customarily enjoined upon clerics; but upon lay persons, either revocation before witnesses or use of the sacraments or a pious pilgrimage with reception of the sacraments.

Notes

595. Cf. Council of Trent, sess. 24, c. 8, *De reform.*

Note. We shall treat here only censures and irregularities, since these are what it is chiefly necessary for the confessor to know, and we shall interpret more accurately only those censures which occur more frequently in the internal forum of penance.

7. On the forum of the Church. 1. By the name forum there is signified: a. both the place in which saleable things are exposed, and the place in which controversies and lawsuits are conducted; b. the territory in which a judge can exercise his jurisdiction.

2. Forum is chiefly divided into external, in which public causes pertaining to the government of the Church are treated, and internal, or of conscience, in which matters pertaining to the spiritual salvation of individuals are conducted.

A faculty (of absolving, dispensing) conceded for each forum signifies: a. that a faculty which someone can or must use for the external forum also avails for the internal forum; b. that the faculty can be applied both for the external forum and for the internal forum, according as the subject matter demands it, i.e. according as the matter is public or occult.

Second Book.

On Ecclesiastical Penalties in Particular.

Question One.

On Censures in General.[596]

Article One.

On the Nature of Censure.

8. Notion of censure. A censure is a medicinal penalty by which the use of certain spiritual goods is taken away by the Church from a delinquent and contumacious Christian. Therefore two things are needed for incurring a censure: a delict and the contumacy of the delinquent.

a. Among the ancient Romans the name censure signified both the dignity and office of the censor, and also the sentence of the same, by which he either branded with a mark or inflicted a penalty upon citizens. In ecclesiastical usage censure signifies both a judgment by which it is noted whether something is worthy of praise or of blame, and a penalty inflicted for crime.

b. Medicinal: for in inflicting censure the Church chiefly intends the restraint of crime and the amendment of the delinquent; wherefore, once amendment has been posited, censure by its own nature demands that it be taken away; and if sometimes it is carried against those whose amendment is despaired of, this is done for striking terror into others. For the same reason censure is to be inflicted simply, not perpetually nor to a certain day, so that when the guilty person has amended himself, he can be absolved.

c. Censure can also have the character of a vindicative penalty, but only secondarily; but if it is inflicted chiefly for punishing a delict, it cannot be a censure properly so called.

Notes

596. Suarez, *De censuris*. Covarruvias, *Operum* t. I, p. 315. Dicastillo, *De censuris*. Tamburini, *De censuris et irregularitate*. St. Alphonsus l. VII, *De censuris eccles*. Bucceroni, *De censuris etc.*^4 (Rome: Typographia S. C. de Prop. Fide, 1896). Hilarius a Sexten, *Tractatus de censuris ecclesiasticis* (Mainz: Kirchheim, 1898). Hollweck l. c., *Die Zensuren*, p. 86 ff. Heiner, *Die kirchlichen Zensuren* (Paderborn: Bonifatius-Druckerei, 1884). I. Kock, *Die kirchlichen Zensuren latae sententiae* (Graz: Styria, 1902). Paschalis de Siena, *Commentarius in Const. Ap. sedis*^3 (Pustet: Rome, 1902).

d. Contumacious: censure is inflicted for breaking contumacy (virtual contempt of authority and of censure, disobedience), whose nature is described below. Therefore contumacy as a condition for incurring censure is always required; and as soon as contumacy ceases through the amendment or satisfaction of the delinquent, the censure is to be taken away, just as once health is recovered the use of medicine ceases.

e. Of spiritual goods, namely those which are subject to the power of the Church. Indeed, besides the goods which inhere habitually in each person, goods of a threefold kind exist in the Church: goods which proceed from the Head, or from Christ; goods which proceed from the members taken privately; goods which proceed from the body, or from the Church. Now, one censured cannot be deprived of goods habitually inhering in himself, such as the sacramental character, the power of order, faith, hope, and charity, etc.; nor of goods which proceed from Christ, the Head of the Church, such as manifold graces, because these goods do not depend upon the Church; nor can he be deprived of goods which proceed from the members of the Church taken individually, such as the prayers and good works of the faithful, because the Church cannot impede the communion of saints; but only of goods which are administered and conferred by the Church, such as the use of the sacraments, the sacrifice, indulgences, common suffrages, jurisdiction, ecclesiastical benefices. And if sometimes the Church deprives someone of temporal goods, as of civil commerce with the faithful, this is done secondarily and indirectly, insofar as it conduces to the spiritual good both of him who is bound by censure and of others.

9. Division of censures. a. By reason of essence they are divided into three species, into excommunication, suspension, and interdict: for each of these penalties has the common character of censure and deprives the guilty person of other and diverse spiritual goods; but other ecclesiastical penalties, by whatever name they are called, are not censures.[597]

b. By reason of the efficient cause, into a censure which is from law, if it is inflicted by stable law against future sins; and which is from man, if it is inflicted by a superior through judicial sentence against future or past sins.

A censure carried by man is carried either by way of precept or particular sentence, as if a bishop suspends a contumacious cleric from office, or if he prohibits a cleric from the game of dice under penalty of suspension, or by way of law or general statute, as if a bishop decrees that all who are about to commit some crime be bound by excommunication.

c. By reason of the power of absolving, into reserved censures, which cannot be taken away except by the one imposing them, his successor, or his superior; and non-reserved censures, which by the disposition of the legislator can also be taken away by inferior ministers.

d. By reason of publicity, into notorious censures, when either by sentence of a judge or by perpetration of the delict in a public place it is so known that someone has incurred censure that it can no longer be hidden; and occult censures, when this is not known.

e. By reason of the mode by which they are incurred, into censures of a sentence already passed, which are incurred by delinquents by this very fact, that they have committed the delict; and of a sentence to be passed, which, once the delict has been posited, are to be imposed by sentence of a judge.

f. By reason of the mode by which they are reserved:

g. into censures reserved to the Roman pontiff in a special mode;

Notes

597. C. *Quaerenti* 20. *De verborum sign.* (V. 40).

h. into censures reserved to the Roman pontiff in the ordinary mode, or simply reserved;

i. into censures reserved to bishops;

j. into censures reserved to no one, which are indeed true censures insofar as they produce the effects of others, but from which the censured person, provided he is truly sorry for the sin, can be absolved by any confessor.

k. Several censures are called reserved in a special mode: a. because for them a general faculty of absolving from censures reserved to the Roman pontiff does not suffice, but an altogether special faculty is required; b. because they are not contained in the faculty conceded to bishops by c. *Liceat*, namely of absolving from all occult censures even those reserved to the pope; c. because those presuming to absolve from these without due faculty incur a special excommunication reserved to the Roman pontiff; d. because those absolved from these in the article of death by one not having power, if they recover, are held by a special obligation of presenting themselves to the superior and standing by his mandates.

l. From the declaration of the Holy Office of April 4, 1871, in the special faculty of absolving from censures reserved to the Roman pontiff in a special mode, there is not contained the faculty of absolving from cases reserved in the bull *Sacramentum poenitentiae*, which need a most special faculty and therefore are called reserved to the supreme pontiff in a most special mode. The cases reserved in the aforesaid bull are: a. absolution of an accomplice; b. malicious denunciation of a priest concerning the crime of solicitation.

10. Since censures in the specific sense, namely insofar as they pertain to the external forum, are called public or notorious, it is useful to indicate what is required for a censure to be notorious. But a censure is notorious if the delict prohibited under censure is notorious. A delict can be notorious either by law or by fact.

a. A delict is notorious by law when it is established: a. by the declaratory sentence of a judge, whether because the guilty person himself confessed the delict, or because he has been convicted of it; b. from public acts or from authentic protocols.

Thus if a cleric constituted in sacred orders contracts civil marriage; if a Catholic enters marriage before a heretical minister; if someone is punished by a civil judge because of a duel, these delicts are notorious by law, because they are established from public acts.

b. A delict is notorious by fact when it was perpetrated in a public place before several persons who can testify concerning it.

c. Since both elements must concur at the same time, a delict is not notorious which was perpetrated in a private or hidden place, although before many, nor a delict which was perpetrated in a public place before few persons, or indeed before many who nevertheless cannot testify about it, because they did not attend to it, e.g. to the heresy uttered. How many persons must know the delict so that it can be called notorious is indicated elsewhere.[598]

d. A delict public by law is public everywhere, nor can it ever become occult; but a delict public by fact in one place can be occult in another, and if it consists in a transitory fact (the striking of a cleric), through oblivion it can become occult; not likewise if it consists in a permanent fact (illicit possession of ecclesiastical goods).

Notes

598. Cf. *De praeceptis* n. 649.

Article Two.

On the Author of Censure.

11. Who can impose censures. He can impose censures who has either ordinary or delegated power for this.

1. Ordinary power is had by all and only ecclesiastical superiors having jurisdiction in the external forum.

a. The supreme pontiff has it over all the faithful, both taken collectively (diocese, province) and taken individually; he indeed receives this power immediately from Christ; all others participate in it from the supreme pontiff.

b. Apostolic legates have it in the territory assigned to them.

c. Bishops, archbishops, patriarchs have it over their subjects; however, archbishops and patriarchs cannot bind the subjects of their suffragans by censures; an episcopal vicar, who constitutes one tribunal with the bishop; when the see is vacant, the vicar of the chapter, who succeeds the bishop in jurisdiction, and a fortiori the chapter itself before the vicar has yet been elected.

d. Cardinals have it in the churches of their title.

e. A general council has it over the whole Church, and a provincial council over its province.

f. Abbots having quasi-episcopal jurisdiction have it.

g. Superiors of regulars (generals, provincials, locals) have it over their subjects from a privilege of the pontiff attached to their office,[599] yet according to the statutes of their order.

Parish priests do not have the power of imposing censures, because jurisdiction in the external forum does not belong to them.

2. Delegated power is had by all and only clerics to whom this has been committed by those having ordinary power.

Clerics: because all and only clerics are capable of ecclesiastical jurisdiction, which is required for imposing censures, unless by positive law they have been declared incapable of ecclesiastical jurisdiction, as married clerics have been declared.[600] Wherefore all lay persons and women, even abbesses, are excluded from the power, both ordinary and delegated, of imposing censures.

12. Conditions required on the part of the author. In order that an ecclesiastical superior can validly impose censures, there is required:

a. That he be in possession of reason and have the will of binding him against whom he imposes the censure: for to impose censure is an act of jurisdiction, which has its whole force from an act of the will. Wherefore a censure imposed by a drunken man would be null.

b. That he act freely, not by compulsion.

A censure carried from grave fear must of itself be called valid, because an act done from grave fear is of itself valid, unless it is annulled by special positive law; but a censure carried from fear is not annulled by positive law. Nevertheless the case must be excepted in which the one imposing the censure would have pronounced it only externally, without internal intention.

Notes

599. C. *Quum in ecclesiis* 10. *De maioritate et oboedientia* (I. 33).

600. C. *Clerici* un. *De clericis coniugatis* (III. 2) in 6°.

c. That he exercise power within the limits of his jurisdiction: for contentious jurisdiction cannot be exercised outside one's own territory.

Therefore a bishop existing outside his own diocese cannot impose censure, not even upon his own subject, unless he has obtained the consent of the bishop of the place in which he is found.

Nevertheless several cases must be excepted, in which a bishop, even existing outside the diocese, can impose censure:

a. If the censure is imposed not by way of a particular sentence, but by way of statute for guarding against future crimes.

b. If the censure is indeed imposed by way of sentence, which nevertheless does not need cognition of the cause, either because the contumacy is manifest, or because the cause has already been known in one's own territory.

c. If the bishop has been unjustly expelled from his own territory.[601]

d. That he admonish the delinquent concerning the censure to be inflicted: for censure is imposed upon a contumacious person; but that contumacy may be established, a prior correction is required.

According to the diversity of censures, a diverse admonition is required.

a. In censures of a sentence already passed for future delicts, likewise in censures which are attached to some delict as of a sentence to be passed, legal admonition suffices, which consists in the law promulgated with the censure added: for a known law which threatens censure is judged continually to admonish subjects concerning their obligation and concerning the penalty to be incurred by transgressors.

b. In a censure which no law threatens, and which therefore is inflicted by man for a past or present delict, a canonical or express admonition is required, and indeed a threefold one with some interval of time (at least two days) between the individual admonitions. Nevertheless a single admonition suffices, provided it is expressed that it is peremptory, or that it avails for three. But in this case six days must intervene between the admonition and the infliction of the censure, unless the necessity of the fact advises otherwise.[602]

Note. A censure unjustly inflicted does not oblige in conscience, whether it is unjust because of defect of fault or because of defect of proof. Wherefore one unjustly censured is not bound to observe the censure in secret; but publicly, because otherwise it cannot be done without scandal, he is bound so to conduct himself as if he were bound by censure.

Article Three.

On the Subject of Censure.

The subject capable of censure is only a baptized man, a wayfarer, capable of reason and subject to him who imposes the censure.

13. A baptized man, both because the Church has no jurisdiction over those who are not baptized, and because only the baptized enjoy the spiritual goods of which they are deprived by censures.

Notes

601. Regular superiors can bind their subjects by censure by way of particular sentence wherever they are staying, because their jurisdiction is chiefly personal.

602. C. *Constitutionem* 9. *De sententia excommunicat.* (V. 11) in 6°.

Therefore the Church can impose censures neither upon infidels and Jews nor upon catechumens, but indeed upon heretics and schismatics, who by reason of baptism are subject to her jurisdiction.

14. A wayfarer: for the Church does not have jurisdiction over the dead.

But if sometimes the dead are excommunicated, they are not properly condemned by judicial sentence; rather, for striking terror into the faithful, the Church only declares that in life they incurred censure because of their delicts and must be treated as censured, i.e. that they must be deprived of the suffrages of the Church and of ecclesiastical burial, and, if already buried in a blessed place, must be exhumed. In like manner, if the dead are absolved from censure, the Church only removes the prohibition by which they could not participate in the common suffrages of the faithful nor be given ecclesiastical burial.[603]

15. Capable of reason: for since censure supposes sin, indeed also contumacy, it cannot be imposed upon those who cannot yet sin.

The question is whether those who indeed have the use of reason, but are still impubescent, can be bound by censure. Although the impubescent are of themselves capable of censure, nevertheless from the common opinion of doctors these things must be held:

a. The impubescent, by the will of the Church, do not incur censures of a sentence already passed unless this is expressed in law.[604] Wherefore the impubescent incur only one censure also, because this is expressly established in law, namely because of entrance into a monastery of nuns.[605]

b. With respect to censures of a sentence to be passed, by positive law indeed it is not prohibited that the impubescent be bound by them; nevertheless the age of the impubescent does not seem sufficient for them suitably to be censured: for the impubescent, as the Salmanticenses well observe (n. 168), are more suitably corrected with rods than with censures.

16. A subject: for there is no jurisdiction over one who is not a subject. Therefore:

a. The supreme pontiff alone cannot be bound by censure, because he has no superior on earth, and he cannot bind himself. But all the faithful can be bound by censures by the supreme pontiff, and all diocesans by the bishop.

b. Although all the faithful can incur pontifical censures, nevertheless bishops and cardinals from a privilege of law do not incur suspension and interdict to be incurred by the very fact, unless special mention is made of them;[606] but bishops and cardinals are also subject to papal excommunication, unless they are specially excepted.

c. Although all subject to the bishop incur episcopal censures, nevertheless kings and queens by a privilege introduced through custom cannot be struck by censures by bishops, even if in other respects they are subject to the bishop's power, both legislative and judicial.

d. Strangers, or subjects of another, do not incur episcopal censures to be incurred by the very fact, unless the matter concerns censures attached to those laws which even strangers are bound to observe;[607]

Notes

603. The rite of absolving an excommunicated dead person is had in the *Roman Ritual*, tit. III, c. 4.

604. C. *Pueris* 1 and C. *Referente* 2. *De delictis puerorum* (V. 23).

605. Council of Trent, sess. 25, c. 5, *De reg.* In the old law there is another excommunication which even the impubescent incurred, namely that carried against those violently laying hands upon clerics (C. *Super* 1. C. *Mulieres* 6. C. *Pueris* 60. *De sententia excommunicationis* [V. 39]). But several doubt whether in the recent law this same thing avails (cf. n. 70).

606. C. *Quia periculosum* 4. *De sentent. excommun.* (V. 11) in 6°.

607. Cf. *De principiis* n. 149.

nevertheless strangers, or subjects of another, can be punished by a bishop with censures carried by a particular precept if they have committed a delict in his territory: for by reason of the delict they become his subjects.

e. Therefore a stranger who commits a delict to which an episcopal censure is attached does not incur the censure, because a bishop cannot bind another's subject, even one delinquent in his diocese, by censures carried by way of general sentence and therefore before the delict, and to be incurred by the very fact. The same must be said of one who commits in a place exempt from the diocese, e.g. in a monastery, a delict to which an episcopal censure is attached. Nevertheless, one who has once been bound by censure remains bound by it, even if he goes into other regions: for censure follows him as the shadow the body and leprosy the leper.

f. Since a stranger by the statute of law obtains the forum of the delict, both because there where the delict was perpetrated the author and quantity of the crime are more easily known, and because restoration of the injured order is better obtained there where the violation was made, by reason of the delict a stranger becomes the subject of the bishop of the place in which he committed the delict.

g. Exempt regulars do not incur episcopal censures, nor can they be bound by censure by bishops except in those matters in which jurisdiction over regulars has been conceded to bishops by law. In this case bishops act as delegates of the apostolic see.

h. One delinquent outside the diocese does not incur a censure carried by general statute, because this statute affects only the territory; but he incurs a censure carried by special precept for guarding against some crime, as if a bishop, under penalty of suspension of a sentence already passed, prohibits a cleric from entrance into a tavern, but the cleric enters a tavern outside the diocese.

Several authors indeed deny that a cleric in this case incurs censure, whose opinion St. Alphonsus (n. 23) calls probable; but, as Ballerini after Laymann notes, a particular precept, as clinging to the bones, obliges even outside the diocese; wherefore the opinion denying it seems to lack true probability.[608]

e. One delinquent within, but existing outside, the diocese can be bound by censure by the bishop; thus a bishop can suspend a parish priest who flees after a delict has been committed.

Citation indeed, since it imports judicial noise, cannot be made in another diocese; nevertheless one absent can be cited by letters and, having been cited, must appear; but if he does not appear, he can be excommunicated.

17. Whether the subject of censure can be an entire community, e.g. a university, monastery, chapter, city.

a. Interdict can be imposed upon a whole community, although there are several innocent persons in it; for by interdict the innocent are not properly punished, but the Church for just causes withdraws her benefits from both the guilty and the innocent.

b. Suspension can be imposed upon a whole community, although there are several innocent persons in it, because suspension does not affect the innocent except with respect to acts which belong to the whole community as such, such as the election of superiors.

Notes

608. Ballerini-Palmieri VII, n. 71.

c. Excommunication cannot be imposed upon a whole community, but only upon those who are found culpable: for since in a community several persons are accustomed to be either altogether innocent or less guilty than others, it would be too harsh if all were affected by the same penalty.[609]

18. Nothing prevents someone from being bound at the same time by several censures of the same species, and likewise from being loosed from one while he remains bound by another.

a. No one doubts that someone can be bound by several censures of diverse species, e.g. excommunication and suspension; but they have doubted whether someone can be bound by several censures of the same species. For since censure consists in the privation of spiritual goods, if someone by force of one censure has already been deprived of goods, he cannot by another censure again or more greatly be deprived of the same goods. But formally censure is not so much privation as the cause inducing privation; but nothing prevents the same privation from existing from several titles and causes, just as several mortal sins deprive of the same sanctifying grace.[610]

b. There is an axiom in law: as many transgressions, so many penalties.[611] Therefore one who commits two crimes distinct in species, to each of which a distinct excommunication is attached, as, for example, one who commits heresy and reads a book prohibited under censure, incurs a twofold excommunication. One who commits two crimes distinct in number, e.g. commits a duel twice, incurs the same censure twice. One who commits a crime by which two penal laws diverse in species are violated at the same time incurs a twofold censure; for example, one who kills a priest in a church incurs the censure laid upon personal sacrilege and upon local sacrilege. One who commits several and diverse crimes prohibited by the same penal law incurs the censure several times; thus one who reads, retains, prints, and defends a book prohibited under excommunication is excommunicated from a fourfold head, because all four actions are prohibited by the same penal law.

Article Four.

On the Conditions Required for Incurring Censure.

The cause of censure is crime: for censure is brought upon the delinquent; but the crime because of which censure is inflicted must be grave, external, consummated, and committed with contumacy, in order that censure be incurred.

19. Grave with respect to the internal and external act. a. For penalty supposes fault, and grave penalty supposes grave fault; but censures (at least excommunication, suspension from order, and general interdict) are grave penalties. Nevertheless light censures, such as suspension and interdict which are inflicted for a short time and prohibit only one or another act, can be inflicted even because of light fault.

a. Therefore a censure would be invalid by which restitution of a slight thing was commanded under excommunication. Nevertheless if a thing light in itself becomes grave by reason of scandal, danger, or end, it can be commanded or prohibited under grave obligation and under censure. Thus one incurs excommunication who violates enclosure only for a very little while.

b. Therefore whatever excuses a delinquent from grave sin, such as smallness of matter, imperfection of the act, material cooperation offered from a grave cause, also excuses him from incurring censure, at least before God and in conscience.

Notes

609. C. *Romana ecclesia* 5. *De sententia excommun.* (V. 11) in 6°.

610. Cf. Ballerini-Palmieri VII, n. 78.

611. C. *Ea, quae* 1. *De poenis* (V. 37).

c. For censures are immediately inflicted because of an external sin; wherefore excommunication is not incurred because of a light striking of a cleric, even if he is struck with the intention of gravely injuring him.

One who commits an action prohibited under excommunication in such a way that it is a grave sin only because of a gravely evil intention or from an erroneous conscience does not incur censure, as one who reads a book which he falsely thinks is prohibited under excommunication.

20. External. For a merely internal sin cannot be punished by a censure of a sentence to be passed, because it cannot be proved in judgment; it could indeed be punished by a censure to be incurred by the very fact, but the usage is not in force in the Church of punishing internal sins with censures of a sentence already passed: no one suffers penalty for thought.[612]

An internal sin is one thing, an occult sin, of which only the delinquent has knowledge, is another. The Church can punish occult sins and in fact does punish them, as when, for example, she strikes occult heresy with excommunication; but one who commits merely internal heresy does not fall into excommunication.

21. Consummated, i.e. an attempted act (*der Versuch*) does not suffice, but the act prohibited under penalty must be truly posited and completed in its own genus by the effect following: for penal laws are of strict interpretation; wherefore they are restricted to consummated acts, unless the law itself decrees otherwise.

a. Hence where the violent laying on of hands upon a cleric is prohibited under excommunication, he does not incur the censure who shoots at a cleric without hitting him, because the action prohibited under censure is not posited. Where incest is prohibited under censure, the penalty is not incurred except because of perfect intercourse with a blood-relative or relative by affinity, because by the name incest is signified carnal intercourse with a blood-relative or relative by affinity. Where homicide is prohibited under penalty, he does not incur the censure who inflicts a lethal wound unless death follows, whatever be the cause which prevents death, whether a natural remedy or a miracle, because properly only he commits homicide who brings about death itself.

b. Thus the law itself prohibits under censure not only a duel, but also acts preparatory for a duel, namely provocation and acceptance. These acts, however, must be completed in their own genus in order to induce censure; therefore censure is not incurred if, for example, the provocation from any cause whatever does not reach the offender.

c. One who, after a culpable action has been posited, repents of it before the effect follows, incurs censure and irregularity, because repentance does not prevent the effect which afterward follows from being voluntary. Nor should it be said with St. Alphonsus (n. 40) that he is not punished unless contumacious, and that one is not contumacious who has retracted his evil will through repentance: for the delict which is punished by the Church was truly committed with contumacy, even if it was afterward retracted. Indeed, he is called contumacious who, knowing the penal law of the Church, voluntarily transgresses it; nevertheless he does not incur the censure in fact before the effect has followed. Therefore it can happen that someone through contrition or confession is already immune from the sin because of which he is punished by the Church, when he in fact incurs the penalty itself or censure.[613]

d. Whether the effect which is intended to be prohibited under censure must be completed, if the censure is carried against those mandating or counseling, e.g. homicide or abortion, must be gathered from the

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Notes

612. C. *Cogitationis* 14, d. 1, *De poenit.*

613. Cf. Lugo, who with Suarez defends this opinion (*De poenit.*, disp. 16, n. 445); likewise Ballerini-Palmieri III, n. 350; VII, n. 95.

very words of the law: for if the words of the law chiefly prohibit the effect (homicide, abortion) and only accessorily the mandate or counsel, those mandating or counseling do not incur censure when the effect has not followed; but if the words of the law chiefly prohibit also the mandate itself and counsel, they incur censure even when the effect has not followed, because by the very mandate or counsel the action prohibited under penalty is already posited.

Note. One who doubts whether he has contracted censure can regard himself as immune from it, and the confessor can absolve him. If, for example, someone has given an efficacious remedy for procuring abortion and afterward does not know whether the effect followed or not, he is burdened by censure or immune from it according as the effect in fact followed or did not. Nevertheless the confessor can absolve a penitent of this kind from the sin and from the censure, if it were present in fact, without enjoining the obligation of declaring this sin again if he learns that the effect followed, because in doubt, even of fact, concerning the existence of censure, the Church supplies power.

22. Committed with contumacy: for censures have been instituted for breaking contumacy against the power of the Church threatening the penalty. But he is judged to be contumacious who knows that something is prohibited by the Church under penalty and nevertheless dares to act against the prohibition.

A twofold contumacy against the Church, or contempt of the Church, is distinguished: special, which is committed by a proper and formal act of contempt against the power of the Church and constitutes a special sin; and general, which is implicitly contained in the transgression of ecclesiastical law committed by one who knew that the matter was commanded or prohibited by the Church under penalty. General contumacy suffices for incurring censure, nor is it required that the delinquent in the act of sin, e.g. while he commits a duel, think about the censure, provided he knows it habitually.

Note. These conditions are required in order that censure be present in the internal forum; in order that it also be incurred in the external forum, it is further required that the delict be notorious, and that not only with respect to the fact in itself, but also with respect to the conditions which are necessary for incurring censure. But since the conditions which by their nature are internal, such as knowledge and consent required for grave sin, are rarely notorious by fact, in the external forum someone would rarely have to be considered as bound by censure without a declaratory sentence of the judge, unless the conditions were presumed. But where the delict itself prohibited under censure is notorious, the required conditions, especially knowledge and contumacy, are presumed in the external forum until it is juridically established that the delinquent did not incur the censure, unless only those acting knowingly and rashly are bound by censure by the law: for in this case knowledge of the law and contumacy must be proved even for the external forum.

Hence it can happen that a censure is incurred in the external forum, but is not present in the internal forum. Thus Catholics who, ignorant of the censure, entered marriage before a heretical minister need absolution for the external forum,[614] because knowledge of the censure is presumed in this forum until ignorance is proved before the judge; but in the internal forum they are immune from the censure because of ignorance of it.

Notes

614. Holy Office, May 18, 1892.

Article Five.

On Causes Excusing from Censures.

For incurring censure contumacy is required; therefore whatever either notably diminishes or completely removes contumacy excuses from incurring censure. Now there are chiefly two causes numbered which for this reason excuse from incurring censure: grave fear and ignorance.

23. Fear. a. Grave fear excuses from censure whenever it excuses from observing an ecclesiastical law: for an act which proceeds from grave fear is not committed from contumacy, but rather from the weakness of nature. Moreover, fear of grave harm of itself excuses from the very precept of the Church; but where no sin is committed against the precept of the Church, censure is not incurred, which of itself and primarily is established against injury of an ecclesiastical precept.

a. Namely, an act prohibited under censure is prohibited either by ecclesiastical law alone or at the same time by divine law (natural or positive). If the first, an act posited from fear is not a sin; if the other, an act posited from fear can be a sin against divine law, but is not a sin against the law of the Church, which does not oblige with grave inconvenience.

b. There are a few certain cases in which fear, however grave, does not excuse from observation of ecclesiastical law, especially where violation of the law causes common harm. In these cases, therefore, grave fear, just as it does not excuse from observing ecclesiastical law, so also does not excuse from incurring censure.[615]

c. Just as grave fear excuses from incurring censure, so it also excuses from observing it: for ecclesiastical laws do not oblige with grave inconvenience. Therefore when observation of censure, e.g. of occult excommunication, is joined with fear of grave harm or with grave inconvenience, the excommunicated person can conduct himself as immune from censure.

d. Even light fear excuses from incurring censure, provided the fear is the cause of the prohibited action, if the censure is imposed on those doing it rashly, with rash daring, spontaneously: for in these cases it is required that the prohibited action be posited altogether by one's own movement, not for escaping any evil whatever.

24. Ignorance. a. Ignorance which is not crass always excuses from incurring censure, whether the ignorance is of fact or of law, not only when it is not known that the act is prohibited, but also when only this is not known, that it is prohibited under censure.[616] The reason for the first is that censure supposes fault; but this ignorance (whether antecedent or concomitant) excuses from fault, therefore also from incurring censure. The reason for the second is that one ignorant that a censure is attached to a sinful act is not contumacious against the coercive power of the Church; but censure is inflicted for breaking the contumacy of the delinquent.[617]

a. Several authors (Sanchez, Pirhing, Reuter, Mazzotta, Ballerini) do not call every gravely culpable ignorance crass, but admit gravely culpable ignorance which is not crass: for crass ignorance, so they say, arises not simply from gravely culpable negligence, but from negligence with grave excess. This opinion

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615. Cf. *De principiis* n. 176, where it is explained when grave fear, or grave inconvenience, excuses from the obligation of an affirmative law.

616. C. *Ut animarum* 2. *De constit.* (I. 2) in 6°. Although in this chapter there is speech only about censures of ordinaries, nevertheless by right and deservedly the principle established in it is extended also to papal censures.

617. In the external forum knowledge of the censure is presumed; therefore, in order that ignorance excuse from incurring censure in the external forum, it must be proved.

is probable and therefore licit in practice. But since it is very difficult to distinguish between culpable ignorance from grave negligence and culpable ignorance from grave negligence with excess, practically it can be established that only ignorance which is not gravely culpable always excuses from incurring censure.

b. Therefore ignorance both of law and of fact excuses from incurring censure, and it also excuses when the delinquent indeed knows that the action is prohibited by divine law, whether natural or positive, but does not know that the same is prohibited under ecclesiastical censure.

c. Ignorance is gravely culpable in him who does not know what he ought to know by reason of office; therefore lay persons are always excused from incurring censures which they do not know; not likewise clerics, who ought to know them by reason of office, unless it can be affirmed that their negligence in learning censures was not grave, or at least was not grave with excess.

d. Sometimes even crass ignorance excuses from incurring censure, namely if the law imposing censure does not speak absolutely and simply (whoever shall have committed this, let him be excommunicated), but if the censure is carried against those who have sinned rashly, with rash daring, by presumption, knowingly, deliberately.

e. Indeed if the law for incurring censure requires that the sin have been committed knowingly or deliberately, even affected ignorance excuses from incurring censure: for one who acts with any ignorance whatever certainly does not act knowingly. Therefore, although one who acts with such ignorance sins gravely against the precept, nevertheless he does not incur censure, since the law itself requires certain and formal knowledge for incurring censure.

But if someone knows the law and the penalty imposed, but does not know that the penalty is reserved, there are a few certain doctors who think that the reservation of the censure ceases because of this ignorance: for reservation is added to censure in the manner of a penalty; but ignorance excuses from incurring a penalty and therefore from incurring a reservation. But authors commonly teach that this ignorance does not bring it about that the censure is not reserved. For ignorance would excuse because the Church does not wish to subject the ignorant to an extraordinary penalty; but reservation, once the censure has been contracted, is not something extraordinary which is added to the censure, but rather that which naturally follows it, unless the legislator from kindness has made absolution easier.[618]

Note. a. Forgetfulness and inadvertence of the censure are equivalent to ignorance, because one who in no way adverts to the law cannot be called contumacious against it.

b. Censures, especially by the more unlearned, are rarely incurred because of ignorance until they have been admonished about the matter.

25. Whether ignorance excuses from incurring a vindicative penalty. A vindicative penalty, since it is not inflicted for correcting the contumacy of the guilty person, but for punishing his crime, is incurred even by those ignorant, not indeed of the law, but of the annexed penalty, unless this penalty is extraordinary.

For incurring a vindicative penalty knowledge of the penalty is not required if this is ordinary: for natural reason understands that a delict by its nature is to be punished. But if the penalty is extraordinary and exorbitant, knowledge of the penalty is required in order that it be incurred. Namely, for incurring a penalty there is not indeed required consent to the penalty, but nevertheless consent to the cause of the penalty is required; now, one committing a delict by this very fact implicitly consents to the cause of the

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618. Lehmkuhl II, n. 866.

ordinary penalty, but does not consent even implicitly to the cause of an extraordinary penalty, since he in no way knows it. Now all vindicative penalties of a sentence already passed are judged extraordinary and exorbitant.

Article Six.

On Absolution from Censures.

26. On absolution itself. 1. A censure once contracted cannot be taken away except through absolution conceded by a legitimate superior.[619]

a. Censure is not taken away through the amendment of the guilty person, nor through the death or removal of the one imposing the censure, nor through the death of the censured person, who, even if he has died contrite, is deprived of the suffrages of the Church and ecclesiastical burial unless he has been absolved; for censure once inflicted remains until it is taken away through absolution.

b. Hence an excommunicated person who elicits an act of contrition is in the state of grace, but nevertheless remains excommunicated and deprived of the communion of the Church. Therefore, although fault is required for incurring censure, the penalty can nevertheless remain after the fault has been remitted.

2. Absolution of censure is remission of the penalty made by a legitimate superior.

It differs from dispensation, because absolution is an act of justice, which is owed to him who has laid aside contumacy and has offered satisfaction, if any was needed; but dispensation, by which someone is exempted from a common law, is an act of grace, which can be denied even to one disposed. Moreover, for granting absolution validly and licitly, besides the disposition of the guilty person, no other cause is required; for granting dispensation validly or at least licitly, a just cause is required. Medicinal penalties are taken away by absolution, vindicative penalties by dispensation.

27. Absolution from censures can be conceded in manifold ways:

a. In the internal forum, which of itself takes away the effects of censure for the internal forum alone.

b. In the external forum, which takes away the effects of censure also for the internal forum.

c. Absolution to re-incidence, or under penalty of re-incidence, is absolution conceded under a determined condition, so that if this is not fulfilled the same censure is again incurred by the very fact.

The censure into which the absolved person falls back is of the same species, but new and distinct in number; wherefore one cannot add the penalty of re-incidence to absolution unless he has the power of imposing censures. For re-incidence there is required new fault and contumacy, and for its removal a new absolution.

d. Absolution for caution is given when it is unknown or doubted whether someone is in fact bound by censure. Of this kind is the absolution which is given in the sacrament of penance before absolution from sins.

e. Absolution for an effect is sometimes conceded in pontifical rescripts, and tends to this, that censure not impede the effect of obtaining the grace conceded, while with respect to other effects the censure remains. Thus spouses in rescripts of dispensation are absolved from censures, that they may certainly become participants in the dispensation.[620]

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619. C. *Quum desideres* 15. C. *A nobis* 28. *De sentent. excom.* (V. 39).

f. Absolution can be given absolutely or conditionally, and indeed under a condition concerning the past, concerning the present, and concerning the future. Generally it is not licit to use a condition concerning the past or concerning the present; but a condition concerning the future (e.g. I absolve you if within a month you shall have restored) is licit from a grave cause.

28. Who can absolve. 1. From reserved censures only he can absolve who imposed them, his superior, his successor in office, and the delegate of these; for to absolve belongs to the same one to whom it belongs to bind.

It must be noted that censures carried by man by way of precept, or through particular sentence, are reckoned among reserved censures; on the contrary, censures carried by man by way of statute, or through general sentence, are reckoned among non-reserved censures.

2. From non-reserved censures any confessor can absolve, both for the internal forum and for the external forum.[621] The confessor can grant this absolution both within and outside confession. Nevertheless, in order that one notoriously censured may publicly use the absolution, for preventing scandal it is required that the granted absolution be publicly established.

Concerning absolution from censures, whether reserved or non-reserved, which is granted to strangers, the same must be said as is established concerning absolution from sins in the treatise on the sacrament of penance.[622]

3. In the article of death any priest, even one not approved, indeed even when an approved or privileged one is present, can absolve from all censures, even reserved ones.[623]

One who in the article of death is absolved from censures reserved to the Roman pontiff is not bound to present himself to the superior if he recovers, if he was absolved from censures simply reserved.[624] But if he was absolved from censures reserved in a special mode, under grave sin and under penalty of re-incidence he must present himself to the superior, i.e. either by himself or through the confessor he must have recourse to the holy see and stand by its mandates, or seek a new absolution from one having the power of absolving.[625]

4. In more urgent cases any confessor can give absolution from censures reserved to the pope, yet under this condition, that the absolved person, under penalty of re-incidence into the same censures, within a month by letter or through the confessor have recourse to the holy see.[626]

29. On absolution in occult cases. Bishops have the faculty of absolving in the internal forum, even outside the sacrament, any delinquents subject to themselves from censures contracted from an occult delict and reserved to the Roman pontiff simply, but not in a special mode.

a. The terms occult and public have a different sense in diverse matters. Where matrimonial impediments are concerned, they are understood more strictly;[627] where crimes are concerned, a little more broadly.[628]

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620. The form of this absolution, which is accustomed to be appended to pontifical rescripts, is this: "We therefore, absolving the same N. N. from any excommunications … if he in any way exists bound by them, for the sole effect of obtaining the present things, and judging him to be absolved."

621. C. *Nuper* 29. *De sentent. excom.* (V. 39).

622. Cf. *De sacramentis*^3 n. 349, 378.

623. Council of Trent, sess. 14, c. 7.

624. Holy Office, June 17, 1891.

625. Holy Office, August 19, 1891.

626. Holy Office, June 23, 1886. Cf. *De sacramentis*^3 n. 381.

b. A crime can be occult in two ways: materially, namely when the fact itself is unknown, e.g. entrance into enclosure; or formally, if the fact is known, but either is thought to have been done rightly, e.g. entrance from permission (error of fact), or the attached censure is unknown (error of law). Now a bishop can absolve not only if the crime is materially occult, but also if it is only formally occult; and indeed if there is error of fact, all concede this; if there is error of law, it is commonly admitted.

1. This faculty is conceded to bishops by the Council of Trent in the celebrated chapter *Liceat*,[629] and the same is confirmed and restricted to simply reserved cases by the Pian constitution *Apostolicae sedis*.[630]

But besides this faculty conceded in law, bishops are accustomed to receive from the holy see, for a time, the faculty of absolving either by themselves or through others even from cases reserved in a special mode, whether they are occult or public. In practice, therefore, the faculty of absolving from papal cases will almost always be able to be obtained from the bishop.

2. Regular prelates, by the constitution *Apostolicae sedis*, lack a perpetual faculty of absolving from papal cases not only seculars but also their own subjects;[631] nevertheless this power is accustomed to be conceded to them for a time.

Regular prelates can absolve their own subjects from censures which by pontifical law are reserved to bishops.

3. Although Trent does not concede to bishops the power of absolving except with respect to their own subjects, nevertheless from universal custom they can absolve even subjects of others, or strangers, by power conceded by the tacit consent of the bishop of the strangers.[632]

4. From c. *Liceat*, bishops can absolve their own subjects from occult cases in the forum of conscience. Now these words do not signify that this must be done in sacramental confession, but that the absolution of itself avails only for the internal forum.

30. On the conditions required for absolving. 1. Someone can be absolved from censure even absent and unwilling; nevertheless it is fitting that absolution be given only to one present and asking.

Just as one absent can be struck by censures through letters, so also he can be absolved from censures; nevertheless the presence of the censured person conduces more both to reverence for censures and to the humiliation of the censured person himself; therefore it is conceded to one absent only from a reasonable cause.

2. The conditions to be fulfilled by the censured person are generally accustomed to be expressed by these words: those things having been enjoined which must be enjoined by law; but in particular there must be enjoined:

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627. Cf. *De sacramentis*^3 n. 619.

628. Cf. above n. 10 and *De praeceptis*^3 n. 649.

629. Sess. 24, c. 6, *De reform.*

630. "Nevertheless we will that the faculty of absolving conceded to bishops by the Tridentine synod remain firm in any censures reserved to the apostolic see by this our constitution, excepting only those which we have declared reserved to the same apostolic see in a special mode."

631. Sacred Penitentiary, December 5, 1873.

632. Cf. *De sacramentis*^3 n. 378.

a. That he satisfy the injured party, if he injured any (by revocation, restitution, petition for pardon), or if he cannot satisfy, that he at least promise that he will satisfy as soon as he can, unless the injured party has remitted the injury or the guilty person is unable to satisfy.

b. That he repair scandal, if any was given, which is necessary by divine law. But scandal must be repaired in the better way in which it can be done, according to the prudent judgment of the ordinary or confessor.

c. That a salutary penance be imposed besides the sacramental penance.

3. For validly absolving from censure a determined formula of words is not required, but the will of the superior manifested by a sensible sign suffices, whether this is done by words or in writing or by another sign.

For licitly absolving in the internal forum, whether sacramental or extra-sacramental, from the prescription of the Roman Ritual the formula which is had in the very form of sacramental absolution is to be used;[633] but in the external forum, from the prescription of law, the form which is had in the Roman Ritual or Pontifical is to be used.[634]

31. On whether absolution from censure is to be given in the internal or external forum. In practice a difficulty not rarely arises whether absolution must be conceded for the external forum or whether it suffices for the internal forum. A censure carried by man through condemnatory sentence certainly needs absolution for the external forum; concerning a censure of a sentence already passed, these things must be held:

1. If a censure of a sentence already passed was contracted in the internal forum alone, absolution for the internal forum suffices.

If the delict is occult, the censure pertains to the internal forum and it is treated in the internal forum alone. Both a delict which became public neither by law nor by fact, and a delict which in the place where the guilty person is now staying neither is nor will be known, even if in another place it is known by fact, are judged occult.

2. If a censure of a sentence already passed was contracted in the external forum, absolution for the external forum is required.

Only if the censure is not reserved does absolution for the internal forum suffice, even if the censure is notorious, provided the absolution conceded is publicly established.

3. Absolution conceded for the external forum avails also for the internal forum; but absolution for the internal forum of itself does not avail for the external forum. Nevertheless an ecclesiastical judge can recognize it also for the external forum if the absolution conceded is publicly established.

That the absolution conceded is publicly established is judged if it is publicly known that the censured person has confessed and has offered due satisfaction, if any was necessary.

Article Seven.

On Censures Now in Force.

32. Censures now in force. 1. At every time the Church has used the power of inflicting censures because

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633. *Roman Ritual*, tit. III, c. 3, n. 8.

634. C. *A nobis* 28. *De sentent. excom.* (V. 39).

of certain graver crimes, but especially because of the crime of heresy.[635] The mode by which she imposed censures was diverse in diverse times; nevertheless she more frequently used excommunications, of which the first, by common law and reserved to the Roman pontiff, was established by the Second Lateran Council (1139), to which in the course of time several others were added. All these, collected in the form of a bull by the will of the Roman pontiffs, were promulgated every year at Rome in the churches on certain days, especially on Maundy Thursday. Their collection is therefore called the Bull *In Coena Domini*, which in the passage of time, by the care of the Roman pontiffs, was increased up to twenty censures. Besides the censures which were contained in the Bull *In Coena*, several others were in force, both those carried by pontifical constitutions and those carried by the Council of Trent. Since the number of censures was growing too much, and some of them, with morals and times changed, seemed less useful, by Pius IX, through the constitution *Apostolicae sedis* of October 12, 1869, very many censures of a sentence already passed having been abrogated, the most recent law was established with respect to ecclesiastical censures. Wherefore today by common law only those censures of a sentence already passed are in force which are directly or indirectly contained in this constitution, and those which were added to them after its promulgation. But all censures which are contained clearly and certainly in this constitution receive full force of obliging through it, even if before its promulgation they perhaps had fallen into desuetude.

The Pian constitution, which treats only censures, and those of a sentence already passed, changed nothing with respect to censures of a sentence to be passed, nor with respect to censures carried by private law, such as censures carried by bishops or by prelates of regulars against their own subjects, nor with respect to irregularities or other ecclesiastical penalties, nor with respect to ecclesiastical laws. Therefore if by this constitution the censure has been removed from some law, the law itself retains the force of obliging.

2. The censures now in force are:

a. Censures inflicted in express words in the bull itself.

b. Censures inflicted by the Council of Trent and confirmed by this constitution.

It is the common opinion of interpreters that from this constitution only those Tridentine censures have force which the Council of Trent then first inflicted, but not those which Trent only renewed and confirmed from the old law. For the words which the supreme pontiff uses in this constitution designate those censures alone.

c. Censures previously in force and not changed by this constitution from the constitutions: a. for the election of the Roman pontiff; b. for the internal governance of any orders and regular institutes.

d. Censures which were carried after the constitution *Apostolicae sedis*.

Question Two.

On Excommunication.

Article One.

On Excommunication in General.

33. Notion. Excommunication is a censure by which a Christian man is deprived of communion with the faithful.

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635. Cf. 1 Cor. 5, 1-5. Kober, *Der Kirchenbann*, p. 15 ff. Hausmann, *Geschichte der papstlichen Reservatfalle* (Regensburg: Pustet, 1868), p. 21 ff.

a. There is a threefold communication of the faithful: a. merely internal, consisting in faith and charity, by which the faithful are mystically united among themselves and with Christ; b. merely external (in civil matters), which consists in external profane actions, namely in the common life, conversation, commerce, etc., of the faithful; c. mixed (in divine matters), consisting in external religious actions which by their institution produce internal spiritual fruit, such as the administration and reception of the sacraments, the suffrages of the Church, which in the sacrifice of the Mass and in other public offices are founded for all the faithful, indulgences. Now the Church deprives no one of the communion of merely internal goods, nor can she deprive anyone of it; but she can deprive a disobedient and contumacious man of external and mixed communion, and in fact deprives him of it through excommunication.

b. Excommunication is the gravest of all ecclesiastical penalties, than which there is none greater in the Church: for since it deprives one of all the goods of the Church, it virtually contains in itself the other censures, which deprive one of the same goods only partially. Therefore the Council of Trent admonishes ecclesiastical judges not to use this penalty unless when no other remedy remains.[636]

c. By the name anathema there is designated either excommunication itself, or excommunication inflicted because of heresy or suspicion of it, or excommunication which is denounced against the excommunicated person with a certain extraordinary solemnity.[637]

34. Division of excommunication. Excommunication was previously divided, from its effect, into greater and lesser; the former deprived one of all common goods, the latter only of part, namely reception of the sacraments and passive election to dignities and benefices. But now, lesser excommunication having been removed by the constitution *Apostolicae sedis*, only greater excommunication is in force.[638]

Lesser excommunication was formerly incurred by those who, against the prohibition of the Church, communicated with an excommunicated person to be avoided. Those communicating with an excommunicated person to be avoided today fall into greater excommunication, but only in those cases which are expressly indicated in the constitution *Apostolicae sedis*.

35. Distinction among excommunicated persons. Some excommunicated persons are to be avoided, whom the faithful are bound to avoid; others are tolerated, whom the faithful are not bound to avoid. This distinction, taken from the chief effect of greater excommunication, must still be attended to today.

a. In antiquity all persons excommunicated by greater excommunication were to be avoided. In the Council of Constance the constitution *Ad evitanda* was issued, confirmed by Martin V and afterward by Leo X, which a. removes the prohibition of communicating with excommunicated persons, with three cases excepted, yet b. does not intend to relieve the excommunicated persons themselves in anything or in any way to favor them, but to avoid scandals and many dangers and to aid the consciences of the faithful.

b. Therefore not only is it prohibited to excommunicated persons to be avoided to communicate with the rest of the faithful, but there also lies upon the faithful an obligation in conscience of omitting commerce with excommunicated persons to be avoided. But with respect to tolerated persons, they indeed are bound to abstain from commerce with the rest of the faithful in divine matters; however, the faithful can licitly communicate with them both in divine and in human matters. But if the excommunicated persons have been anticipated by the faithful, they too can licitly communicate even in divine matters.

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636. Sess. 25, c. 3, *De reform.*

637. Cf. C. *Debent* 106, c. 11, q. 3, where the mode and form of solemn excommunication is described.

638. Holy Office, December 5, 1883. Cf. *Acta sanctae sedis* XVII, p. 555.

c. Therefore by reason of excommunication, sacraments can licitly be asked from an excommunicated person (tolerated) even without necessity; but from another reason it can happen that sacraments cannot be asked from him without necessity, namely if he is in sin.

36. Who are to be avoided. Therefore, from the new law introduced through the Council of Constance, excommunicated persons to be avoided are:

1. Those excommunicated by name and publicly, whether by the Roman pontiff or by a bishop.
2. Those who by name and publicly have been denounced as excommunicated by the pope or by a bishop, namely where it concerns a censure of a sentence already passed.

a. By name, i.e. by an expressed name or by another title which certainly designates the person and therefore is equivalent to a name, e.g. we excommunicate the dean of this place.

b. Publicly, i.e. in the mode by which promulgation of law is made, either by affixing the name in a public place or by reading it in church at the time of Mass or sermon, etc.

c. Therefore we licitly communicate with heretics and schismatics who, because of their heresy, have been excommunicated and denounced publicly as such, because they have not been excommunicated and denounced by name.

3. Notorious strikers of clerics, even if they have not been denounced as excommunicated.

But in order that a striking inducing censure be notorious, notoriety of fact does not suffice; rather, notoriety of law is also required, i.e. that the crime be known by sentence of a judge or by confession of the guilty person in judgment (n. 10).[639]

Article Two.

On the Effects of Excommunication.

37. Some effects of excommunication are immediate, others mediate; nevertheless all these effects affect only those to be avoided. The immediate effects, by which the excommunicated are deprived of almost all rights which belong to members of the Church, are numbered as nine: excommunication deprives one of the passive use of the sacraments, the active use of the sacraments, the use of divine offices, the common suffrages of the Church, ecclesiastical jurisdiction, capacity for acquiring a benefice, ecclesiastical burial, forensic communication, and civil communication.

38. 1. It deprives one of the reception (passive use) of the sacraments.

a. An excommunicated person, whether tolerated or to be avoided, validly receives the sacraments, even penance: for the Church cannot render the excommunicated person unable validly to receive the sacraments.

b. If an excommunicated person approaches the sacrament of penance in bad faith, the absolution is invalid not because of the censure but because of defect of disposition; but if he approaches in good faith, the sacrament of penance is valid; for the confessor is not deprived of jurisdiction even if knowingly he absolves an excommunicated person, and the penitent is not incapable of absolution, even if the excommunication is reserved; nevertheless, with sins remitted, the excommunication remains, if it is reserved.[640]

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639. Holy Office, January 9, 1884. Cf. St. Alphonsus n. 144.

640. Ballerini-Palmieri VII, n. 245 f.

c. The use of sacramentals is not prohibited to the excommunicated, but the prayers of the Church do not assist excommunicated persons using them: therefore they lack the fruit which comes from the prayers of the Church.

d. But neither an excommunicated tolerated person nor one to be avoided licitly receives the sacraments; wherefore one receiving them sins gravely, unless ignorance or fear of grave harm, whether spiritual or temporal, excuses.

e. Therefore an excommunicated person without an excusing cause can licitly receive no sacrament (not even penance), but when an excusing cause exists he can licitly receive all the sacraments (even the Eucharist).

f. From these things it is clear that not only can sacraments not be administered to excommunicated persons to be avoided before they have been absolved from excommunication, but neither to heretics or schismatics who, after the use of reason, publicly lived in a heretical or schismatic sect, before they have abjured heresy and professed the true faith.

39. 2. It deprives one of the administration (active use) of the sacraments, i.e. an excommunicated person, whether tolerated or to be avoided, cannot licitly administer the sacraments, and one to be avoided cannot even validly administer penance, because he lacks jurisdiction.

a. An excommunicated person to be avoided always administers the sacraments illicitly, unless someone is in the article of death and no other priest is present who may administer the sacraments to him (for in this case the Church supplies jurisdiction for the utility of the faithful), or unless he himself would suffer grave inconvenience, because the Church does not oblige with so great an inconvenience (danger of death, infamy, grave loss of goods).

In a case of necessity he licitly administers not only baptism and penance, but also the Eucharist and extreme unction, lest the dying person be deprived of so great a help. A parish priest to be avoided assists at marriage illicitly, but can licitly delegate another to assist.

b. An excommunicated tolerated person administers the sacraments illicitly if he, not asked, thrusts himself of his own accord into the administration; but if he is asked by the faithful, by reason of excommunication he licitly administers the sacraments, though he does this illicitly if he is in a state of sin.

Therefore when asked, indeed even rightly presuming that the faithful would ask (as if on a feast day there were not another priest present who would celebrate Mass), he can celebrate Mass. Nor do the faithful need a special reason in order to ask the sacraments from him, because communication with tolerated persons has been permitted to them.[641]

40. 3. It deprives one of the use of divine offices, i.e. an excommunicated person, whether tolerated or to be avoided, is prohibited under grave sin from attending divine offices in a notable part, unless the necessity of avoiding scandal or another grave inconvenience excuses.

a. Divine offices are to be understood as those which are performed by clerics as ministers of the Church, such as the sacrifice of the Mass, public prayer, procession, the chanting of hours, blessings which are publicly and solemnly done in church, such as the blessing of oil, candles, palms, the obsequies of the dead, etc.; but not those things which are done by private devotion, such as to pray, to venerate images or relics, etc.

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641. St. Alphonsus n. 169.

b. Therefore an excommunicated person to be avoided can enter a church at a time when divine offices are not being celebrated and pray there privately, whether separately in a distinct place or even in the same place with others: for by praying privately he does not communicate with others. A priest to be avoided can recite the divine office privately and therefore is also bound to recite it; he can attend a sermon, etc.

c. Not only does an excommunicated person who attends divine offices sin, but also the other faithful who communicate with an excommunicated person to be avoided by assisting at the same divine office, e.g. the same Mass, commit sin, and indeed grave sin in grave matter.

d. This prohibition of itself affects a tolerated person and one to be avoided in an equal mode; but with respect to tolerated persons it seems today to have gone into desuetude. And indeed tolerated excommunicated persons assisting at divine offices do not think that they sin, nor do ecclesiastical superiors urge this prohibition; thus neither Freemasons nor heretics are prohibited from assisting at sacred rites.[642]

e. If an excommunicated person to be avoided attends a divine office, he must be admonished to leave; and if, after being admonished, he does not withdraw from the church, clerics are bound with the aid of lay persons to expel him if they can; if they cannot, then the faithful departing, they are bound to cease from the office.

If an excommunicated person to be avoided assists at Mass and cannot be expelled, the priest, the canon not yet having been begun, must break off the Mass; if he has already begun the canon, he can either break off the Mass or, the rest departing, continue it. If he has already consecrated, with the minister alone remaining, he must continue the sacrifice up to communion and complete the rest either in the sacristy or in another fitting place.

41. 4. It deprives one of the common suffrages of the Church.[643]

1. Common and private suffrages are distinguished. Common or public suffrages are those which are done in the name of the Church by her ministers; private suffrages are those which are done in the proper name of the faithful. Therefore excommunicated persons, even if they are in the state of grace, are deprived of the fruits which come to the faithful from the sacrifice of the Mass, from recitation of the office, from the public prayers of the Church, and from indulgences. But private prayers can be made even for the excommunicated, and good works can be given to them.

2. Whether only those to be avoided or also tolerated persons are deprived of these suffrages is greatly disputed. The question, which chiefly refers to the sacrifice of the Mass and its application, seems to be solved in this way: occult tolerated excommunicated persons, who do not publicly adhere to a non-Catholic sect, are no longer deprived of the suffrages of the Church, from the time when it was conceded to the faithful to communicate with them even in divine matters; but public tolerated excommunicated persons, who publicly adhere to a non-Catholic sect (heretics and schismatics), are deprived of them.[644]

42. 5. It deprives one of ecclesiastical jurisdiction, whose exercise indeed is a principal communication with the faithful.

An excommunicated person to be avoided exercises acts of jurisdiction illicitly and invalidly, except in the cases enumerated above (n. 39); but an excommunicated tolerated person, even a notorious one, exercises

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Notes

642. D'Annibale I, n. 362, note 19; Ballerini-Palmieri VII, n. 259.

643. Cf. C. *Si quem* 59. C. *Sacris* 38. *De sententia excom.* (V. 39).

644. Cf. *De sacramentis*^3 n. 176.

them validly, though he acts illicitly unless from a grave cause or when asked he exercises acts of jurisdiction.

a. Even an excommunicated person to be avoided validly assists at marriage, because this assistance is not an act of jurisdiction; likewise he validly gives another priest the power of assisting at marriage, because the concession of this power likewise is not an act of jurisdiction.

b. An excommunicated prelate validly receives a religious profession, because admission of profession is not properly an act of jurisdiction, but is the use of superiority which belongs to a prelate by reason of his office; otherwise neither a layman nor a woman could admit profession.[645]

43. 6. It deprives one of capacity for acquiring a benefice.

a. Hence the conferral of a benefice made to an excommunicated person, whether to be avoided or tolerated, is null, as are presentation, election, institution, confirmation: for an excommunicated person, even a tolerated one, cannot exercise an office, because he cannot communicate in office; but a benefice is given because of an office.

b. An excommunicated person likewise is by the law itself unable to obtain any rescripts of the holy see, whether of grace or of justice, which therefore will be null.[646] Nevertheless if they have been conceded knowingly to an excommunicated person, or with absolution from censures premised, as is accustomed to happen, they are valid; this must also be understood of the conferral of a benefice, if absolution from censures is contained in it.

c. Therefore if a dispensation from an impediment of marriage is sought for an excommunicated person, the rescript of dispensation of the holy see (not likewise the rescript of dispensation of the bishop), whether it is conceded in gracious form or in commissory form, is null by the law itself. Now, for guarding against this nullity in apostolic rescripts, absolution from excommunication for the effect is accustomed to be appended (n. 27.e).

d. If this absolution in commissory form is committed to the delegate himself, the petitioner must first be absolved and afterward dispensed, in order that the dispensation be valid. This absolution does not take away the censure, but only one effect of the censure, while the censure itself remains with the other effects.

44. 7. It deprives one of ecclesiastical burial, so that not even an excommunicated tolerated person, unless he is occult, can be buried in a sacred place; and if he has been buried in a sacred place, he must be taken out from there. Nevertheless there is a twofold distinction in this matter between one to be avoided and one tolerated:

a. If each gave signs of penance before death, the tolerated person can be buried in a sacred place, even if he is not absolved from excommunication; but it is fitting that he first be absolved. But one to be avoided cannot be buried in a sacred place unless he is first absolved.

b. If a tolerated person has been buried in a sacred place, he must be exhumed, but the sacred place is not thereby polluted; but if one to be avoided has been buried in a sacred place, he must be exhumed, and the sacred place is thereby polluted and needs expiation.

Notes

645. Cf. Schmalzgrueber n. 167 ff.

646. C. *Dilectus* 26. *De rescriptis* (I. 3). C. *Ipso iure* 1. *De rescriptis* (I. 3) in 6°.

To the question how a parish priest ought to conduct himself if someone bound by censure has died, so that for this reason he ought to lack ecclesiastical burial, but if, by grave threats, obsequies and ecclesiastical burial itself are obstinately demanded, the Sacred Penitentiary responded on December 15, 1860: care must be taken that all things be done according to the norm of the sacred canons; but insofar as this cannot be obtained without danger of disturbances and scandal, the parish priest should in no way concur, either by himself or through other priests, in the obsequies and burial.[647]

45. 8. It deprives one of forensic communication, or of every act pertaining to judgment, both in the ecclesiastical forum and in the civil forum. But in the civil forum this privation is no longer in force; in the ecclesiastical forum, however, an excommunicated person cannot be a judge, advocate, witness, tutor, executor of a will, etc.

Nevertheless the distinction between a tolerated person and one to be avoided must be attended to. A tolerated person acts not only validly, but also licitly if he is required; but one to be avoided always acts illicitly, indeed even the sentence of a judge to be avoided is invalid, because he lacks jurisdiction.

46. 9. It deprives one of civil communication, so that an excommunicated person of himself can neither contract with the rest of the faithful, nor have commerce, nor cohabit, nor converse familiarly, nor can the faithful do so with him.

An excommunicated tolerated person indeed cannot communicate with the faithful in divine and forensic matters unless he is required; but in civil matters from today's custom he can communicate even when not required[648] (n. 35). Indeed, to recent authors (Lehmkuhl, Ballerini), this penalty even with respect to those to be avoided seems to have gone into desuetude. And indeed the causes excusing from this penalty, which are admitted by ancient authors, today have become so common that they exist for almost every excommunicated person; but a law ceases which now cannot commonly be observed, even if it can still be observed by some particular person.

47. Excusing causes, on account of which it is licit to communicate with one to be avoided in civil matters, are contained in this little verse:

Useful, law, humble, thing unknown, necessary;

These five loose anathema, lest it be able to harm.

a. Useful signifies the spiritual or temporal utility of the one communicating, of the excommunicated person, or of a third person, which cannot otherwise conveniently be procured.

Therefore it is licit to exact a debt from one to be avoided, to ask alms, to employ him as physician or advocate if another equally suitable cannot be had, to give him salutary counsels, etc.

b. Law signifies marriage, by force of which spouses, one or the other of whom is to be avoided, can communicate mutually, not only with respect to the conjugal debt, but also with respect to cohabitation, table, and domestic conversation.

c. Humble signifies subjection; therefore children can communicate with parents, servants with masters, subjects with superiors to be avoided.

Notes

647. Cf. *Acta sanctae sedis* I, p. 563, n. 21.

648. Sacred Penitentiary, July 5, 1867.

d. Thing unknown signifies ignorance whether of law or of fact, provided it is not affected. In order that someone be prohibited from communicating with one to be avoided, he must know not only that the person is excommunicated, but also that he is to be avoided.

e. Necessary signifies any notable necessity, whether spiritual or corporal, of the one communicating, of the one to be avoided, or of a third person.

Note. This excusing cause is already contained in the first, except that according to the mind of some authors the temporal utility alone of one to be avoided does not excuse, but necessity is required; and therefore this fifth cause of temporal necessity has been added.

48. Mediate effects of excommunication are called those which arise not from excommunication itself, but from fault committed by the excommunicated person because of the excommunication. Three effects of this kind are chiefly numbered:

a. Irregularity, which arises from violation of the censure: for an excommunicated person who culpably exercises an act of sacred order becomes irregular.

b. Suspicion of heresy; one who through a whole year becomes filthy in excommunication, or persists contumaciously, incurs suspicion of heresy, because he is presumed to think badly concerning the power of the Church and concerning the sacraments, whose reception he omits.[649]

c. Privation of benefices, namely he who for a year perseveres contumaciously in excommunication must be deprived of ecclesiastical benefices, if the crime because of which he has been excommunicated deserves a privation of this kind.

49. What kind of sin it is to communicate with an excommunicated person. a. To communicate with an excommunicated person in divine matters is mortal, unless smallness of matter excuses.

b. To communicate with an excommunicated person in civil matters, even without a just cause, of itself does not exceed venial sin. Today, however, as is noted above (n. 46), it lacks all sin.

c. To communicate with an excommunicated person in criminal crime is a mortal sin. He is said to communicate with an excommunicated person in criminal crime who communicates with him in that very crime because of which he is excommunicated, by furnishing help or favor to him.

Thus if someone furnished help or favor to a person excommunicated because of retention of an ecclesiastical good, lest he restore the good of the Church, he would communicate with him in criminal crime.

Note. The constitution *Apostolicae sedis* itself divides the excommunications now in force into four series, the first of which contains excommunications reserved in a special mode to the Roman pontiff, the second excommunications reserved in an ordinary mode to the Roman pontiff, the third excommunications reserved to bishops, the fourth excommunications reserved to no one. The individual ones will be explained in this order, yet in such a way that those which more rarely occur will be explained briefly, and those which are more easily contracted by the faithful with a fuller pen.

Notes

649. Council of Trent, sess. 25, c. 3, *De reform.*

Article Three.

On Excommunications Reserved in a Special Mode.

To the first series belong thirteen excommunications, of which twelve are contained in the bull *Apostolicae sedis*, but one was afterward added from the constitution *Romanus pontifex*. The first twelve, with the tenth excepted, are taken from the Bull *In Coena*.

§ 1. From the Constitution *Apostolicae sedis*

Therefore the Pian constitution declares subject to excommunication of a sentence already passed, reserved in a special mode to the Roman pontiff:

First excommunication. All apostates from the Christian faith and all and singular heretics, by whatever name they are reckoned and of whatever sect they exist, and those believing them, and their receivers, favorers, and generally any defenders of them.

50. A twofold genus of persons is struck by this censure: a. those who defect from the faith previously received: apostates, heretics, those believing heretics; b. those who in some way become participants in this crime, yet do not properly commit it: receivers, favorers, defenders.

Those defecting from the faith. 1. Apostates are called those who defect totally from the Christian faith received through baptism, so that they no longer wish to be numbered among Catholics.[650] For incurring excommunication it is required that the internal defection from the faith manifest itself externally; but it makes no difference whether the apostate passes over to another religious sect, to Judaism, paganism, Mohammedanism, or indeed professes no religious worship, as atheists, deists, indifferentists, materialists, naturalists, pantheists, freethinkers.

Those who deny either the existence or the possibility of Christian revelation are apostates from the Christian faith and incur this excommunication. Those are not apostates who, following practical indifferentism, utterly neglect the duties of the Christian religion, because externally they do not defect from the Christian religion, but still wish to be counted among Catholics.

2. Heretics are called Christian men who voluntarily and pertinaciously deny (or call into doubt) a truth of faith proposed by the Church. For incurring excommunication it is required that the heresy conceived internally be manifested externally by some sign, whether by word or by deed or by writing, even with no one present or hearing. But it is not required that the heretic join himself to some sect of heretics, such as Protestants, schismatics erring in faith, Jansenists, anti-infallibilists or Old Catholics.

a. He also incurs this excommunication who exercises heretical superstition, as one who attempts to divine, through turning tables, spiritism, and magical arts of this kind, secrets of hearts or future free actions of men known to God alone, provided he adverts to the heresy implicit in this deed.[651]

b. Not all concede that he incurs excommunication who positively doubts concerning the truth of faith, "because," as Struggl says, "such a one does not have heresy plainly consummated and perfect."[652]

c. Because only those incur this censure who have committed formal heresy, it is clear that it can happen that several who have been educated in heresy are, because of their good faith, immune from excommunication. But if they return to the Catholic faith, in the external forum they are absolved from

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650. Cf. *De praeceptis*^3 n. 28.

651. D'Annibale, *Commentar. in const. Ap. sedis* n. 31.

652. *Theol. mor.*, tr. 4, q. 2, n. 12.

excommunication because they are subject to a censure notorious by law; but in the internal forum those do not need absolution who are established to have been in good faith.

3. Those believing apostates or heretics are understood to be those who implicitly assent to their errors by some external sign, even if they neither join themselves to their sect nor have their doctrine viewed in particular; as if someone says of another, whom he knows to be a heretic, that he believes whatever that person believes, although he does not know his errors; or if someone, with the intention of assenting to his errors, hears the reading or sermon of some heretic.[653]

Not all interpret this clause so that even those are subject to censure who profess heresy only implicitly; but some understand by this term Catholics who commit the crime of heresy, yet do not adhere to a non-Catholic sect. Practically it makes no difference which sense is admitted, because each group incurs excommunication either under the name of heretics or under the name of believers.

51. Those cooperating with them. In order that those who cooperate with heretics or apostates incur excommunication, there is required participation or formal cooperation which tends to this, that it assist heretics in their crime; material cooperation, which only gives help to the heretical person, does not suffice.

1. Receivers of heretics are called those who receive them into their house so that they may escape the penalty of heresy. Therefore they do not incur excommunication who receive them not for the sake of heresy, but as friends, blood-relatives, or suchlike.

2. Favorers of heretics are called those who furnish them help, whether negatively or positively, so that they may more easily spread their errors.

a. They favor heretics negatively who omit those things which must be done not from mere charity but from office for impeding their progress; they favor them positively who help them in spreading errors by words (praising, commending them as heretics) or by deeds (furnishing money). Here also belong Catholics who permit offspring to be educated in a non-Catholic religion.

b. The Holy Office has several times declared that those incur excommunication who enter marriage before a non-Catholic minister.[654] They dispute what the cause of this censure is; some say that they are excommunicated as favorers of heretics, but others more rightly say that in the external forum they are excommunicated as those believing heretics: for those who receive sacraments among heretics according to their rite are judged implicitly to believe heretics.

Note 1. From the declaration of the same holy see it is further established that those who contract marriage before a non-Catholic minister incur excommunication, even if they were ignorant of the censure. Therefore those who know the censure incur it for each forum, but those who are ignorant of it incur the censure for the external forum alone. For celebration of marriage is by its nature a public act, which pertains to the external forum, and therefore its forbidden celebration is punished directly by censure for the external forum. Therefore in order that one who contracted before a non-Catholic minister can be admitted to the sacraments, he must be absolved from the censure at least for the external forum.

Note 2. Reconciliation, supposing the validity of the marriage, is done in this way:

a. The one to be reconciled is admonished: a. concerning the gravity of the sins which he committed by contracting before a heretical minister, and concerning the obligation of being sorry for them and accusing himself of them in confession; b. concerning the obligation of educating children Catholicly,

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653. Cf. *Acta sanctae sedis* XI, p. 168 ff.

654. Holy Office, August 28, 1888; May 11, 1892.

or, if it is a woman, of seeing to it that the husband permit the Catholic education of the children; but if he should not permit it, of seeing to it that the children, as much as depends upon her, be educated Catholicly.

b. A suppliant petition is sent to the bishop, in which, with the name of the one to be reconciled expressed, the fact about which it concerns is set forth with all its circumstances (especially that the one to be reconciled wishes to satisfy his obligations), and the faculty of absolving from excommunication for the external forum is sought. Once this has been obtained, the one to be reconciled is absolved from excommunication according to the Roman Ritual (tit. 3, c. 3). Once absolution has been granted, the acts are drawn up according to the disposition of the ordinary; once reconciliation has been made, the penitent can be absolved by any confessor from the sin of heresy.

c. If the delict is not known in the place where the one to be reconciled is staying, it is not required that the cause be conducted in the external forum. Therefore it suffices that the confessor seek the faculty of absolving the one to be reconciled from heresy in the act of sacramental confession, which absolution avails also for the external forum.

3. Defenders of heretics are those who defend their persons or doctrines insofar as they are heretical.

Therefore they do not incur excommunication who praise the learning and eloquence of a heretic, or the style and elegance of a heretical book, unless the praise redounds to approval of the heretical doctrine.

Second excommunication. All and singular persons knowingly reading, without the authority of the apostolic see, books of the same apostates and heretics defending heresy, and also books of any author by apostolic letters prohibited by name; and those retaining, printing, and in any way defending books of the same.

52. This censure passed verbally into the constitution *Officiorum ac munerum* (n. 47), and from it draws its force. From this we learn: a. books today prohibited under excommunication; b. actions prohibited under excommunication.

Books prohibited under censure are of a twofold kind:

1. Books of heretics and apostates defending heresy. Therefore a threefold condition by reason of the object is required for incurring the censure: a. that it be a book, not only a manuscript or a booklet of smaller volume; b. that it be written by a heretical or apostate author; c. that it defend heresy.

a. Therefore they do not incur excommunication: a. who read newspapers or booklets defending heresy; b. who read a book defending heresy written by a Catholic, heathen, Jew, or by another who properly is neither a heretic nor an apostate; c. who read a book containing heresy or defending it only incidentally and in a few words.

b. From the declaration of the Holy Office, those incur excommunication "who knowingly read periodical publications bound into fascicles, having a heretical author and defending heresy."[655]

c. For incurring this censure it is required that it be certain to the reader (not only probable: for it says knowingly reading) that the author of the book is a heretic and that he defends heresy. That the author is a heretic can be established either from the name of the author, if he is a known heretic, or from the character of the book: for if manifest heresy is pertinaciously defended in the book, it is sufficiently

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655. Holy Office, April 21, 1880.

established that the author is a heretic or apostate; therefore either from the sect to which he adheres, or from the manifest doctrine which he defends.

d. It is not required that the book treat expressly of religion; therefore one who reads a profane book, e.g. historical, physical, philosophical, in which a heretical author defends heresy, incurs excommunication.

2. Books of any author prohibited by name through apostolic letters. Three conditions also are required in this kind on the part of the book: a. that it be prohibited through apostolic letters, of whatever form they are: bull, brief, encyclical; b. that it be prohibited by name, i.e. by its proper title expressly given; c. that it be prohibited under excommunication reserved to the Roman pontiff, which is gathered from the mind of the constitution itself, namely of moderating censures. But it makes no difference whose author it is and what it contains.

Therefore here do not belong: a. books prohibited through decrees of the Index or of another congregation, because decrees of this kind are not issued by apostolic authority; b. books of some author condemned in a body, because they are not prohibited by name; c. books indeed condemned through apostolic letters, but not under reserved excommunication.

Note. Since it is impossible for the confessor to know all works defending heresy, when a case occurs let him ask the penitent about the argument of the depraved book which he read, and from this judge whether the book defends heresy and therefore is prohibited under excommunication or not.

53. The prohibited actions are these four: to read, to retain, to print, to defend; all these indeed must be exercised knowingly in order that censure be incurred through them: for since this term is placed in the head of the article, it must be understood of all. Wherefore even affected ignorance excuses from incurring censure.

What is prohibited by the terms to read and to retain is said elsewhere;[656] it remains that the terms those printing and those defending be explained.

a. Those printing, taken more broadly, are understood to be all who concur proximately in printing the book: a. the printer, publisher, and author; b. those who furnish work for the printing itself, such as those setting the types and turning the press. In this place more strictly only the printer and publisher seem to be understood.[657]

b. Those defending are called those who physically or morally impede that the book be destroyed or denounced; those who try to persuade others that the book is good; those who so praise the doctrine contained in it, or its learning and knowledge, that approval of the depraved doctrine appears.

c. For incurring the censure there is required a threefold knowledge: a. that the book is of a heretic or apostate, or that it is prohibited through apostolic letters; b. that its reading, retention, printing, or defense is prohibited under excommunication; c. if it has not been prohibited through apostolic letters, that it defends heresy. But it suffices that these things be known either by public report or from a man worthy of faith.

d. Since grave sin is required for incurring censure, they do not incur it except those who cooperate formally, or indeed materially but without a just cause, and notably.

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656. Cf. *De praeceptis*^3 n. 702.

657. Cf. Vermeersch n. 125. Hollweck p. 48.

e. If literary societies (*Leihbibliotheken*) keep books prohibited under censure, besides the president and librarian all who have joint ownership of the books incur excommunication. But this censure does not seem to affect public libraries.

Third excommunication. Schismatics and those who pertinaciously withdraw or recede from obedience to the Roman pontiff existing for the time.

54. They incur this censure: a. schismatics, who, whether from malice or from error, deny subjection to the Roman pontiff and, separating themselves from the unity of the Church, establish a new church or adhere to one already established.

b. Those who deny obedience to the Roman pontiff in spiritual matters, rejecting his spiritual authority, although they adhere to no other head or church.

Note. From the declaration of the holy see, this excommunication is also incurred by "whoever according to decrees of civil laws, or with the people voting and the civil power confirming, having been elected to the office of parish priest or vicar, dare to undertake the duties of ecclesiastical ministry," because by this very fact they deny obedience to the Roman pontiff.[658]

Fourth excommunication. All and singular persons, of whatever state, grade, or condition they may be, appealing from ordinances or mandates of the Roman pontiffs existing for the time to a future universal council, and also those by whose help, counsel, and favor the appeal has been made.

55. a. This censure is a particular case of the preceding one: for those appealing by the fact withdraw themselves from subjection to the Roman pontiff. But lest they think that under the pretext of appeal they can escape excommunication, this special censure has been added.

b. Any physical persons: for concerning communities appealing there is an interdict; appealing from ordinances of the reigning pontiff to a future universal council. Therefore appeal to a future pontiff or to a present council does not suffice, nor to a provincial council.

Fifth excommunication. All killing, mutilating, striking, capturing, imprisoning, detaining, or hostilely pursuing cardinals of the holy Roman Church, patriarchs, archbishops, bishops, and legates or nuncios of the apostolic see, or expelling them from their dioceses, territories, lands, or dominions, and also those mandating these things or ratifying them or furnishing help, counsel, or favor in them.

56. By this censure are punished real injuries inflicted upon the princes of the Church (*Kirchenfursten*), of whom the first is the supreme pontiff himself, bishop of the Roman Church, although he is not explicitly named. Therefore they incur it:

a. Those who unjustly injure their life: those killing, mutilating, striking; their liberty: those capturing, imprisoning, detaining; their dignity: those hostilely (with the intention of harming body or dignity) pursuing, expelling them from places subject to their jurisdiction.

b. Those who cooperate in these injuries by mandate, ratification, help, etc., provided the cooperation was efficacious and gravely influenced.

Sixth excommunication. Those directly or indirectly impeding the exercise of ecclesiastical jurisdiction, whether of the internal or external forum, and for this recurring to the secular forum and procuring or issuing its mandates, or furnishing help, counsel, or favor.

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658. S. C. C., May 23, 1874.

57. a. This censure has been established for protecting the liberty of ecclesiastical jurisdiction; they contract it who impede the exercise of ecclesiastical jurisdiction, but not those impeding the exercise of jurisdiction of regular superiors. Therefore they do not incur excommunication who impede the exercise of the power of order, such as to offer sacrifice, administer sacraments, bless, etc., nor those impeding the exercise of an ecclesiastical office, such as to preach, to teach; but they incur it who impede him who commits those things which are of order to be performed, or him who deputes someone to ecclesiastical offices.

b. Therefore they contract this censure: a. those who by some fact impede the exercise of jurisdiction directly or indirectly (e.g. the publication, execution of a pontifical constitution); b. those who for this end recur to the secular forum, to civil judges and magistrates; c. those who for this end procure or issue mandates of the secular forum; d. those who cooperate with these by help, counsel, favor.

Seventh excommunication. Those compelling lay judges either directly or indirectly to draw ecclesiastical persons to their tribunal beyond canonical dispositions; likewise those issuing laws or decrees against the liberty or rights of the Church.

58. Persons of a twofold kind are struck by this excommunication: a. those compelling lay judges to draw ecclesiastical persons to their tribunal against the privilege of the forum; b. those issuing laws or decrees against the liberty and rights of the Church.

Those compelling lay judges either directly or indirectly to draw ecclesiastical persons to their tribunal beyond canonical dispositions.[659]

1. Those compelling are understood to be those who compel judges, although they themselves are compelled neither by any man nor by law; therefore legislators carrying a law by which judges are compelled to draw ecclesiastical persons to their tribunal, magistrates who, compelled by no law, of their own accord compel judges to draw ecclesiastics to their tribunal, whether it concerns a criminal cause or a civil cause.

2. They compel directly who compel the judges themselves by threats, force, or fear unjustly struck into them; indirectly, those who employ force or threats against other persons joined with the judges, so that they compel the judges to draw clerics as guilty persons to their tribunal.

3. Ecclesiastical persons are understood to be all who enjoy the privilege of the forum; therefore all clerics, even those marked by first tonsure alone, all religious, even nuns living under a rule, whether in some order or in a simple congregation.

4. Beyond canonical dispositions, i.e. unless somewhere it is permitted by the holy see (through concordats) that ecclesiastics be drawn to a lay tribunal.

a. "Nevertheless in those places in which there has not been derogation from the privilege of the forum by the supreme pontiffs, if in them it is not granted to pursue one's rights except before lay judges, individuals are bound first to seek permission from their own ordinary, that they may be able to sue clerics in the form of lay persons. But it is not licit to sue bishops in that forum without permission of the apostolic see."[660]

Notes

659. Concerning this decree an instruction of the Holy Office was issued on June 15, 1870, and February 1, 1871, and a declaration of the same Holy Office on January 23, 1886, all of which must be attended to in the interpretation of this decree. Cf. *Acta sanctae sedis* VI, n. 433; XVIII, p. 416; XXV, p. 456.

660. Holy Office, l. c.

b. Therefore they do not incur excommunication: a. the judges themselves who draw ecclesiastics to their tribunal, but those who compel the judges to this; b. plaintiffs who accuse a cleric before a lay judge; c. those compelling a cleric to be drawn not as a guilty person, but as a tutor, witness, or under another title.

59. Those issuing laws or decrees against the liberty or rights of the Church.

1. Those issuing are the authors of laws and decrees who possess authority of establishing laws and decrees, and who must concur in establishing them.

Therefore the prince who approves and promulgates laws, ministers, rulers of provinces and cities, deputies both to the assemblies of the empire and to the assemblies of the province, and local councilors who concur by their vote; the people, wherever laws are established by vote of the people.

2. Laws are universal and perpetual ordinances which emanate from supreme power; decrees likewise are general ordinances which emanate from competent power, e.g. from municipalities. But here do not belong mandates which are carried for particular persons or cases, nor sentences passed by judges.

3. Against the liberty or rights of the Church: these words are to be taken in the widest sense, so that they are subject to excommunication who establish laws or decrees by which any right whatever of the Church is taken away, restricted, or disturbed, such as the right of teaching, promoting to benefices, instituting public supplications outside the church building, erecting churches, benefices, pious sodalities; rights which belong to the Church as a society, such as the right of acquiring, alienating, leasing, and the immunity of the clergy from military service.

Eighth excommunication. Those recurring to the lay power for impeding letters or any acts whatever proceeding from the apostolic see or from any of its legates or delegates, and directly or indirectly prohibiting their promulgation or execution, or on account of them injuring or terrifying either the parties themselves or others.

60. a. Acts of the apostolic see are understood to be both those which immediately proceed from it itself and those which mediately come from the Roman congregations.[661]

b. They incur excommunication: a. those recurring to the lay power, i.e. to those who exercise jurisdiction over citizens, such as judges and magistrates; b. those prohibiting promulgation or execution, meaning persons furnished with authority; c. those injuring, i.e. affecting with grave harm, according to some in body, according to others also in honor and goods of fortune; d. those terrifying, i.e. affecting with very grave fear the parties themselves to whom the acts of the holy see are directed, or others to whom namely the promulgation or execution of the acts has been committed.

Ninth excommunication. All falsifiers of apostolic letters, even in the form of a brief, and of supplications concerning grace or justice signed by the Roman pontiff, the vice-chancellors of the holy Roman Church, or those acting in their place, or by mandate of the same Roman pontiff; and also those falsely publishing apostolic letters, even in the form of a brief, and also those falsely signing supplications of this kind under the name of the Roman pontiff or of the vice-chancellor or of one acting in place of the aforesaid.

61. a. The crime of forgery committed through writings, which in past centuries with reference to pontifical letters (bulls, encyclicals, briefs) was very frequently in use, is punished by this censure.

Notes

661. Holy Office, January 13, 1892.

b. They contract it: a. falsifiers, who in apostolic letters, after they have been signed, add, remove, or change something, so that the sense is changed; b. those falsely publishing either true but corrupted letters, or letters fabricated entirely; c. those falsely signing supplications, who therefore subscribe rescripts of grace or justice both with the concession (*Fiat*, *Concessum*, *Placet*) and with the name, as if these were from the supreme pontiff himself or from one acting in his place.

Tenth excommunication. Those absolving an accomplice in a shameful sin, even in the article of death, if another priest, although not approved for confessions, without grave infamy or scandal about to arise, can hear the confession of the dying person.[662]

a. The removal of jurisdiction over one's own accomplice and the penalty of excommunication carried against one absolving his own accomplice must carefully be distinguished; for it can happen that the absolution is invalid without excommunication being incurred, and that excommunication is incurred where the absolution is valid.[663]

b. This censure is called reserved in a most special manner, because in the faculty of absolving from all cases and censures reserved in a special mode to the Roman pontiff, the faculty of absolving from this censure is not contained.[664]

c. To explain this censure, three things must be set forth: a. the notion of an accomplice; b. the notion of a shameful sin from which an accomplice priest cannot absolve with impunity; c. the action of absolving because of which excommunication is incurred.

62. Accomplice in a shameful sin. 1. An accomplice is called one who commits the same (shameful) sin with another, whoever that person may be.

a. Hence complicity is not properly had if a priest sins with one sleeping, drunk, insane, unwilling: for the law speaks of formal complicity, for which the consent of each party into the same sin is required.

b. For incurring the case of complicity there is required complicity immediately in the shameful action itself; cooperation, however proximate, to the shameful sin of another does not suffice.

c. Therefore under the name accomplice is understood not only a woman, but also a man or boy, even if not yet pubescent, indeed also a person with whom the priest sinned before receiving priesthood;[665] for the bull says: whatever person may be the accomplice.

2. Shameful sin is understood to be any sin against the sixth precept, although it is not consummated by intercourse, provided that on the part of each it is certain, grave, and external.

a. Therefore even a shameful touch alone, or look, or dishonorable conversation constitutes a sin of complicity, provided that on the part of each it is mortal sin.[666]

b. It is not required that each act, as in mutual touches and conversations, but it suffices that one alone act, e.g. that one shamefully touch another and the latter consent and manifest consent externally. But he who does not resist externally is already judged to manifest consent externally.

Notes

662. Benedict XIV, const. *Sacramentum poenitentiae.*

663. Cf. *De sacramentis*^3 n. 384 ff.

664. Holy Office, June 27, 1866; therefore even to bishops the faculty of absolving "an accomplice priest" is usually conceded for only a few cases.

665. Sacred Penitentiary, January 22, 1879.

666. Holy Office, May 28, 1873.

c. Therefore a sin of complicity is not had in the following cases:

d. If only venial sins were committed, whether from smallness of matter or from imperfection of the act. But let the confessor never absolve his own accomplice even from venial sins committed in shameful matter, although he does not lack jurisdiction for this.

e. If the sins committed with respect to the external act are only venial, e.g. handling of the hand, even if in internal affection they are grave.

f. If the sins are merely internal, not manifested externally.

g. If the sins are doubtful, whether by doubt of fact or doubt of law, as if he doubts whether he sinned gravely, or whether shameful speech is comprehended by the pontifical constitution.

h. If it is not established whether the penitent himself also sinned gravely.

63. Those absolving an accomplice incur excommunication:

1. If they absolve or at least simulate or feign absolving.

a. After so many declarations of the holy see it is certain that even those incur excommunication who only feign that they absolve.[667] Wherefore the contrary opinion of St. Alphonsus (n. 556) can no longer be safely taught. Since for simulation, or rather dissimulation, it is required that the penitent who judges himself to be absolved be led into error, a priest does not incur excommunication who dismisses with only a blessing a penitent who has been admonished about this matter.

b. Therefore one who only hears an accomplice in confession, but does not absolve nor feign absolving, indeed commits grave sin, because even the very hearing of confession is prohibited to an accomplice priest, but he does not incur the censure.

2. If they directly absolve, and further if the confessors themselves, either directly or indirectly, induced the penitent not to declare the sin of complicity and thus indirectly absolved.[668]

a. Therefore one who absolves an accomplice who does not declare the sin of complicity, even if the penitent culpably conceals it and the confessor knows this, does not incur the censure,[669] provided he did not induce the accomplice to do this.

b. A confessor directly induces the penitent when he positively and explicitly warns him not to disclose the sin of complicity; he indirectly induces him when he tries to persuade the penitent that the action committed with him is not a sin or is not a grave sin, so that the penitent persuades himself that the sin is not to be declared and in fact does not declare it.[670]

c. Therefore he probably does not incur excommunication who, when the precept of confession is pressing, absolves only indirectly from the sin of complicity an accomplice unwilling to confess to another without danger of grave infamy or scandal, and at the same time admonishes him concerning the obligation of afterward confessing it to another confessor.[671]

3. If by absolving they sin gravely.

Notes

667. Sacred Penitentiary, March 1, 1878. Holy Office, December 10, 1883.

668. Sacred Penitentiary, February 19, 1896.

669. Sacred Penitentiary, May 16, 1877.

670. Sacred Penitentiary, February 19, 1896.

671. Marc n. 1782 thinks the absolution in this case is more probably invalid; cf. however *De sacramentis*^3 n. 386.

a. Since grave sin must be certain, a priest who in some perplexity of mind, likewise a priest who without advertence to the complicity absolves an accomplice, cannot be declared entangled by censure.

b. Although ignorance of censure simply vincible excuses from incurring censure, nevertheless crass ignorance does not excuse from censure. The older authors indeed excuse from censure even him who absolves an accomplice with crass ignorance, because the Benedictine constitution carries the censure against him who shall have dared to absolve; nevertheless, since the Pian constitution *Apostolicae sedis* strikes simply with excommunication him who absolves, the more recent authors rightly do not excuse one absolving with crass ignorance.[672]

c. One who absolves a penitent concerning whom he doubts whether he is his own accomplice does not incur censure, because he is not bound to inquire into the matter with danger to his own reputation and that of the whole priestly state.

d. Likewise one does not incur censure who absolves an accomplice by whom neither in the act of sin nor afterward he had been known as a priest, because he is not bound to manifest his own delict with defamation of himself and of the priestly state. Nevertheless, if after the sin has been perpetrated he is known as an accomplice and a priest, he contracts censure by absolving the accomplice.

e. Likewise one incurs censure by absolving an accomplice who here and now, when he absolves, does not know the priest absolving as an accomplice.

4. If they absolve outside the article of death and outside a case of most urgent necessity. Concerning the article of death it will be said below; with respect to the most urgent case, the opinion of those who teach that a priest does not incur censure who, having used epikeia in a truly most urgent case, absolves an accomplice, does not seem improbable: for it can reasonably be presumed that the legislator did not wish to comprehend even these cases in his law.

Cases of this kind are:

a. If the accomplice person cannot omit annual confession and communion, or cannot abstain long from the sacraments, without danger of grave infamy and scandal, and at the same time no other priest is present to whom he can confess.

b. If the accomplice person is in a place where the accomplice confessor is alone, but the person cannot turn aside elsewhere to seek a confessor, nor is there hope that another priest will come there, so that even in Easter time he would have to abstain from the sacraments.

5. One absolving an accomplice in the article (danger) of death incurs excommunication if another priest, although not approved, can hear the confession without some grave infamy and scandal about to arise.

Although an accomplice confessor of himself cannot absolve his own accomplice with impunity even in the article of death, nevertheless he licitly absolves him:

a. If no other priest is present or can be called, not even a simple priest.[673]

b. If another priest cannot be called without grave scandal or infamy of the accomplice priest. Nevertheless in this case the accomplice priest is bound to forestall the danger of scandal or infamy if he can, e.g. by

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Notes

672. Holy Office, January 13, 1892.

673. There are some who say that even a suspended or excommunicated priest is to be preferred to an accomplice priest, because in the bull it is said: "when then any other priest, who can perform the office of confessor, is lacking." Others, however, more rightly gather from the same bull that only one not approved must be preferred to the accomplice in absolving the dying person, since it says: when any priest, who can perform the office of confessor, is lacking.

withdrawing under some pretext. But if he omits to do this when he can, or if he invents danger where there is none, he incurs the censure by absolving.

c. If the dying person refuses to confess to another, so that sacrilegious confession is to be feared.

d. If another is unwilling to hear the confession of the dying person.

Eleventh excommunication. Those usurping or sequestrating jurisdiction, goods, revenues pertaining to ecclesiastical persons by reason of their churches or benefices.

64. There are four excommunications carried against those who dispose of ecclesiastical goods unjustly or illicitly: a. against those usurping or sequestrating goods of ecclesiastical persons (I. 11); b. against those invading, etc., the temporal dominion of the Roman Church (I. 12); c. against those usurping goods of any benefice or pious place (II. 19); d. against those alienating ecclesiastical goods without license of the apostolic see (IV. 3).

a. Jurisdiction is understood to be both spiritual and temporal; goods are both movable and immovable, such as beneficial lands; revenues are natural and civil fruits which come from ecclesiastical goods. These constitute the matter of this excommunication insofar as they pertain to ecclesiastical persons, and indeed either by reason of the church over which they preside, or by reason of the benefice which they possess. Therefore here do not belong: a. goods of pious places, because they do not pertain to ecclesiastical persons; b. goods of monasteries, because they do not pertain to regulars by reason of a church; c. goods which by another title, e.g. of stipend, pension, pertain to ecclesiastical persons.

b. Usurpers are called those who occupy by authority, as if by right owed to themselves, a thing still existing in the power of its owner. Therefore they do not incur this censure: a. thieves and robbers;[674] b. those who buy a thing from a usurper or receive it by another title.[675] Sequestrators are both judges and magistrates who command sequestration, and their ministers who execute the mandate.

Twelfth excommunication. Those invading, destroying, detaining, either by themselves or through others, cities, lands, places, or rights pertaining to the Roman Church, or usurping, disturbing, retaining supreme jurisdiction in them, and also those furnishing help, counsel, favor for each of the aforesaid things.

65. a. This censure intends to protect the temporal dominion of the apostolic see; wherefore temporal jurisdiction, and indeed supreme temporal jurisdiction, is to be understood.

b. They incur the censure: a. those who occupy or retain some temporal right of the holy see or some place of the temporal dominion; b. those who exercise supreme jurisdiction in occupied lands, of which kind are the kings of Italy, ministers of the kingdom, prefects of provinces, etc.; c. cooperators, who spontaneously, not by compulsion, concur in the aforesaid things.

§ 2. From the Constitution *Romanus Pontifex*

Thirteenth excommunication. By excommunication of a sentence already passed, specially reserved to the Roman pontiff, are punished:

a. Dignitaries and canons of cathedral churches who shall have dared to concede and transfer the administration of the church or diocese to a bishop nominated and presented, before the exhibition of apostolic letters.

Notes

674. Holy Office, March 9, 1870.

675. Holy Office, July 8, 1874.

b. The bishop nominated and presented who dares to take up administration of the church without waiting for confirmation of the apostolic see.

c. All those who shall have obeyed the aforesaid persons (canons or bishop), or furnished counsel, help, favor.

66. a. When the cultural struggle had begun in Germany and the illegitimate institution of bishops was to be feared, Pius IX issued the constitution *Romanus pontifex* on August 28, 1873, by which he intended to protect the right of capitular vicars against intruders who had been nominated or presented by lay power to episcopal sees, lest they be established for the government of an episcopal church before they had been confirmed by the apostolic see.

b. Those marked by episcopal character (therefore also one nominated and presented to a vacant church, if he is a bishop) incur not excommunication, but suspension.

Article Four

On Excommunications Reserved in the Ordinary Mode

To the second series belong nineteen excommunications, of which eighteen were imposed by the constitution *Apostolicae sedis*, but one by the Council of Trent.

§ 1. From the Constitution *Apostolicae sedis*

First ordinary-mode excommunication. Those teaching or defending, either publicly or privately, propositions condemned by the apostolic see under the penalty of excommunication of a sentence already passed; likewise those teaching or defending as licit the practice of asking from a penitent the name of an accomplice, as it was condemned by Benedict XIV in the constitutions *Suprema*, July 7, 1745; *Ubi primum*, June 2, 1746; *Ad eradicandum*, September 29, 1746.

67. a. In order that someone incur the censure of the first part, three things are required: a. that he teach or defend, either orally or in writing; b. a proposition condemned by the apostolic see, i.e. either by the supreme pontiff himself or by a congregation at the command of the supreme pontiff; c. condemned under excommunication of a sentence already passed. Therefore they do not incur this censure: a. those who hold such a condemned proposition as true, but do not teach or defend it; b. those who teach or defend a proposition condemned by an ecumenical council, by a Roman congregation, or even by the supreme pontiff, but not under the penalty of excommunication: for propositions condemned by a council are not customarily said to be condemned by the apostolic see.

b. In order that someone incur the censure of the second part, it is required: a. that he teach or defend as licit; b. the practice of asking the name of an accomplice, as it was condemned by Benedict XIV. But the condemned practice contains two things at once: to ask the name of the accomplice and to demand its revelation under penalty of denying absolution. Therefore they do not incur this censure who hold this practice licit, indeed not even those who exercise it.

Note. The propositions condemned by the apostolic see under penalty of excommunication are:

1. The 41 errors of Luther condemned by Leo X, by the constitution *Exsurge Domine*, May 16, 1520.
2. The 79 propositions of Michael Baius condemned by Pius V, by the constitution *Ex omnibus*, October 1, 1567.
3. One proposition concerning sacramental confession and absolution to be obtained by letters, condemned by Clement VIII through a decree of the Holy Office, July 20, 1602.

4. The 45 propositions condemned by Alexander VII through a decree of the Holy Office, September 24, 1665 and March 18, 1666.
5. The 65 propositions condemned by Innocent XI through a decree of the Holy Office, March 2, 1679.
6. The 68 propositions of Michael Molinos condemned by Innocent XI by the constitution *Coelestis pastor*, November 20, 1687.
7. Two propositions condemned by Alexander VIII, August 24, 1690.
8. The 31 propositions condemned by Alexander VIII through a decree of the Holy Office, December 7, 1690.
9. The 5 propositions concerning dueling condemned by Benedict XIV by the constitution *Detestabilem*, November 20, 1752.
10. The 65 propositions condemned by Pius X on July 3, 1907 through the decree *Lamentabili*, and also the propositions, opinions, and doctrines condemned by Pius X through the constitution *Pascendi*, September 8, 1907.

Second ordinary-mode excommunication. Those, at the devil's urging, laying violent hands upon clerics or monastics of either sex, except, as to reservation, the cases and persons concerning whom by law or privilege it is permitted that another bishop absolve.

68. This excommunication contains the privilege established by canon 15 of the Second Lateran Council (1139), on account of which it has customarily been called the privilege of the canon.[676]

This censure differs from others in two ways: a. because it makes the striker one to be avoided, if it is certainly established that the striker has fallen into excommunication, even if he has not been denounced by name; b. because it is not of strict but of broad interpretation, both because it contains a favor granted to the clerical order, and because it is to be interpreted in that manner in which the ancient doctors were accustomed to interpret the canon of the Lateran Council; but they always interpreted it most broadly.

Four things are to be explained in order concerning this matter: a. what persons enjoy this privilege; b. what actions are punished by the censure; c. what the clause "at the devil's urging" signifies; d. who can absolve from this censure.

69. Persons: clerics or monastics of either sex.

1. Clerics, i.e. all who by first tonsure have been enrolled among the clergy and have not lost the privilege of the canon, therefore also excommunicated, suspended, and interdicted clerics.

There are those who affirm (St. Alphonsus n. 271) that seminarians also and boys in minor seminaries enjoy this privilege, even if they have not yet received first tonsure; nevertheless this cannot be demonstrated.

2. Monastics of either sex, under which name are comprehended:

a. Religious men, whether of solemn or simple vows, whether clerics or laymen or novices;

b. Nuns, both professed and also novices;

c. Brothers and sisters of the Third Order of St. Francis and St. Dominic, and those who are called oblates, provided they wear the religious habit and live with cloistered persons;

Notes

676. C. *Si quis suadente* 29. c. 17. q. 4.

d. Persons living in a religious congregation approved by a bishop.

70. Actions are comprehended by this clause: *violent laying-on of hands*, which signifies any external and gravely sinful injury which is inflicted upon the person of a cleric not by words alone but by deeds. An injury of this kind can be inflicted in a threefold way:

1. By injury to the body: by killing, wounding, striking, throwing down, pursuing so that he falls on that account, etc.;
2. By injury to liberty: by imprisoning, by detaining in custody, even in a private place;
3. By injury to dignity: by bringing force in any way whatever, by tearing clothing, by defiling with spittle or filth, by violently stopping a carriage in which an ecclesiastical person is being carried, by taking away a hat, purse, staff, etc.

a. To incur this censure it is not required that the actions themselves be gravely sinful in themselves, but it suffices that they gravely injure clerical honor, which can happen even through actions light in themselves, by which in the moral estimation of men clerical dignity is gravely injured.

b. Whether those cooperating, namely those mandating or counseling, and those ratifying the striking of a cleric, are also punished by this censure, or only those striking in fact, is disputed.

Those who affirm use this argument: before the constitution *Apostolicae sedis*, this censure, not indeed by the words of the canon, but by a comprehensive interpretation of them occurring in the law itself, was extended also to cooperators and ratifiers; but the new law, which corresponds to the ancient canon, is to be extended in the same way, and this all the more because that law, as favorable to the clerical state, is of the broadest interpretation. Those who deny say thus: if the legislator had wished to comprehend cooperators also by this censure, he would have named them expressly, just as above (I. 5) he names them; therefore, because he does not mention cooperators, it is a sign that he did not wish to comprehend cooperators.

c. By a similar reason they dispute whether those not yet pubescent incur this censure. And indeed before the constitution *Apostolicae sedis* by statute of law they incurred it, with all consenting; now, however, several authors except them, because the legislator does not mention those not yet pubescent here; but if he had wished to comprehend them, he would have named them expressly, as a little below (II. 6) he names them. From these things it is gathered that the negative opinion is safe in practice, although theoretically the affirmative seems to be preferred.[677]

71. "At the devil's urging" signifies that, in order to incur the censure, the injurious actions must be sacrilegious and gravely sinful also interiorly, not only exteriorly, if not by injury to the body, at least by injury to honor.

Wherefore this excommunication is not incurred:

a. If the striking is done from a just cause, as if someone strikes a cleric for the sake of just defense and with due moderation; or if it is done for the sake of correction, as if a father or teacher, either by himself or through another, moderately strikes a cleric constituted in minor orders; or if someone affects a cleric, even a priest, with a just penalty for his delicts, e.g. of prison.

b. If it is done without sacrilege, as if someone is ignorant that the one whom he strikes is a cleric.

Notes

677. Cf. Lehmkuhl, *Casus* I. n. 999 s. n. 1042 s.

c. If it is done without grave fault, as if someone strikes a cleric without full advertence from sudden anger, or if he does it in jest.

Note. Someone is of the opinion that a cleric who has struck himself, not led by the spirit of penance but with a depraved mind, incurs excommunication; but rightly St. Alphonsus judges it probable that the canon speaks only of another striking a cleric.[678]

72. On absolution from this censure. Although this excommunication is reserved simply to the Roman pontiff, nevertheless our constitution willed that there should remain in its vigor the faculty of absolving which belonged to bishops and regular prelates before this constitution was issued.

1. To explain this faculty, the distinction of striking into slight, grave, and enormous must be premised; this distinction is not to be understood of culpable injury, which must always be grave, even exteriorly, but of material violence or bodily injury, which can be of diverse gravity.

Slight striking is that which does not leave a trace of itself, which therefore is done with fist, palm, foot, or staff, but brings no mark and leaves no bruise of flesh and is done without the shedding of abundant blood.

Grave striking is that which indeed leaves a trace of itself, but without mutilation or grave harm, as if a tooth is knocked out, or a quantity of hair is torn out, or a quantity of blood is shed without grave injury.

Enormous striking is present if mutilation intervenes, or great wounding, or another grave injury.[679]

Nevertheless it can happen that a striking which is slight by reason of the physical injury becomes grave or enormous by reason of the person who is struck, e.g. a bishop, or by reason of the circumstances, as if a priest clothed in sacred vestments is struck.[680]

2. Bishops by common law can absolve: a. if the striking was slight, even if public; b. if it was occult, even if enormous; c. if there is question of clerics or religious living in community, provided the striking was not enormous. But by special privileges (triennial faculties) bishops have still broader faculties.

3. Regular prelates by common law indeed have a limited faculty of absolving from this censure,[681] but from privileges which have not been abrogated by the Pian constitution, they can absolve their subjects, even novices, from any striking of a cleric, even enormous and public, and even if the one struck belongs to another order or to the secular clergy.[682]

Third ordinary-mode excommunication. Those perpetrating a duel, or simply challenging to it, or accepting it, and any accomplices, or those furnishing any assistance or favor whatever, and also those deliberately watching it and those permitting it or, as far as lies in them, not prohibiting it, of whatever dignity they may be, even royal or imperial.

73. Persons who incur the censure. Since it is already established in what the nature of the crime of private duel consists, which is struck by this excommunication,[683] it remains only that the persons who incur it be indicated.

Notes

678. Cf. St. Alphonsus l. 7. n. 274.

679. St. Alphonsus l. 7. n. 277.

680. All these things are drawn from the constitution *Perlectis* of John XXII.

681. C. *Monachi* 2. C. *Quum illorum* 32. C. *Canonica* 50. *De sententia excom.* (V. 39).

682. Cf. Ballerini-Palmieri VII. n. 300.

683. Cf. *De praeceptis*^8 n. 347.

1. Those perpetrating it, namely those who commit a duel, whether seconds are employed or not employed, provided it is truly and properly a duel.

2. Those challenging; and these indeed incur excommunication whether the other accepts or does not accept, whether the challenger himself determines the place, time, and weapons or leaves these to be determined by the other, whether the duel in fact follows or does not follow.

3. Those accepting; these likewise incur excommunication, even if the duel in fact does not follow: for since the censure simply affects those challenging and accepting, the challenge itself and the acceptance seriously made are struck by the censure.

a. It makes no difference from what intention or from what motive those challenging and accepting act, provided they wish to enter upon a duel; but if the challenge or acceptance is not made with the intention of entering upon a duel, but fictitiously, e.g. in order to avoid the mark of cowardice here and now, excommunication is not incurred.

b. Grave fear does not excuse those accepting a duel from incurring the censure: for when the common good demands that a penal law bind, even though grave harm must be undergone on account of its observance, fear does not excuse from the law and therefore neither from the penalty; but the common good demands that a law prohibiting duel, even insofar as it is human, not cease on account of fear of grave evil.

4. Accomplices are understood to be: a. seconds or witnesses; b. those counseling; c. those mandating, provided the counsel or mandate had a true influence upon the duel, or upon the challenge, or upon the acceptance, and the duel in fact followed.

They do not incur excommunication who accept the office of witness or second in order to induce reconciliation; who accompany the duelers to the place of combat with the sole end of preventing the duel; or, where they know that the duelers have resolved to fight even to death, in order to put an end to the combat as soon as either one has received a wound.

5. Those furnishing assistance or favor are understood to be those who in any way cooperate more proximately in the duel, provided the duel in fact follows. Wherefore they incur excommunication: those who provide a place for the duel; those who remove public guards lest they impede the duel; those who accompany the duelers and thus add courage to them; those who write or carry letters of challenge; physicians who by agreement with the duelers assist at the duel or remain in a nearby place, even with the intention of more quickly ending the fight or binding wounds;[684] confessors who by agreement with the duelers stand in a nearby place in order to provide their ministry to the duelers, if there should be need.[685]

a. Although prior constitutions extend excommunication to accomplices and cooperators even when the effect has not followed, this constitution does not seem to extend the censure to the same persons when the effect has not followed: for since it is established that the supreme pontiff wished to restrict the censures, cooperators are not to be comprehended under the censure unless they are expressly named.[686]

b. They do not incur excommunication who cooperate only remotely in the duel, as fencing masters who teach the art of swordsmanship to those about to duel, or who sell or rent weapons to them, provided

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Notes

684. Holy Office, May 28, 1884.

685. Holy Office, l. c.

686. Lehmkuhl II. n. 949.

they do this indiscriminately toward all by reason of their art and office; drivers who convey duelers to the place of the duel.

6. Those deliberately watching, i.e. those who purposely and openly, with the duelers aware of it, are present at the duel.

Therefore they do not incur excommunication who, passing by by chance, stop and look on from curiosity, or who watch from afar or from a hidden place, or who intervene in order to prevent the duel, nor soldiers who from mere curiosity watch comrades dueling in barracks,[687] because all these by their presence do not increase courage for the fight.

7. Those permitting or not prohibiting are understood to be not private men, but men endowed with public authority, whether civil or military, who either positively permit the duel or, when they could, do not impede it, as princes in their territories or commanders among their soldiers.

Fourth ordinary-mode excommunication. Those giving their name to the Masonic or Carbonari sect, or to other sects of the same kind, which plot against the Church or legitimate powers, whether openly or clandestinely, and also those furnishing any favor whatever to the same sects, and those not denouncing their hidden coryphaei and leaders, until they have denounced them.

To explain this excommunication two things must be set forth: a. what sects are prohibited under censure; b. what persons are punished by censure on account of these sects.

74. Sects prohibited under censure. 1. Societies prohibited indeed under grave sin but without censure, and societies prohibited under censure, must be distinguished.[688] To prohibited societies belong:

a. Bible societies, condemned several times by the supreme pontiffs;

b. Three American societies of workers, whose names are: a. Odd Fellows (*Socii singulares*); b. Sons of Temperance (*Filii temperantiae*); c. Knights of Pythias (*Equites Pythiae*);[689]

c. The society called "Independent Order of Good Templars" (*Guttempler-Orden*);[690]

This society, founded in America in 1851, was soon propagated in the larger states of Europe, especially Norway and Switzerland. It aims especially at fighting drunkenness, but since it is wholly imbued with the spirit of Protestantism, it is prohibited to Catholics.[691]

d. Societies whose purpose is to promote the use of burning human corpses.[692]

To prohibited societies certainly belong all those which exact from their followers an oath of preserving secrecy and of rendering obedience in every way to hidden leaders. For an oath of this kind is sinful, because secrecy is promised to be preserved even when it ought to be manifested to legitimate superiors, and because obedience is implicitly promised even for illicit things. But where such an oath is not exacted, a society is not to be declared prohibited by private authority alone without consulting the holy see.

2. In order that a society be prohibited under censure, it is required that it bear a likeness to the Masonic and Carbonari sect by reason of hidden organization and by reason of its end, or that it be of the same

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Notes

687. Genicot II. n. 595.

688. Holy Office, May 10, 1884.

689. Holy Office, August 20, 1894.

690. Holy Office, August 9, 1893.

691. Holy Office, August 17, 1899.

692. Holy Office, May 19, 1886.

kind, i.e.: a. that the members, united by a social bond, have hidden statutes and be governed by hidden leaders; b. that they intend to assail and overthrow the Church or the republic. Societies of this kind are:

a. The Masonic society;

Freemasons have been excommunicated several times by the Roman pontiffs. Clement XII was the first to impose a censure upon them by the constitution *In eminenti*, April 28, 1738; then Benedict XIV by the constitution *Providas*, May 18, 1751; Leo XII by the constitution *Quo graviora*, March 13, 1825; Pius VIII by the encyclical letters *Traditi*, May 24, 1829; Pius IX by the constitution *Apostolicae sedis* established the penalty now in force; finally Leo XIII by the encyclical letters *Humanum genus*, April 20, 1884, renewed the penalties of his predecessors.

To those comparing the penal law now in force with the ancient law it will immediately be clear that a twofold change was introduced by this our constitution: a. In order that societies be prohibited under censure, it is not required that they pursue their end secretly; but all are censured which plot against the Church or legitimate powers, whether openly or clandestinely. Therefore it also makes no difference whether they exact from their followers an oath of preserving secrecy or not.[693] b. The obligation of denouncing all Freemasons and their supporters is no longer imposed under excommunication, but only of denouncing hidden coryphaei and leaders.

b. The Carbonari society;

Pius VII excommunicated the Carbonari by the constitution *Ecclesiam*, September 15, 1821, and Leo XII by the constitution *Quo graviora*, March 13, 1825.

c. The society of the Fenians;

The Holy Office declared on January 12, 1870, that this American and Irish sect was prohibited under excommunication.

d. Nihilistic and anarchistic societies.

That these sects, propagated especially in Russia, are prohibited under censure is clear from the end which they pursue.

Whether socialistic societies are prohibited under censure or simply prohibited is disputed. Some (D'Annibale, Ballerini-Palmieri) think that all societies which by their end assail the Church or the republic are subject to this censure; but others (Vermeersch, Lehmkuhl, Koch) not improbably are of the opinion that the two marks recounted above are required in order that a society be prohibited under censure, and therefore they except Bible societies, clerico-liberal societies, the neo-Protestant society of the Old Catholics, likewise communistic and socialistic societies, which others declare subject to censure. Socialists, however, who constitute rather a political faction than a seditious sect, as socialists in Belgium, do not contract excommunication. Yet those who adhere to these societies, knowing their principles and end, incur excommunication reserved to the Roman pontiff in a special mode on account of heresy.[694]

75. Persons who are censured on account of these sects. It is clear that one does not incur the censure unless he knows that the society is prohibited under censure, i.e. unless he knows that the society plots against the Church or the government and that societies of this kind are subject to censure.

Notes

693. Holy Office, May 10, 1884.

694. Lehmkuhl, *Casus consc.* I. n. 1058 s.

1. Those giving their name, i.e. those who enter a sect prohibited under censure, because they constitute themselves members of it.

If someone in good faith has given his name to a sect prohibited under censure and, once the matter is discovered, does not leave it, he does not incur excommunication if meanwhile unwillingly, in order to avoid very grave evils, he remains in it until he can leave it without grave inconvenience.

2. Those furnishing favor. Favor can be furnished to these sects by many and diverse actions; nevertheless, in order that excommunication be incurred, it is required both that the favor be true or efficacious, and that the action constitute grave sin.

a. They incur excommunication who take care to propagate sects of this kind; who without grave cause make power available to them to hold meetings in their buildings; who exhort others to be aggregated to societies of this kind or to be present at their meetings; who are present at their meetings; who help the societies themselves or their members in any way whatever, e.g. by propagating papers and pamphlets written in their favor, by contributing money to them, by acting as servant in their meetings, etc.

b. They do not incur excommunication who once or again are present at their meetings for the sake of curiosity, unless from peculiar circumstances the attendance yields to the commendation of the sect; nor those who from a grave cause sell or rent a house to a condemned sect, that it may have its meetings there.[695]

3. Those not denouncing hidden coryphaei and leaders.

a. This obligation of denouncing exists for all who know those leaders in any way whatever, even only from the trustworthy report of others, unless they have learned this from those who themselves have either already denounced or certainly are going to denounce.

b. By the name of coryphaeus and leader is signified not only the supreme head of the society, but anyone who exercises some power in those sects.

c. Hidden coryphaei and leaders are to be denounced; therefore the obligation of denouncing ceases where the true coryphaei and leaders are publicly known. But it does not cease if indeed the members of the sects are publicly known, but their leaders are not known; nor does it cease in those regions in which sects of this kind are tolerated by the government and their leaders cannot be punished by the ecclesiastical power.[696]

d. The denunciation is to be made to the ordinary of the place, and indeed, unless grave inconvenience permits delay, within a month after the obligation of denouncing has been known.

e. As to the mode of denouncing, it suffices that the names of those persons be manifested to the ordinary either by letter or through the confessor; and once the denunciation has been made, not only the reservation ceases, but also the excommunication itself.[697]

76. On the absolution of a Freemason. In order that one who is enrolled in the Masonic sect or another sect of the same kind may be absolved, the holy see is accustomed to require these conditions when it grants the faculty of absolving a penitent of this kind from censures:

Notes

695. Cf. Genicot II. n. 596.

696. Holy Office, April 11, 1893.

697. Holy Office, February 1, 1871.

a. That he bid farewell to the prohibited sect and break off every communication with sectaries. But if without grave inconvenience this cannot be done at once, material communication, with scandal and his own spiritual detriment excluded, is meanwhile to be permitted to him; namely, he can defer formal renunciation, persevere in paying the tax, and from a most grave cause even frequent the meetings of sectaries, until the danger of grave harm has ceased.[698]

b. That he hand over to the confessor the books, manuscripts, and signs of the sect, if he retains any; the confessor will take care that these are transmitted to the ordinary as soon as possible, or, if this cannot be done, burned.

c. That he denounce the hidden leaders of the sect to the ordinary, if it can be done without grave inconvenience.

It will rarely happen that someone in good faith has given his name to the sect of Freemasons and, on account of ignorance, has not contracted the censure. Nevertheless, if a penitent occurs who, ignorant of the depraved end of the sect, in good faith gave his name to it, he must by all means be admonished concerning the law of the Church prohibiting it and concerning the obligation of bidding farewell to the sect and breaking off every communication with it, on account of the continual danger of sinning which threatens him from this communication, and on account of the scandal of others. But if in a very rare case, on account of the peculiar circumstances of the person, each inconvenience truly ceased, the admonition, which would be foreseen as harmful, could be omitted.

Fifth ordinary-mode excommunication. Those commanding the immunity of ecclesiastical asylum to be violated with rash daring, or those violating it.

77. a. All those commanding that an offender be extracted from ecclesiastical asylum command the immunity of asylum to be violated, once the effect of violation has followed; those violate it who in fact violently extract the guilty person from asylum. Because rash daring is required, magistrates who, being compelled, conform themselves to the prescription of law do not contract the censure, nor soldiers and other servants who only fulfill commands.

b. Although the right of asylum today is scarcely any longer recognized, nevertheless the holy see has declared that the law of asylum "as to substance" is not abrogated by contrary custom.[699] Hence this censure is scarcely ever incurred, whether on account of abrogation or on account of ignorance of the law.

Sixth ordinary-mode excommunication. Those violating the enclosure of nuns, of whatever kind or condition, sex or age they may be, by entering their monasteries without legitimate license; and likewise those introducing or admitting them; and likewise nuns departing from it outside the cases and form prescribed by St. Pius V in the constitution *Decori*.

78. a. The censure refers to papal enclosure, such as nuns with solemn vows have, and, from special privilege, some monasteries of simple vows. To contract the censure it is required that the enclosure be violated through entrance into the monastery without legitimate license. But those thus violating enclosure contract the censure, whoever they may be, even women and those not yet pubescent, except kings and their wives and children, and probably also infants not yet having the use of reason. License from the prescription of the Council of Trent had to be granted in writing; but since this constitution says nothing about license to be obtained in writing, it seems to some authors that license can be given even orally. Nevertheless it must

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Notes

698. Holy Office, January 18, 1896.

699. Holy Office, December 22, 1880.

be obtained on each occasion: for general license cannot be granted except to a confessor, physician, and workmen. They are said to introduce who open the door to one wishing to enter. Those receiving are said to admit who, when they could and ought, do not impede entrance, namely superioresses and doorkeepers, but not private nuns. The same must be said of those who detain or do not expel those who have entered.

b. They interpret this censure more rigorously than is proper who, admitting no smallness of matter, teach with St. Alphonsus (n. 229) that a nun who departs from enclosure, or one who enters enclosure by one step only, incurs excommunication. Pius V permits departure: a. from the cause of a great fire; b. of the infirmity of leprosy; c. of epidemic; and since these seem to be stated by way of example, in general departure will be licit in a great common danger which threatens either the life or the virtue of nuns.

Seventh ordinary-mode excommunication. Women violating the enclosure of regular men, and superiors or others admitting them.

79. With respect to nuns, the entrance of any outsiders whatever and the departure of nuns is prohibited under censure; with respect to religious men, only the entrance of others is prohibited under censure, and indeed only of women. Regulars are understood to be those who emit solemn vows, because these alone in the strict sense are called regulars and are subject to the law of enclosure. All women, even those lacking reason, after the years of puberty are understood, because it is not added, as in the preceding article, "of whatever age"; queens, however, etc., are excepted. Those admitting are not only superiors, but also subjects, such as doorkeepers, who, when they can and by office ought, do not impede women entering, or who detain those who have entered, lest they depart quickly.

Eighth ordinary-mode excommunication. Those guilty of real simony in any benefices whatever, and their accomplices.

80. The censure punishes simony of divine law, which alone in the strict sense is simony. In all benefices indeed, whether double or simple, whether greater or lesser, whether of right of patronage or of free collation, but only in benefices properly so called; offices and dignities in religious orders are not of this kind. Accomplices are those by whose cooperation the simoniacal contract is perfected.

Ninth ordinary-mode excommunication. Those guilty of confidential simony in any benefices, of whatever dignity they may be.

81. The guilty can be those giving and receiving benefices, and likewise those resigning; not indeed accomplices as in the preceding article, but nevertheless cardinals and bishops.

Tenth ordinary-mode excommunication. Those guilty of real simony on account of entrance into religion.

82. Those guilty of simony which is punished by this censure are those receiving and those giving. Entrance is properly made in profession, not in admission to the novitiate. Although even in entrance into the novitiate simony of divine law can be committed, nevertheless this is not subject to the censure. Religion is understood as such strictly, but equally a religion of men and of women.

Eleventh ordinary-mode excommunication. All who, making gain from indulgences and other spiritual graces, are punished by the censure of excommunication in the constitution of St. Pius V *Quam plenum*, January 2, 1569.

83. a. From the cited constitution this censure is incurred by those who are inferior to bishops; bishops were punished by suspension, which, however, is not renewed in the constitution *Apostolicae sedis*. He is said to make gain who, after a price has been received, makes some profit, and indeed by conceding indulgences and other spiritual graces to those paying money, likewise by publishing or commanding to be published

that graces of this kind are conceded to those paying money, even if these things are done under the pretext of a good work.

b. The spiritual graces of which the cited constitution speaks are these:

c. Of choosing for oneself a confessor by whom one can be absolved even from cases reserved to the pope or bishop;

d. Celebration of Mass and ecclesiastical burial in time of interdict;

e. Use of prohibited foods;

f. Assumption of several sponsors in baptism;

g. Absolution from simony reserved to the pope.

Twelfth ordinary-mode excommunication. Those collecting alms of greater price for Masses and seeking profit from them, by causing them to be celebrated in places where Mass stipends are customarily of lesser price.

84. Explanation. a. This censure is drawn from the constitution *Quanta cura* of Benedict XIV (July 30, 1741), who took care to eliminate the abuse of a certain commerce concerning Mass stipends, and therefore struck clerics, and them alone, exercising such commerce, with the penalty of suspension. The censure of the Pian constitution affects both clerics and lay persons and punishes both with excommunication.

b. Several actions which contain some traffic concerning Mass stipends are prohibited by the Church, yet not all under censure; the actions prohibited under censure are: to collect and to seek profit, by causing them to be celebrated for a lesser stipend.

1. Those collecting and seeking profit.

a. Those are said to collect who deliberately try to gather Mass stipends, whether they receive many or few.

Intention properly makes the collector, not the abundance of stipends which he receives by collecting: for he who receives few collects few; he who receives many collects many. By the intention itself, therefore, he is distinguished from one who receives stipends spontaneously offered to him; nor is the latter for that reason called a collector because many are offered to him.

b. Those seeking profit are said to be those who without license retain for themselves, as their own, a part of the stipend.

c. To incur the censure it is required that the quantity which is retained suffice to constitute the grave sin of theft, and bring notable profit to him by whom it is retained; this can also coalesce from small profits.

d. Therefore they do not incur excommunication who retain for themselves part of the stipend in those cases where this can licitly be done. Likewise they do not incur excommunication, although they act illicitly, who retain part of the stipend in order to expend it for pious uses, because they do not properly take profit.

e. To incur the censure both things are required, namely, that stipends be collected and that they be given to others with profit: for the delict must be complete.

f. Therefore they indeed sin, but do not incur the censure, who receive Mass stipends from those spontaneously offering, even in greater number, and hand them over to others with profit, because they did not collect the stipends. But those incur excommunication who, while collecting, receive only a few, but hand them over to others with great profit.

g. Therefore he does not incur excommunication who indeed collects stipends with the depraved intention of making profit, but afterward, with his will changed, hands over the whole stipend to others.

2. For Masses, namely manual Masses: for the stipends of these are properly said to be collected; yet here it must be noted that founded Masses also, or Masses left by legacy, which do not adhere to some benefice, pertain to manual Masses.[700]

3. By causing them to be celebrated for a lesser stipend. Formerly several interpreters were of this opinion, that to incur the censure it was required that the Masses be celebrated in another place, where stipends are customarily of lesser price; but now it is established that those also incur excommunication who cause Masses to be celebrated for a lesser price in the same place where they had collected the stipends.[701]

Thirteenth ordinary-mode excommunication. All who are punished with excommunication in the constitutions of St. Pius V *Admonet nos*, of Innocent IX *Quae ab hac sede*, of Clement VIII *Ad romani pontificis curam*, and of Alexander VII *Inter ceteras*, concerning the alienation and infeudation of cities and places of the holy Roman Church.

85. a. This censure tends to this, that the temporal dominion of the holy see be preserved unharmed; therefore one is punished by the censure who dares in any way to impel the supreme pontiff to alienate the temporal dominion or to hand it over in fief. Therefore the object of the constitution is infeudation (*Lehensgebung*) or alienation (*Verausserung*), by which namely indirect dominion is transferred to another; there is no question of abdication of temporal dominion, whether of the whole or of a part, of which at that time no one was thinking.

b. The actions which are punished by the censure are: a. to treat, counsel, or otherwise speak words concerning alienation, so that at the same time it is proposed to choose orators to be sent to the supreme pontiff about this matter; b. to suggest or advise an alienation of this kind to the supreme pontiff, whether this is done by oneself or through another.

c. Therefore they do not incur this censure: a. those who advise the supreme pontiff to renounce temporal dominion; nor b. those who propose to the supreme pontiff reconciliation with the Italian government.

d. All incur this censure, both ecclesiastics and seculars, of whatever dignity and order they may be, even cardinals, bishops, and legates, who do such things.

Fourteenth ordinary-mode excommunication. Religious presuming, outside the case of necessity, to minister to clerics or lay persons the sacrament of extreme unction and of the Eucharist by way of viaticum without the pastor's license.

86. Religious properly so called, who have emitted solemn vows; therefore not novices, nor those simply professed, whether in some congregation or in religion properly so called, except scholastics of the Society of Jesus. To clerics or lay persons; therefore they do not contract the censure if they administer the last sacraments to other religious, even of a different order, clerics or laymen, who are of their family, or to travelers staying as guests in houses of religious. Outside the case of necessity. Necessity is present if the sick person is in danger of death and the pastor cannot easily be called. Without license, at least presumed, which the pastor, if asked, is believed about to give.

Notes

700. S. C. C., August 22, 1874.

701. Holy Office, January 15, 1892.

Fifteenth ordinary-mode excommunication. Those extracting relics from the sacred cemeteries or catacombs of the city of Rome and its territory without legitimate permission, and those furnishing help or favor to them.

87. To incur this censure it is required: a. that true relics be extracted, bodies or parts of the body, even very small parts, of holy martyrs; b. that they be extracted without legitimate permission, which permission the cardinal vicar grants.

Sixteenth ordinary-mode excommunication. Those communicating with one excommunicated by name by the pope in a criminal crime, namely by expending help or favor upon him.

88. a. Although communication with any excommunicated person to be avoided is prohibited, nevertheless only he falls into the censure who communicates with one excommunicated by name by the pope; of this kind is judged to be both one whom the pope excommunicated by a particular sentence, and one whom the pope, after he has contracted excommunication of a sentence already passed, denounces to be excommunicated.

b. Yet only that communication is punished by the censure which consists in help or favor shown to the excommunicated person, so that he may persist in his crime.

Seventeenth ordinary-mode excommunication. Clerics knowingly and spontaneously communicating in divine things with persons excommunicated by name by the Roman pontiff, and receiving them in offices.

89. This censure is incurred by clerics who, knowing that someone has been excommunicated by name by the pope, spontaneously, not driven by force or fear, communicate with him in divine things, because they receive him in divine offices, i.e. admit him to performing divine offices. Therefore a cleric does not incur excommunication who together with one excommunicated by name by the pope assists at offices or hears his Mass, because he does not receive him in offices; rather the rector of the church does, who admits him to saying Mass.

Eighteenth ordinary-mode excommunication. Those presuming, outside the article of death, to absolve from excommunications reserved in a special mode to the apostolic see without due faculty, even under any pretext whatever.

90. This censure, which is established by the constitution *Apostolicae sedis* itself, is incurred by confessors who knowingly and spontaneously, without faculty, absolve a penitent from excommunication reserved in a special mode to the Roman pontiff, outside danger of death and outside a truly urgent case.

§ 2. From the Council of Trent

Nineteenth ordinary-mode excommunication. If anyone of the clerics or laymen, with whatever dignity he may excel, even imperial or royal, has been so occupied by cupidity, the root of all evils, that he has presumed to convert to his own uses and usurp, by himself or through others, by force or fear struck in, or even through supposed persons of clerics or laymen, or by any art or under whatever color sought, the jurisdictions, goods, revenues and rights, even feudal and emphyteutic, fruits, emoluments, or any income whatever of some church, or of any secular or regular benefice, montes pietatis, and other pious places, which ought to be converted to the necessity of ministers and the poor, or to impede them from being received by those to whom they pertain by right, let him lie under anathema for so long as he has not fully restored to the church and its administrator or beneficiary the jurisdictions, goods, things, rights, fruits, and revenues which he has occupied, or which have come to him in any way whatever, even from the donation of a supposed person, and then has obtained absolution from the Roman pontiff. But the cleric who has been the maker of such nefarious fraud and usurpation, or consenting to it, is subject to the same penalties. Sess. 22. c. 11. *De reform.*

91. a. This censure protects ecclesiastical goods taken in the broadest sense, namely any temporal goods and rights whatever pertaining to churches, religious places, or pious places; to these also in part article 11 and 12 of the first series refer. Therefore in cases which pertain to both censures, the censure reserved in a special mode is contracted.[702]

b. Clerics and laymen contract the censure who usurp the goods of the Church, by authoritatively occupying them as owed to themselves by right, or who impede them from being received by those to whom they pertain by right, by occupying them as if pertaining to themselves and converting them to their own uses. Clerics incur the censure if they even only consent to these actions.

c. In this matter they dispute whether all usurpations are punished by this censure, or only authoritative ones, namely those which are done through public authority. From the declaration of the holy see, thieves and robbers do not incur this censure.[703]

d. Finally, those also incur this censure who have bought goods of this kind from usurpers or have acquired them under another title (donation, inheritance, legacy, etc.).[704]

Article Five

On Ordinary Reserved Excommunications

The third series from the constitution *Apostolicae sedis* contains three excommunications, to which a fourth was added from the decree *Vigilanti* of Leo XIII, May 25, 1893. These censures, since they are reserved by the Roman pontiff, are properly to be called papal; nevertheless bishops can absolve from them by force of power delegated to them by ordinary law.[705]

§ 1. From the Constitution *Apostolicae sedis*

First ordinary reserved excommunication. Clerics constituted in sacred orders, or regulars or nuns after the solemn vow of chastity, presuming to contract marriage; and also all presuming to contract marriage with any of the aforesaid persons.

92. a. Some thought: a. that to incur the censure it is required that no other impediment stand in the way of such a marriage; but the holy see declared that the censure is contracted even if, besides order or vow, other diriment impediments are present, e.g. of affinity or consanguinity;[706] b. that the censure is not incurred if they contract civil marriage in a place where the Tridentine law on clandestinity is in force; but again the holy see declared that the censure is contracted through civil marriage, even in a place where the Tridentine law is in force.[707]

b. Presuming. Since in clerics and religious ignorance of the law prohibiting marriage is impossible, only ignorance of the penalty, or ignorance of the order or vow by which the other party is bound, will be able to excuse.

Second ordinary reserved excommunication. Those procuring abortion, once the effect has followed.

Notes

702. Holy Office, July 8, 1874.

703. Holy Office, March 9, 1870.

704. Holy Office, July 8, 1894.

705. The Sacred Congregation of Propaganda, on August 18, 1893, extended also to the faithful of the Eastern rite the censure established by the decree *Vigilanti*.

706. Holy Office, January 13, 1892.

707. Holy Office, December 22, 1880.

93. Explanation. From the very words of this censure three things are required for incurring it: a. that there be true abortion; b. that the abortion has been procured; c. that the effect has followed.

1. That there be true abortion. From those things which have been said elsewhere concerning the nature of abortion,[708] it is established that for true abortion it is required: a. that the fetus be expelled: for if it is not certainly established that what is expelled is a fetus and not only a mole, excommunication is not incurred; b. that it be expelled before the seventh month of gestation: for after the seventh month of gestation there is not abortion, but accelerated birth.

a. Therefore excommunication is not incurred if semen is expelled immediately after intercourse, because conception is not yet certain; nor if a fetus already dead is expelled, even if the one procuring did not know that it was already dead.

b. The surgical operation which is called craniotomy is not so much the procuring of abortion as direct homicide; for that reason one who performs craniotomy does not incur the excommunication by which those procuring abortion are struck.

c. It makes no difference at what time after conception abortion is procured, because the words of the constitution do not distinguish between an animated and unanimated fetus, but say absolutely: those procuring abortion.

2. That it has been procured. Those are said to procure abortion who, whether by themselves or through another, from the direct intention of abortion, try to produce it by an action efficacious of itself; as if a physician or lover provides a remedy to a woman for the end of abortion or strikes fear into her: for one is said to procure something who deliberately seeks it.

Therefore they do not incur excommunication who from anger, hatred, or another motive, although gravely sinful, strike a pregnant woman in such a way that abortion follows accidentally, even if it was foreseen.

a. Whether from recent law a mother who procures abortion for herself incurs excommunication is disputed. Nevertheless all agree that a mother who has been induced by grave fear to procure abortion for herself is immune from the censure.

Those who affirm say that our constitution without distinction strikes all procuring abortion, therefore also the mother. Those who deny this say that in the ancient decrees, with all consenting, the mother was not comprehended under the name of those procuring, although the same term “those procuring” was used; therefore since the Pian constitution wishes rather to restrict than to extend excommunications, the mother also in the recent decree is not judged to be comprehended.

b. Not only those who by themselves, but also those who through another effect that a woman expel the fetus, are said to procure abortion; therefore those mandating, both to the woman that she procure abortion for herself, and to others that they procure abortion for the woman, are struck with excommunication. But those cooperating in abortion, whether physically or morally, do not incur excommunication from recent law, because in our constitution, otherwise than happened in the ancient decrees, cooperators are not contained.

3. That the effect has followed. Therefore two things are required from this head for incurring the censure: a. that the abortion has in fact followed from the means employed; b. that it is certainly established that it has followed from this very means and not rather from another.

Notes

708. Cf. *De praeceptis*^8 n. 342.

a. From the opinion of St. Alphonsus (n. 40), he does not incur excommunication who repents of the procured abortion before the effect follows, because in this case the delinquent is no longer contumacious when the sin becomes consummated in act. Nevertheless repentance indeed effects that the sin previously committed ceases, but it cannot prevent the censure from being incurred on account of the sin committed previously with depraved and contumacious will. Nor is it an obstacle that the penalty is contracted when the sin has already been remitted: for penalty is not the effect of a sin persisting, but of a sin previously committed (n. 21).

b. The distinction between an animated and unanimated fetus is no longer attended to: for recent laws are judged to prescind from the ancient and obsolete hypothesis of an unanimated fetus. Therefore excommunication is incurred at whatever time abortion takes place.

Third ordinary reserved excommunication. Those knowingly using false apostolic letters, or cooperating in the crime in this matter.

94. Those falsifying apostolic letters contract excommunication reserved in a special mode to the pope (I. 9); those knowingly using false letters, i.e. exhibiting them in order to obtain the effect contained in them, even if they do not obtain the effect, whether they are clerics or laymen, and likewise those knowingly and efficaciously cooperating by work or counsel in their use, incur this excommunication.

95. On absolution from censures reserved to the bishop by law.

a. In an urgent case the penitent can be directly absolved by any confessor (unless the bishop has reserved to himself the sin to which a papal censure is annexed); nevertheless afterward he is bound, by himself or through the confessor, under penalty of reincidence, to have recourse to the bishop and to stand by his mandates, as has been established concerning other papal cases.

b. One constituted in the article of death can be absolved by any confessor, nor does the obligation of approaching the bishop remain if the absolved person has recovered, unless the bishop has reserved the censure to himself under this condition.

c. Regulars have power of absolving from these cases, unless bishops have reserved them to themselves; for before the Pian constitution, by force of privilege they were able to absolve from reserved cases (except episcopal ones); but by the aforesaid constitution the privilege of absolving from cases reserved to the Roman pontiff is revoked. Therefore the faculty of absolving from cases not reserved to the Roman pontiff remains.

§ 2. From the Decree *Vigilanti*

Fourth ordinary reserved excommunication. They incur excommunication:

1. Booksellers and other lay merchants collecting Mass stipends in any way whatever, who repay to the priests to whom they commit Masses to be celebrated not money, but books or other merchandise.

2. Likewise lay persons handing over Mass alms received from the faithful or from pious places to booksellers, merchants, and other collectors, whether they receive or do not receive anything from the same persons by name of reward.

96. It does not excuse from incurring the penalty that the number of Masses corresponds to the collected alms without any diminution having been made, or that poor priests lacking Mass alms are assisted in such a way, or that the profit from the exchange of merchandise with alms is expended not for the private advantage of those collecting, but for the use or increase of pious institutions and good works.

a. By the decree *Vigilanti*, May 25, 1893, several actions concerning Mass stipends are punished by penalties, either because through them commerce is exercised, or because an occasion is easily furnished for illicit commerce. But the penalties are:

b. For priests (cardinals and bishops are not comprehended), suspension from divine things simply reserved to the pope;

c. For clerics who are not priests, suspension from orders received and inability to receive higher orders, likewise simply reserved to the pope;

d. For lay persons, excommunication reserved to the bishop.

e. By the decree *Ut debita*, May 11, 1904, the same penalties are renewed and the actions prohibited under censure are determined more accurately, so that the following incur the censure:

f. Those knowingly handing over obligations of Masses and their alms, received from the faithful or from pious places, to any persons whatever, even ecclesiastical men, who request Masses not taxatively that they may celebrate them, whether by themselves or through priests subject to them, but for any other end, although best; likewise those knowingly accepting them.

g. Those separating the alms of manual Masses and Masses after the manner of manual Masses from their celebration, or commuting them into other things, or diminishing the alms, namely by not handing them over to the celebrant whole and in their own kind.

h. Those selling books, sacred utensils, or any other things whatever, or buying them, and entering into associations with newspapers and periodicals by means of Masses to be celebrated or celebrated, whenever this latter thing passes into a usage by habit and turns into support of some commerce.

i. Those subtracting anything from the alms of Masses which the faithful are accustomed to hand over to more celebrated sanctuaries, so that provision may be made for their dignity and ornament.

Article Six

On Excommunications Reserved to No One

In the fourth series thirteen excommunications are numbered, of which five were imposed by the constitution *Apostolicae sedis*, seven by the Council of Trent, to which is added the excommunication imposed by Pius X in the Motu proprio *Praestantia*.

§ 1. From the Constitution *Apostolicae sedis*

First non-reserved excommunication. Those commanding or compelling that notorious heretics, or persons excommunicated or interdicted by name, be handed over to ecclesiastical burial.

97. a. Those commanding or compelling are understood to be those who, endowed with public authority, either command burial by authority, or by force or fear compel others to bury. Therefore those burying or assisting at burial do not incur the censure.

b. Ecclesiastical burial is had if the deceased is placed in a sacred place and with a sacred rite; indeed even if he is placed without a sacred rite, provided this is done in a sacred place, the censure is already incurred; but it is not incurred if he is buried with a sacred rite in a profane place. They dispute whether, to contract the censure, the place ought to be consecrated by the bishop or in his name, or whether it suffices that it be simply blessed by a priest, or only destined by the bishop for the burial of the faithful. Since the matter is doubtful, it seems that it must be said that the place ought to be consecrated.

c. Notorious heretics (apostates, schismatics), even if they are not to be avoided and have adhered to no sect, provided it is publicly established that they were heretics and died in heresy, whether by notoriety of law or of fact.

Note. Since in Austria, from civil law, heretics in two cases must be buried in the cemetery of Catholics, it must be noted that they do not incur the censure who command burial, or compel others to bury, not in their own name but by force of civil law or in the name of a superior, because contumacy is lacking.

Second non-reserved excommunication. Those injuring or terrifying inquisitors, denouncers, witnesses, or other ministers of the Holy Office, or plundering or burning the writings of it or of its sacred tribunal, or furnishing help, counsel, or favor to any of the aforesaid.

98. a. This censure has been established for protecting the tribunal of the holy inquisition. Those incur it who injure in body or terrify, i.e. affect with very grave fear, judges, witnesses, or other ministers of the Holy Office. Those plundering or burning, or destroying in another way, but not secretly carrying away, the acts, even printed, of the same sacred tribunal.

b. Although bishops have been constituted inquisitors by the holy see, nevertheless their tribunal is not called simply the Holy Office; therefore the censure is not to be extended to the tribunals of bishops.

Third non-reserved excommunication. Those alienating, or presuming to receive, ecclesiastical goods without apostolic approval according to the form of the extravagans *Ambitiosae*, on ecclesiastical things not to be alienated.

99. Explanation. The constitution *Ambitiosae* establishes two things: a. for ecclesiastical goods of great value to be alienated both licitly and validly, the license or approval of the apostolic see is required; b. those alienating and receiving ecclesiastical goods without license incur excommunication.[709] Now, to explain the excommunication which our constitution renews, it must be set forth: a. what ecclesiastical goods are understood here; b. what actions are prohibited under censure; c. what persons are punished by this censure.

The constitution *Ambitiosae* was received neither in Germany nor in France; for this reason before the constitution *Apostolicae sedis*, by custom legitimately introduced, any ecclesiastical goods whatever could be alienated without license of the holy see, without excommunication being contracted. But after the constitution *Apostolicae sedis*, the law of seeking this license and the censure annexed to it are in force even in Germany and France: for the Holy Office declared on December 22, 1880, that the custom had been entirely taken away by the Pian constitution.[710]

100. What ecclesiastical goods. 1. Ecclesiastical goods are here understood to be the goods of all places which are called sacred or pious, provided they have been erected by ecclesiastical authority, even if their goods are administered by lay persons.

Ecclesiastical goods are not pious legacies or other goods donated to the Church which have not yet been accepted by the Church or duly acquired, nor lay chaplaincies, although not even these can be alienated at will.[711] But goods which pertain to institutes of men and women, whether approved by the holy see or only diocesan, are ecclesiastical, which cannot be alienated without license of the holy see; and those alienating them thus incur excommunication.[712]

Notes

709. C. *Ambitiosae* un. *De rebus eccl. non alienandis* (Extrav. com. III. 4) of Paul II, March 1, 1468.

710. Cf. *Acta s. sedis* XV. p. 539.

711. S. C. C., February 8, 1871. Cf. *Acta s. sedis* VI. 476.

712. S. C. de Prop. Fide, January 15, 1903.

2. Nevertheless, not all ecclesiastical goods indiscriminately, but only immovable goods and precious movable goods (which can be preserved by being kept), are prohibited from being alienated without consulting the holy see.

a. Immovable goods are judged to be not only estates and buildings, but also those things which are held by the land, such as mines, fruit-bearing trees or things necessary for the estate, rights (the right of hunting and fishing) and servitudes, revenues, and money destined by donors for acquiring estates or precious movable goods.

b. Precious movable goods are judged to be gold or silver vessels, abundant libraries, ornaments which excel by antiquity or workmanship, etc., provided they are not of slight value. But goods are judged to be of slight value which do not exceed the sum of 300 florins, or 500 marks, or 600 francs.[713]

But precious movable goods in order to this law are not judged to be: money, unless it has been given for buying immovable goods or precious movable goods; bonds and shares, which scarcely differ from money; notable relics, which are less properly called precious movable goods; old furnishings, which by custom can be alienated for procuring new ones equally precious; nor fruits and goods which cannot be preserved by being kept: for these are permitted to be alienated by this constitution itself.

101. Actions prohibited under censure are alienation and the corresponding reception or acquisition, presumptuous, of ecclesiastical goods. By the name of alienation is understood any contract by which the right of ownership, or of use, or of usufruct, is transferred to another, or in any way diminished or burdened. Actions of this kind are:

a. Sale, exchange (giving in payment), donation, hereditary transmission (*Vererbung*), etc., by which ownership is transferred to another;

b. Pledging, hypothecation, imposition of servitude, etc., by which goods of the Church are burdened;

c. Infeudation (*Lehensgebung*), lease beyond three years, emphyteusis, etc., by which useful ownership is transferred to another;

d. Compromise, settlement, remission of servitude, cession of suit, etc., by which rights are ceded.

e. If an ecclesiastical good (a house or field) had to be leased for a longer time, the administrator, to avoid the censure, would have to reserve to himself the right of rescinding the contract every three years. A promise to renew the contract after three years have passed does not induce the censure.

f. To incur the censure it is required that the alienation be perfected from each side. Therefore if the alienation of an ecclesiastical good is made under reservation of apostolic approval, according to the opinion of many excommunication is not incurred, provided the contract is not put into execution before the apostolic license arrives: for what is still in the dominion of the seller cannot be said to have been alienated. In like manner, where sale is not perfected except by delivery of the thing, the censure is not incurred before the sale has been perfected by delivery of the thing; but where sale is perfected by the consent alone of the parties, the censure is incurred already before delivery of the thing.

g. Whether alienations made between churches or pious places are subject to the censure is disputed. D'Annibale and Ballerini deny this: for the constitution *Ambitiosae* by this prohibition intends to guard against detriment to divine worship, because ecclesiastical goods pass into the ownership of lay persons;

Notes

713. S. C. Epp. et Reg., May 1, 1840. The sum of 25 gold pieces, which in this decree the congregation mentions from older responses (from 1611 and 1698), with the value of money changed, is now rightly judged equivalent to the sum placed above.

but in an alienation of this kind, which is made between churches, divine worship suffers no detriment. Nevertheless the decree of S. C. C., January 24, 1632, stands against the denying opinion.

102. Persons who are punished by this censure are those alienating and those presuming to receive without approval of the holy see.

1. By those alienating are understood only those in whose name the alienation is carried out, pastors or rectors, but not their mandataries, nor those cooperating in some way in the alienation, e.g. by consent, nor those destroying or stealing goods of this kind.[714]

a. Lay persons administering ecclesiastical goods by force of civil laws, who themselves illicitly carry out the alienation of these goods, fall into excommunication; if a pastor or another ecclesiastical person carries out the alienation with lay persons only consenting, these do not incur excommunication.[715]

b. Authors do not agree whether bishops and abbots also, illicitly alienating ecclesiastical goods, incur this excommunication. By the constitution *Ambitiosae* bishops and abbots are punished not with excommunication but with interdict from entrance into the church; but since this interdict is not renewed by the constitution *Apostolicae sedis*, it is established that bishops and abbots no longer incur this penalty. But several authors (Aichner, Lehmkuhl, Ballerini) contend that bishops and abbots today contract no censure: for Pius IX renews the censure according to the form of the constitution *Ambitiosae*; but this constitution does not strike bishops and abbots with excommunication. Others, on the contrary (D'Annibale, Bucceroni, Hollweck), teach that bishops and abbots also incur this censure, because the constitution *Apostolicae sedis* does not except them, especially since another penalty is not established against them.

2. Those presuming to receive. Those receiving are said to be those who buy or lease ecclesiastical goods, or those for whose advantage a mortgage is imposed upon them. Nevertheless not all receiving persons are censured, but only those presuming to receive, therefore only those whom ignorance, even crass or supine, does not excuse; on the contrary, crass ignorance does not excuse those alienating from incurring the censure.

3. The approval or license of the apostolic see is not required: a. when an occasion occurs which does not allow awaiting the answer of the holy see; nevertheless in this case the license of the bishop is required; b. when immovable goods have been left to a monastery which is prohibited from retaining such things; c. when goods have been left to a church under the condition that they be sold. But license is required even if the alienation is done for a just cause and for the utility of the church: for by this law itself the holy see reserved to itself the judgment concerning the utility of the alienation to be made.

Note 1. Bishops, and others with their consent, can licitly alienate: a. immovable goods of slight value, provided they are not parts of a greater estate, lest in this way the whole be alienated successively by parts; b. precious movable goods of slight value; c. movable goods which cannot be preserved by being kept, such as fruits of estates, vineyards, flocks, timber of forests which it is licit to cut, etc., even if they are of greater value.[716]

Note 2. To the bishops of Austria on May 8, 1900, for a decade, power was granted of conceding the faculty: a. of alienating ecclesiastical goods up to the sum of 6000 florins, to archbishops up to the sum of 8000

Notes

714. Holy Office, March 9, 1870.

715. Hollweck, l. c. p. 2412.

716. C. *Terrulas* 53. c. 12. q. 1.

florins; b. of imposing burdens upon ecclesiastical goods up to 12000 florins, to archbishops up to 15000 florins; c. of entering contracts of letting and hiring that would be valid for 15 years; d. in cases of urgent necessity or utility, of alienating goods and imposing burdens upon them up to the sum of 12000 florins, to archbishops up to 15000 florins. With respect to goods of regulars, still broader faculties were received on September 18, 1901.

Fourth non-reserved excommunication. Those neglecting, or culpably omitting, to denounce within a month confessors or priests by whom they have been solicited to shameful things in any of the cases expressed by our predecessor Gregory XV in the constitution *Universi* and by Benedict XIV in the constitution *Sacramentum poenitentiae*.[717]

103. For the explanation of this censure, confer the volume *De Sacramentis*^8 n. 393. Only this must be added. If the solicited person is worthy of faith and seriously promises that he will denounce within a month, he can be absolved from sins; indeed, if he culpably delayed denunciation beyond a month and now seriously promises that he will denounce as soon as possible, he can likewise be absolved from the censure, because it is not said: until he has denounced. But if afterward, with his will changed, he does not denounce, the censure does not revive, because there is nothing concerning reincidence.

Fifth non-reserved excommunication. Those who print, or cause to be printed, books treating of sacred matters without the approval of the ordinary. This censure in the constitution *Officiorum* sounds thus: Those who, without the approval of the ordinary, print, or cause to be printed, books of sacred Scripture or annotations or commentaries on the same.

104. a. To the question whether "books treating of sacred matters" in the constitution *Apostolicae sedis* are understood to be only the sacred Scriptures and their commentaries, or universally all books treating of religious matters, the Holy Office responded: affirmatively to the first part.[718] Therefore as to the matter the censure of each constitution is the same, yet it is expressed more clearly in the later constitution.

b. They incur the censure: a. printers or typographers, who undertake the care of printing, but not those cooperating in the printing; b. those causing to be printed, i.e. the author and the publisher, if he differs from the typographer and takes care that the manuscript be printed.

§ 2. From the Council of Trent

Sixth non-reserved excommunication. Whoever shall have presumed to teach, preach, or pertinaciously assert, or by disputing publicly defend, that sacramental confession is not to be premised to the sacrament of the Eucharist, when there is abundance of a confessor, if he whom consciousness of mortal sin burdens judges himself to be truly contrite. Sess. 13. c. 11.

105. He incurs the censure who denies that sacramental confession is necessarily to be premised; therefore he does not incur it who only denies that it is necessary by divine law, nor he, whether he is a cleric or layman, who does not premise confession where he is bound from the Tridentine decree.

Seventh non-reserved excommunication. Those who deny that clandestine marriages made by the free consent of the contracting parties are true and ratified, so long as the Church has not made them invalid. Whoever shall affirm that marriages contracted by children of the family without the consent of parents are invalid, and that parents can make them ratified or invalid. Sess. 24. c. 1. *De reform. matr.*

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717. Cf. *De sacramentis*^8 n. 387 ss.

718. Holy Office, December 22, 1880.

Eighth non-reserved excommunication. The abductor of a woman, and all those furnishing him counsel, help, and favor. Sess. 24. c. 6. *De reform. matr.*

106. Both the abductor and his cooperators incur the censure, even if marriage did not follow or was not attempted.

Ninth non-reserved excommunication. Those who in any way directly or indirectly compel their subjects or any others, so that they do not freely contract marriages. Sess. 24. c. 9. *De reform. matr.*

107. This censure protects the liberty of marriage. Temporal lords and magistrates incur it, who exercise jurisdiction in the secular external forum, but not private persons, such as parents who compel children, or masters who compel servants, to enter marriage.

Tenth non-reserved excommunication. Magistrates who refuse to furnish help to the bishop against those who violate the enclosure of nuns or prohibit them from being restored. Sess. 25. c. 5. *De regul.*

Eleventh non-reserved excommunication. All who in any way have compelled any woman, unwilling, except in cases expressed in law, to enter a monastery, or to receive the habit of any religion, or to emit profession; and those who shall have given counsel, help, or favor; and those who, knowing that she does not spontaneously enter the monastery, or receive the habit, or emit profession, in any way interpose their presence, or consent, or authority to the same act. Sess. 25. c. 18. *De regul.*

Twelfth non-reserved excommunication. Those who in any way, without just cause, shall have impeded the holy will of virgins or other women of receiving the veil or emitting a vow. Sess. 25. c. 18. *De regul.*

108. a. These two censures protect the liberty of entering religion. There is question of religion strictly such, of solemn vows.

b. In law a twofold case is had in which a bishop can compel a woman to enter a monastery, not indeed that she emit profession there, but that she dwell there: a. a wife who, after her husband has emitted profession with her consent, is suspected of incontinence; b. an adulterous wife whom the husband is unwilling to receive though she is penitent.

§ 3. From the Motu proprio *Praestantia*

Thirteenth non-reserved excommunication. Those who contradict the things which are contained either in the decree *Lamentabili* (July 3, 1907), or in the constitution *Pascendi* (September 8, 1907).

Question Three

On Suspension[719]

Article One

On Suspension in General

109. Nature. 1. Suspension is a censure by which a cleric is deprived of the use of power which he has by reason of order, office, or benefice.

a. Because suspension is a penalty proper to the clerical state, it can fall upon clerics alone, but not upon the faithful generally, as happens in excommunication.

Notes

719. Kober, *Die Suspension der Kirchendiener* (Tubing, Laupp, 1862). Hollweck, l. c. p. 132 ff.

b. Suspension does not take away the right itself or the power itself, such as benefice or office, but only their use and exercise.

c. Since suspension consists in the privation of the use of clerical power, only he can carry suspension who can grant clerical power. Therefore superioresses of nuns, just as they can suspend no one, so also they themselves cannot properly be suspended.

d. Suspension differs from deposition and degradation, which are vindicative penalties, by which a cleric is deprived not only of the use of power but, as far as can be done, of the power itself, office, or benefice.

2. Suspension properly so called, since it is a most grave penalty, cannot of itself be licitly carried unless admonition has first been given, the cause has been declared, and it is done by writing.

3. From suspension properly so called, suspension improperly so called must be distinguished; the former has the nature of censure, the latter does not, but either is a vindicative penalty, or a mere prohibition, if it is carried without fault. This distinction is therefore of great importance, because only the violation of suspension which has the nature of censure produces the effect of irregularity.

Suspensions which are carried by way of universal and stable law, even if only for a time, for a year or for three years, have the nature of censure; but suspensions are not censures:

a. Those which on account of past fault are carried either perpetually or by way of a particular sentence for a definite time;

b. Those which are inflicted without previous admonition, or without the cause having been declared, or orally;

c. Those which are inflicted upon a community;

d. Those which are imposed from informed conscience in such a way that the cause of the suspension in no way, not even implicitly, becomes known to the delinquent. Ordinarily, however, its cause, without admonition on the part of the judge, is already known from elsewhere; wherefore this suspension ordinarily has the nature of censure.[720]

110. Division. 1. Suspension is called general by which a cleric is deprived of the use of every power which he has either from order or from office or from benefice; it is called special by which a cleric is deprived of the use of power of one or another species only, namely by which he is suspended either from order or from office or from benefice.

2. Special suspension is either total, if it deprives a cleric of the use of every power of some species, namely either of order or of office or of benefice; or it is partial, if it deprives him of the use of only part of the power of some species, as if someone is suspended only from celebration, not from the whole order, or only from hearing confessions, not from the whole office.

a. One totally suspended from order is deprived of the exercise of any order, except acts of minor orders which laymen also exercise; one totally suspended from office is deprived of the exercise of every order, of jurisdiction, such as dispensing, absolving, delegating, approving, etc., and of office, such as preaching, catechizing, caring for canonical books, etc. Suspension from office includes suspension from order; one totally suspended from benefice is deprived of the administration of the benefice and also of the right of receiving its fruits.

Notes

720. Cf. Benedict XIV, *De synodo* l. 12. c. 8. n. 5. *Acta s. sedis* XIX. 561. Ballerini-Palmieri VII. n. 343.

b. Various partial suspensions occur in law:

c. Suspension *a divinis* is understood by some (Hilarius a Sexten) of suspension from order, i.e. from every exercise of sacred order; by others (D'Annibale) of suspension from office, i.e. from every use both of order and of jurisdiction.

d. Against prelates there is carried the partial suspension from pontifical order, by which they are deprived of the use of the power which arises from episcopal order, such as ordaining, confirming, etc.; or suspension from pontificals, by which they are deprived of the use of pontifical insignia, namely miter, staff, and pallium, and consequently also of those acts of episcopal order which are not exercised without the aforesaid insignia, such as conferring orders, consecrating a church, etc.; but they are not deprived of those acts which can be done without insignia of this kind, such as celebrating in the manner of priests, confirming without staff and miter.

e. If someone is called simply and without addition suspended, suspension from office and benefice is to be understood, unless from the subject matter or from circumstances a limitation is gathered.

3. By reason of the subject, suspension which is carried against individual persons is distinguished from suspension which is carried against an entire community.

Concerning this last suspension two things must be noted: a. Unless at the same time it falls upon determined persons, through it only those ecclesiastical functions are prohibited which are exercised by the community insofar as it is a moral body. Thus a suspended chapter is prohibited from making elections, celebrating divine things solemnly, etc.

b. If suspension of an entire community is at the same time carried against individual persons, it does not affect the innocent but only delinquents: for no one can be punished for another's fault.[721] Therefore as to the innocent this suspension has the nature of a prohibition.

4. Suspension from informed conscience[722] is inflicted on account of causes known to the one carrying it, and therefore extrajudicially, with no admonition first given. The prelate is not bound to manifest these causes to the delinquent, but only to the holy see, if the suspended person has recourse to it.

111. Effects of suspension. 1. A suspended person who exercises an act prohibited to him by suspension sins gravely, unless smallness of matter excuses from grave sin.

a. Acts of sacred orders are judged grave by their nature; for this reason in their exercise, if they are performed solemnly, there is no smallness of matter.

b. A tolerated suspended person who exercises functions prohibited to him not spontaneously but when asked by the faithful does not sin; but a suspended person to be avoided, who has been publicly denounced as suspended, sins even if he is asked by the faithful, except in a case of urgent necessity.

2. An act of jurisdiction which one suspended from office places is invalid, if he is to be avoided, because he is deprived of jurisdiction; but if he is tolerated, the act is not invalid but illicit, and when it is requested by the faithful, the act is valid and licit. Acts which one suspended from benefice places, such as contracts, etc., are invalid, because the suspension itself deprives him of the power of administering the benefice and receiving its fruits.

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721. Cf. St. Alphonsus n. 317.

722. Cf. concerning this suspension the canonists, especially Aichner, *Compendium iuris eccl.*^9 (Brixen, Weger, 1900) p. 784 ss.

3. One suspended from sacred order, but not likewise one suspended from jurisdiction and benefice, contracts irregularity if knowingly and solemnly, outside a case of grave inconvenience, he exercises the order from which he is suspended.

Since irregularity of itself is not incurred except through violation of censure properly so called, one suspended from order through exercise of the prohibited order does not incur irregularity if he violates suspension improperly so called (n. 109, 3), although he can sin gravely.

4. One suspended from order by sentence of his own ordinary is everywhere kept from the exercise of the prohibited order; but one suspended from jurisdiction is not prohibited from receiving jurisdiction in another diocese.[723]

One suspended from order or from office is not prohibited from receiving the sacraments of penance and Eucharist, provided he truly sorrows for the fault on account of which the suspension was carried, nor is he deprived of the common suffrages of the Church.

Article Two

On Suspensions in Particular

112. The suspensions now in force are numbered nineteen in all:

a. Seven are contained in the constitution *Apostolicae sedis*;

b. Seven were carried by the Council of Trent;

c. Five have been added after the constitution *Apostolicae sedis*.

Of these suspensions, two, n. 15 from the constitution *Romanus pontifex* and n. 19 from the decree *In perturbationibus*, are specially reserved; the suspensions from the bull *Apostolicae sedis* are simply reserved; of the Tridentine ones, some are reserved to bishops, others are not reserved.

§ 1. Suspensions from the Constitution *Apostolicae sedis*

1. **First suspension.** Chapters and convents of churches and monasteries, and all others who receive to the rule and administration of those churches or monasteries bishops or other prelates concerning the aforesaid churches or monasteries provided in any way at the same holy see, before they themselves have exhibited the apostolic letters concerning their promotion, incur by the fact itself suspension from the perception of their benefices, at the good pleasure of the holy see.

This suspension from benefices, possessed in common, carried against a community, chapters and convents, for an indefinite time, at the good pleasure of the holy see, does not have the nature of censure; nevertheless it also affects individual beneficiaries both within and outside the chapter who are guilty of the same delict, so that they are deprived even of the perception of the fruits of their own benefices.

2. **Second suspension.** Those ordaining someone without the title of benefice or patrimony, with the pact that the ordained person not seek support from them, incur by the law itself suspension for three years from the conferral of orders.

Only the one ordaining incurs suspension from the conferral of orders, both major and minor, but not of tonsure, for three years, if with a pact that the ordained person not seek support from him, he conferred

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723. Ballerini-Palmieri VII. n. 347.

major orders. If he confers orders only without the title of order, he does not incur the censure. After three years have elapsed, the suspension ceases of itself.

Note. In antiquity those who had been ordained without title were by the fact itself suspended from the exercise of order; afterward this suspension was restricted to those clerics alone who, having been ordained without title, had promised that they would not seek support from the one ordaining. Today, however, since the constitution *Apostolicae sedis* carries suspension against the one ordaining alone, neither one ordained without title, nor one who, having lost the former title, does not substitute another title, incurs any penalty, even if they acted in bad faith, nor consequently are they prohibited from the exercise of order.[724] Another thing has been established for professed regulars losing title.

3. **Third suspension.** Those ordaining another's subject, even under the pretext of a benefice immediately to be conferred or already conferred but in no way sufficient, without the dimissorial letters of his bishop; or even their own subject who has dwelt elsewhere for so long a time that he could have contracted a canonical impediment there, without testimonial letters of the ordinary of that place, incur by the law itself suspension for a year from the administration of orders.

Those incur suspension from the conferral of orders for a year who confer orders upon another's subject without dimissorial letters, or if they ordain their own subject without testimonials. Who is another's subject, and how long the dwelling in another diocese must be so that testimonial letters are necessary, is said elsewhere.[725]

4. **Fourth suspension.** He who, except in the case of legitimate privilege, shall have conferred sacred order without the title of benefice or patrimony upon a cleric living in some congregation in which solemn profession is not emitted, or even upon a religious not yet professed, incurs by the law itself suspension for a year from the conferral of orders.

Those incur suspension from the conferral of orders for a year who without the title of benefice or patrimony confer sacred order either upon a religious of an institute of simple vows, unless he has already emitted perpetual vows, or upon a religious of an order of solemn vows, unless he has already emitted solemn vows, except in the case of special privilege.

5. **Fifth suspension.** Religious ejected from religion and dwelling outside religion incur by the law itself perpetual suspension from the exercise of orders.

Ejected religious strictly so called, i.e. solemnly professed, who have been expelled from a just cause and with the legitimate form observed, incur suspension from the exercise of orders in perpetuity, i.e. for as long as they remain in the same condition. Apostates or fugitives do not incur it; nor those who have been expelled unjustly or without the prescribed form having been observed. Therefore, since the suspension can cease because the ejected person enters either the same or another order, nothing prevents this suspension from having the nature of censure.

Note. By the decree *Auctis admodum* (November 2, 1892), another twofold suspension is imposed upon certain religious constituted in sacred orders:

a. Upon those, whether solemnly or simply professed, who because of their delicts have been ejected or dismissed, until the holy see dispenses with them. Dispensation is granted if this twofold condition is

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Notes

724. Cf. D'Annibale, *Summula* I. n. 412 note 42. Gasparri, *De sacra ordinatione* I. n. 613. Instruction of S. C. de Propag. Fide, April 27, 1871.

725. Cf. *De sacramentis*^8 n. 478 ss. 491.

verified: that they have found a bishop who is willing to enroll them in his clergy, and that they have provided for themselves concerning ecclesiastical patrimony.

b. Upon those simply professed who depart spontaneously, if they depart from the cloister before they have found a bishop who receives them and have provided for themselves concerning ecclesiastical patrimony.

6. **Sixth suspension.** Those who have presumed to receive the same order from one excommunicated or suspended or interdicted, denounced by name, or from a notorious heretic or schismatic, incur by the law itself suspension from the order received; but we declare that one who in good faith has been ordained by any of them does not have the exercise of the order thus received until he is dispensed.

Those who in bad faith receive order from an excommunicated person, etc., incur partial suspension from the order received; nevertheless ignorance both crass and supine and affected excuses them, since it says "have presumed to receive." Those who do this in good faith, i.e. with ignorance that the one ordaining is excommunicated, etc., do not incur the censure, but are prohibited from exercising the order received unless they have been dispensed by the bishop or by the holy see.

7. **Seventh suspension.** Secular foreign clerics dwelling in the City beyond four months, ordained by someone other than their own ordinary himself without the license of the Cardinal Vicar of the City or without previous examination completed before him, or even by their own ordinary after they have been rejected in the aforesaid examination; and also clerics pertaining to any of the six suburbicarian bishoprics, if they are ordained outside their own diocese, with dimissorials of their own ordinary directed to someone other than the Cardinal Vicar of the City; or if spiritual exercises for ten days in the urban house of priests called of the Mission have not been premised before sacred order is received, incur by the law itself suspension from the orders thus received at the good pleasure of the holy see; but bishops ordaining incur suspension from the use of pontificals for a year.

A twofold suspension is inflicted:

a. From orders received, against secular foreign clerics dwelling at Rome beyond four months, and against suburbicarian clerics, if without the norm prescribed by the holy see having been observed they receive order from another's bishop or even from their own bishop;

b. From the use of pontificals for a year, against bishops who confer orders upon them without the same norm having been observed.

§ 2. Tridentine Suspensions

8. **First Tridentine suspension.** A bishop who exercises pontificals in another's diocese without the express license of the ordinary of the place incurs suspension from the exercise of pontificals; those thus ordained are by the law itself suspended from the execution of orders. Sess. 6. c. 5. *De reform.*

Concerning the reservation of this suspension, some say that the suspension from pontificals which the bishop incurs is reserved to the pope, and that the suspension from orders which one thus ordained incurs is reserved to the bishop whose rights were injured; but others teach that each is reserved to the pope, others that each is reserved to the bishop.

9. **Second Tridentine suspension.** Those who have not been constrained by occasion of a benefice received or to be received, and, the see being vacant, within a year from the day of vacancy have been initiated in major orders through dimissorial letters received from the chapter, are by the law itself suspended from the execution of orders at the good pleasure of the future prelate. Sess. 7. c. 10. *De reform.*

They incur suspension from the exercise of order who receive sacred order through dimissorial letters granted while the see is vacant within a year. Yet clerics are excepted who, on account of a benefice either to be received or to be retained, would have been compelled to receive sacred order. The suspension is reserved to the future bishop.

10. **Third Tridentine suspension.** Titular bishops who, even under pretext of familiarity and of their continuous sharing of table, shall have promoted another's subject to any sacred or minor orders, or first tonsure, without the express consent or dimissorial letters of his own prelate, incur suspension from the exercise of pontificals for a year; but one promoted in this way is by the law itself suspended from the execution of orders thus received until it shall have seemed good to his prelate. Sess. 14. c. 2. *De reform.*

Titular bishops who ordain another's subject, even to first tonsure only, without license or without dimissorial letters of the proper bishop, incur suspension from pontificals for a year. Those ordained thus are suspended from the exercise of the order received until it shall have seemed good to their own prelate.

11. **Fourth Tridentine suspension.** He who ordains another's subject without testimonial letters, i.e. letters by which the probity and morals of the one to be ordained are commended by the testimony of his ordinary, incurs suspension from the conferral of orders for a year; but the one ordained is suspended from the execution of the orders received for as long as it shall seem expedient to his own ordinary. Sess. 23. c. 8. *De reform.*

Bishops who ordain another's subject without testimonial letters incur suspension from the conferral of orders, but not also of tonsure, for a year. One thus ordained is suspended from the exercise of the order received for as long as it shall have seemed good to his own bishop.

12. **Fifth Tridentine suspension.** Abbots and other exempt persons, or colleges or chapters of any kind, even of cathedral churches, granting dimissorial letters to any secular clerics so that they may be ordained by others, are by the law itself suspended from office and benefice. Sess. 23. c. 10. *De reform.*

Regular abbots and others, however exempt, incur suspension from office and benefice for a year if they grant dimissorial letters to secular clerics so that they may be ordained by others. Just as abbots existing within the boundaries of some diocese and exercising jurisdiction over seculars cannot confer orders upon their secular subjects, so neither can they grant dimissorial letters to them, unless they have obtained a special privilege. The same holds for chapters which by special right exercise jurisdiction in some part of a diocese.

13. **Sixth Tridentine suspension.** If any pastor or other priest, whether regular or secular, even if he contends that this is licit to him from privilege or immemorial custom, shall have dared to join or bless in marriage spouses of another parish without the license of their pastor, let him remain suspended by the law itself for so long as he is not absolved by the ordinary of that pastor who ought to have assisted at the marriage, or from whom the blessing was to be received. Sess. 24. c. 1. *De reform. matr.*

This suspension (n. 6), which is suspension from office and benefice, has either been entirely abrogated or restricted to priests who are not pastors, through the decree *Ne temere*, August 2, 1907.

14. **Seventh Tridentine suspension.** Bishops who have not abstained from the crime of concubinage and, having been admonished by the provincial synod, have not amended themselves, are by the fact itself suspended. Sess. 25. c. 14. *De reform.*

Concubinary bishops incur suspension from office and benefice, but only if they have been warned in vain by the provincial synod.

Note 1. Some authors refer here the suspension which is carried against those promoted by leap; but this suspension is a mere prohibition.[726]

Note 2. In like manner, suspension from office which is inflicted upon superioresses of monasteries who do not make the bishop more certain a month beforehand concerning the profession of their novices, is a prohibition and a penalty, since women are not subject to suspension.

§ 3. Suspensions Imposed after the Bull *Apostolicae sedis*

113. The unjust morals of our times have given the holy see occasion for carrying these five suspensions.

15. **First later suspension.** From the bull *Romanus pontifex*, August 28, 1873.

Bishops who are guilty of that crime which by the constitution *Romanus pontifex* is punished in others by excommunication, incur not excommunication, but suspension from pontificals reserved in a special mode (n. 66).

16. **Second later suspension.** From the decree *Vigilanti* of S. C. C., May 25, 1893, and from the decree *Ubi debita* of the same sacred congregation, May 11, 1904.

Those who sin against these decrees[727] incur: a. if they are priests, suspension *a divinis* or from office, reserved to the pope; b. if they are clerics not yet priests, likewise suspension from orders and, in addition, inability to receive higher orders.

17. **Third later suspension.** From the bull *Orientalium dignitas*, November 30, 1894.

Latin missionaries, whether secular or regular, who induce any Eastern person by counsel or help to embrace the Latin rite, incur suspension *a divinis*.

18. **Fourth later suspension.** From the decree *Anteactis temporibus* of S. C. C., December 22, 1894.

They incur suspension *a divinis*:

a. Secular clerics and priests, and also regulars dwelling outside cloisters, who establish a stable domicile in the City without permission of the holy see.

b. Clerics and priests of another diocese who are chosen for an ecclesiastical office which requires residence in the City, without testimonial letters of their bishop and without permission of the holy see already obtained.

c. Those who for a just cause with the license of the ordinary are staying in the City, but as soon as a cause of this kind has ceased, or if they are recalled by their own bishop, do not return to their own diocese.

19. **Fifth later suspension.** From the decree *In perturbationibus* of S. C. C., July 12, 1900.

Priests and clerics who, in order to bring assistance in any way whatever to internal wars and political conflicts, even if they have not taken up arms, have deserted their own place of residence, and those who in civil war have voluntarily given their name to military service, contract suspension from order, from office, and from benefice, specially reserved.

Notes

726. Council of Trent, sess. 23. c. 14. *De reform.*

727. What these decrees establish, see n. 96.

Question Four

On Interdict

Article One

On Interdict in General

114. Nature. Interdict is a censure by which the use of divine offices, of certain sacraments, and of ecclesiastical burial is prohibited.

a. In the definition are enumerated three effects which a total interdict can produce. Divine offices are understood to be all those things for the performance of which a consecrated minister is required, such as Mass, blessings, processions. The sacraments which are prohibited through interdict are the Eucharist, with viaticum excepted; extreme unction, except in the case in which the dying person could not confess; and order. Therefore baptism, confirmation, penance, and matrimony can be administered, with the nuptial blessing, however, omitted.

b. From interdict which is a censure, there must be distinguished interdict which is a mere vindicative penalty or a mere prohibition. Now only a particular personal interdict is a true censure; but a local interdict and a general personal interdict are not censures, but vindicative penalties, and with respect to the innocent mere prohibitions.

c. Interdict differs: a. from suspension, because the latter affects clerics alone, and because it prohibits not the use of sacred things, but the exercise of ecclesiastical power; b. from excommunication, both because excommunication deprives one of spiritual goods, and of many more of them, not immediately but consequently, namely insofar as it prohibits communion with the faithful, and because excommunication affects not places, but persons alone.

d. Similar to interdict, yet essentially diverse, is cessation *a divinis*, which is not a censure nor properly a penalty, but a mere prohibition made to clerics of celebrating Mass, administering sacraments, and performing divine offices in some determined sacred place. Cessation *a divinis* is enjoined on account of a most grave and public delict committed in that place, as a sign of mourning and for repairing the injury.

115. Division. 1. One interdict is local, which immediately affects a place; another personal, which immediately affects persons; another mixed, which immediately affects place and persons.

2. A local interdict can be general, if it affects an entire territory, e.g. a city, parish; or particular, if it affects a determined place, e.g. a parochial church.

3. A personal interdict in like manner can be general, if it is carried against an entire community, e.g. against a chapter, university; or particular, if it is carried against one or several determined persons.

4. One interdict is total, which prohibits all sacred things that are enumerated in the definition; another partial, which prohibits only some of those.

The interdict from entrance into a church deserves special mention. This interdict is particular personal, and indeed partial, which has the nature of true censure. He who is struck by this interdict: a. cannot perform divine offices in a church, nor be present at them in a church, nor be given ecclesiastical burial, unless he has died penitent; b. outside a church, however, he can licitly perform all things which were otherwise licit: therefore he can celebrate or receive sacraments in a private oratory; indeed probably he can also pray privately in a church, receive sacraments privately, hear a sermon.

116. As to the effects of interdict, these few things suffice:

a. A local interdict personally affects those who gave cause for the interdict; but it does not affect the rest except by reason of place. Therefore outside the interdicted place they can assist at all sacred functions or perform them.

b. A personal interdict subjects a certain person to the same effects by which a local interdict subjects a certain place. Therefore the interdicted person cannot perform or hear divine offices, nor administer or receive the above-mentioned sacraments, namely Eucharist, extreme unction, order, nuptial blessing, nor be given ecclesiastical burial.

c. If the interdicted person is to be avoided, it is not licit for the faithful to hear his Mass, since he must be avoided in acts prohibited to him. But if an interdicted person to be avoided assists at a divine office, the faithful are not bound to go out nor to expel him, since this pertains to the ministers of the Church, not to simple faithful.

117. How interdict can be loosed. 1. A reserved interdict, whether imposed by law or by man, can be loosed by the one carrying it, by a superior, by a successor, and by a delegate.

A particular personal interdict, inflicted by man for a determined time or expressly in perpetuity, is by its nature reserved.

2. Any local interdict and a general personal interdict, if they are not reserved, can be loosed by a superior having jurisdiction of the external forum over the place or over the persons. A confessor, although privileged, can do nothing concerning these interdicts, because a place and a community are not subject to the forum of penance.

3. A particular personal interdict simply carried and not reserved can be loosed by any confessor. For this, the ordinary form of absolution suffices, or the form which is contained in the Roman Ritual can be employed.[728]

Note. In the article of death a personal interdict can be loosed by any confessor; nevertheless, if it is reserved to the pope in a special mode, there remains the obligation, under penalty of reincidence, of recurring to the holy see when the illness has ceased.

Article Two

On Interdicts in Particular

Interdicts in force. Interdicts are numbered only five, of which the first two are reserved to the Roman pontiff in a special mode, but the three later ones are reserved to no one.

§ 1. From the Constitution *Romanus pontifex*

1. **First interdict.** But if any of the aforesaid are marked with episcopal character, they fall by the very fact, without any declaration, into the penalty of interdict from entrance into a church, likewise reserved to the holy see in a special mode.

118. Bishops who commit the delicts recounted above (I. 13) incur not only suspension from the use of pontificals (n. 6), but also interdict from entrance into a church.

Notes

728. Roman Ritual, tit. 3. c. 5.

§ 2. From the Constitution *Apostolicae sedis*

2. **Second interdict.** Universities, colleges, and chapters, by whatever name they are called, appealing from the ordinances or mandates of the same Roman pontiff existing for the time to a future universal council, incur by the law itself an interdict reserved to the Roman pontiff in a special mode.

119. If those appealing from the ordinances of the Roman pontiff to a future council are not physical persons but moral persons, they contract not excommunication (I. 4), but interdict, by which nevertheless the individual members are bound.

3. **Third interdict.** Those knowingly celebrating, or causing divine things to be celebrated, in places interdicted by the ordinary, or by a delegated judge, or by law; or admitting those excommunicated by name to divine offices, or ecclesiastical sacraments, or ecclesiastical burial, incur by the law itself interdict from entrance into a church, until they have competently satisfied at the judgment of him whose sentence they have contemned.

120. This censure is incurred by: a. clerics who celebrate or cause celebration in an interdicted place, except on the days and in the places in which this is licit; b. clerics who admit one excommunicated by name to divine offices, even only to assist, to the sacraments, except penance and viaticum in the article of death, or to ecclesiastical burial, which pertains only to those who have care of the church or cemetery.

§ 3. From the Council of Trent

4. **Fourth interdict.** The metropolitan is bound to denounce to the Roman pontiff, within three months by letters or messenger, bishops absent beyond the time of the second six-month period, and the older resident suffragan bishop is bound likewise to denounce an absent metropolitan, under penalty of interdict from entrance into a church to be incurred by that very fact. Sess. 6. c. 1. *De reform.*

121. Bishops to whom it pertains contract the censure if they do not denounce to the Roman pontiff within three months a bishop absent from his diocese without just cause beyond a year.

5. **Fifth interdict.** Chapters of churches are subject to ecclesiastical interdict if, the see being vacant, within a year from the day of vacancy they have granted license of being ordained or dimissorial letters to someone who was not constrained by occasion of an ecclesiastical benefice received or to be received. Sess. 7. c. 10. *De reform.*

122. A chapter can grant dimissorial letters, and therefore contract this censure, only in the first eight days after the death of the bishop; for when these have elapsed, the whole power is transferred to the capitular vicar.

Question Five

On Irregularities[729]

Article One

On Irregularities in General

123. Notion. Irregularity is an impediment established by ecclesiastical law, which of itself and directly prohibits the reception of orders, and indirectly their use, perpetually.

Notes

729. Suarez, *De censuris*, Disp. 40. Laymann, *Theol. moralis* l. 1. tr. 5. part. 5. *De irregularit.* Holzmann, *Theolog. moralis* t. III. tr. 2. disp. 3. *De irregularit.* St. Alphonsus l. 7. n. 231 ss. Gasparri, *De sacra ordinatione* I. n. 155 ss. Hilarius a Sexten, *De censuris eccl.* (Mainz, Kirchheim, 1898). Appendix *de irregularit.* Ballerini-Palmieri, *Opus theol. mor.* VII. c. 5. Boeninghausen, *De irregularitatibus*, 3 fasc. (Munster, Theissing, 1863). Fr. Wernz, *Ius decretalium* II. p. 118 ss. Eichert, *Die Anfange der Irregularitaten* (Freiburg, Herder, 1901).

a. Irregularity is established of itself and directly on account of the dignity and reverence of the divine ministry, namely to avoid indecency in the same divine ministry. For the dignity and excellence of the Christian religion demand that its ministries be performed with great decency, lest the faithful be offended and their reverence toward sacred functions be diminished. For this end it was necessary that all be kept from sacred ministry who, according to the judgment of the Church, could not exercise it with due decency and dignity.

b. Therefore of itself irregularity does not have the nature of penalty, neither vindicative nor medicinal, but only of inability; the Roman Catechism calls it a stain,[730] which makes a man unfit to be received into the clerical state. Hence it happens that irregularity is frequently contracted without any fault.

c. Only an inability which has been introduced by ecclesiastical law is called irregularity; for irregularity affects those who by reason of natural and divine law are indeed fit for receiving orders, such as illegitimate persons, bigamists, etc., but by ecclesiastical law are kept from receiving them. But if it affects those who are prohibited from orders by divine natural or positive law, by divine law they are indeed unfit or unworthy, yet not irregular. Hence it is held as an axiom: no irregularity is incurred unless it is expressed in law.[731]

d. By the name of order from which irregularity keeps one, first tonsure also is understood; for although this is not properly an order, nevertheless by statute of law first tonsure also is here comprehended under the name of order,[732] because it would be given in vain to those who are kept from orders.

e. Perpetually. Whether perpetuity belongs to the nature of irregularity is disputed; but the opinion of those who with Laymann establish that temporary impediments which can cease by the fact itself without dispensation, such as the impediment of age, knowledge, canonical title, etc., are not irregularities properly so called, seems to be preferred.[733]

f. It prohibits of itself: for although censure also often prohibits from receiving or exercising orders, nevertheless it does this not of itself, but consequently to the penalty imposed; irregularity, however, is established of itself and directly for keeping the unfit from the clergy.

124. Effects of irregularity. 1. The immediate effect of irregularity is that of itself and directly it impedes the reception of orders: for of itself it keeps one from the clerical state; but indirectly it also impedes the exercise of orders received. For he who is prohibited from receiving orders is consequently prohibited also from exercising orders, if as irregular he has received any or already had them.

Irregularity now does not prohibit the exercise of all orders, but only of sacred orders: for since today the offices of minor orders are commonly performed by laymen, it has happened that irregular clerics are no longer kept from their exercise.

2. Irregularity does not render the reception of orders invalid, but only illicit, since it is not an invalidating impediment, but only a prohibiting one.

Therefore both he who promotes an irregular person, even to tonsure alone, and the irregular person who receives or exercises an order, sin gravely, unless smallness of matter or grave inconvenience excuses, because both transgress a precept of the Church in a grave matter.

Notes

730. *De baptismo* n. 57.

731. C. *Is qui* 18. *De sentent. excomm.* in 6. (V. 11).

732. C. *Cognoscamus* 14. dist. 34.

733. Cf. Gasparri I. n. 169.

3. Irregularity prohibits the collation and reception of a benefice to which there is annexed an office which the irregular person is forbidden to exercise.

a. Since a simple benefice does not have annexed the exercise of sacred order, but only the recitation of hours or an office which even an irregular person can exercise, therefore it can of itself licitly be conferred upon an irregular person and accepted by him.

b. Authors dispute whether the collation and acceptance of a benefice which requires the exercise of sacred order is only illicit or also invalid. The opinion denying that the collation is invalid is probable, because by no certain law can it be proved that a collation of this kind is invalid. Wherefore both he who confers such a benefice upon an irregular person and the irregular person who accepts it indeed sin, but the collation and acceptance are valid.[734]

4. A supervening irregularity does not render one incapable of retaining or receiving ecclesiastical jurisdiction, whether ordinary or delegated. Wherefore an irregular person can also licitly exercise acts of jurisdiction which do not require the exercise of order; thus he can confer upon another the faculty of absolving, can dispense in vows, etc.

125. Division of irregularity. 1. One irregularity is from defect, which proximately arises from defect of a quality required for the reception of orders; another is from delict, which proximately arises from one's own delict. For the indecency which irregularity intends to guard against can arise both from defect alone without delict and from delict.

a. Irregularity from defect sometimes supposes a delict, whether another's, as irregularity from defect of birth, or one's own, as infamy contracted on account of an enormous delict.

b. Although irregularity from delict is not a penalty, nevertheless it has itself after the manner of penalty: for it is inflicted on account of fault, namely insofar as from certain delicts a stain is contracted which renders the delinquent incapable for sacred ministry. Wherefore, if fault is not present, neither is irregularity present; and what excuses from fault likewise excuses from contracting irregularity.

c. Sometimes it is uncertain whether an irregularity is to be numbered among those which arise from defect or among those which arise from delict. But if each is probable, the irregularity is to be called from delict, both because this is more difficultly contracted, and because dispensation is more easily granted in it.

2. Irregularity is either total, which impedes the reception of every order or the use of every order received, as homicide; or partial, which impedes either only ascent to a higher order or only the exercise of some order. Thus a deacon who lacks the left eye, according to the opinion of some, is incapable for priesthood, yet can exercise his own order; and a priest who without fault is deprived of a thumb is prohibited only from celebration, but not from hearing confessions.

3. Irregularity is perpetual, which of itself always endures unless it is removed by dispensation; and it is temporal, which endures only for some time, because it ceases either spontaneously or by the effort of the irregular man, as irregularity from defect of age or from defect of knowledge.

Note. Concerning these divisions it must be noted that only total and perpetual irregularity is irregularity properly so called; others ought to be called irregularities improperly. For it belongs to the nature of irregularity that it simply keep one from the clerical state or from the exercise of clerical ministry, unless it is removed by dispensation. But he who is entangled by partial or temporal irregularity is not simply

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Notes

734. Cf. Gasparri I. n. 172 ss.

kept from the clergy or from clerical ministry. What keeps one only partly from clerical ministry is rather a prohibition or privation, and is called irregularity only improperly.

126. Subject of irregularity. 1. The subject of irregularity is every and only baptized male subject to ecclesiastical law.

Because only a baptized male is capable of order, therefore he alone is called the subject of irregularity. Therefore all baptized male human beings, whether laymen or clerics, even bishops and cardinals, can contract irregularities established in law; but neither the supreme pontiff nor boys before the completed seventh year, because they are not subject to common law. Therefore one mutilated, e.g. before baptism or before the use of reason, is not irregular except fundamentally, i.e. he has a defect on account of which, when baptism or the use of reason has been received, he becomes formally irregular.

2. Someone can contract several irregularities at the same time, all of which must be expressed in the petition for dispensation. But irregularities are multiplied: a. from causes diverse in species; b. but if the cause is of the same species, irregularities from defect are not multiplied; c. irregularities from delict, however, are multiplied from repeated acts upon a diverse subject, but not from repeated acts upon the same subject.

a. From homicide and repetition of baptism, likewise from defect of birth and defect of liberty, a twofold irregularity is contracted, because there is a twofold diverse cause.

b. A judge who has condemned ten men to death contracts one irregularity from defect of lenity.

c. He who rebaptizes several times, or who commits several homicides, contracts several irregularities.

d. He who several times rebaptizes the same person contracts only one irregularity; likewise a suspended person who celebrates several times.

3. All irregularities, once the required conditions have been placed, are contracted by the fact itself, even if the action on account of which it is contracted is entirely occult: for there is no irregularity which by disposition of law demands a sentence of a judge, not even a declaratory one.

127. Conditions required for contracting irregularity. 1. That the irregularity be certain; therefore a doubtful irregularity, whether the doubt is of law or of fact, is no irregularity: for impediments, as odious things, are not to be established unless they are certainly established. Nevertheless an irregularity contracted from homicide is excepted.

a. Although one who has a doubtful irregularity can licitly receive orders, nevertheless in doubt of fact it is to be advised that dispensation be sought, lest the one ordained be impeded in the exercise of order if perhaps afterward the fact itself, and therefore the irregularity contracted, has been established.

b. By disposition of law irregularity is contracted in doubt of fact concerning homicide, i.e. if someone doubts whether he committed homicide. Nevertheless two things must be noted concerning this matter:

c. The disposition of law refers to this doubt of fact, namely if someone is indeed certain concerning the homicide, e.g. concerning the abortion that followed, but doubts whether his action was its cause; for he who doubts concerning the homicide itself is not irregular.

d. This disposition of law affects priests alone and keeps them from celebration alone, but not from other ministries. Therefore a layman who doubts whether a homicide certain in itself has followed from his action is not irregular.

2. That the action by which irregularity from delict is contracted be gravely culpable: for since irregularity from delict is after the manner of penalty, the law establishing this irregularity must be restricted to a gravely sinful act; but irregularity from defect is contracted without fault.

3. That the action on account of which irregularity is contracted, whether from delict or from defect, be external and consummated, because there is question of an odious law.

a. Therefore everything that excuses from mortal sin also excuses from irregularity to be incurred from delict, such as inadvertence, good faith, smallness of matter, grave fear, ignorance, concerning which a special question follows.

b. Therefore just as no one becomes irregular on account of a merely internal intention of killing another, so also on account of a gun discharged at an enemy no one incurs irregularity unless he has in fact killed or mutilated him. Likewise, to contract irregularity from defect on account of a sentence of death, it is required that the action be external and consummated.

128. Whether ignorance excuses from contracting irregularity. 1. Ignorance does not excuse from contracting irregularity from defect, not even invincible ignorance: for irregularity from defect is mere inability; but inability is contracted even by those who are ignorant of the law.

2. Ignorance of the ecclesiastical law prohibiting the delict certainly excuses from contracting irregularity from delict, unless it was crass.

a. The delicts on account of which irregularity is inflicted are already prohibited by the law of nature, which cannot be unknown to the delinquent. The question concerns ignorance of ecclesiastical law, which is twofold: prohibiting the delict and inflicting irregularity after the manner of penalty.

Of itself, indeed, knowledge of ecclesiastical law would not be necessary for contracting irregularity, because there is no question of punishing contumacy against the power of the Church, but of removing the indecency which crime induces, even if it is committed against natural law alone. Nonetheless it must be said that ignorance excuses from contracting irregularity.[735]

b. The positive reason for this opinion is drawn from the disposition of law: for it is established that the Church established this irregularity in such a way that it would not be incurred by those who were ignorant of the law of the Church.[736] Suarez (l. c.) proposes the internal reason in this way: irregularity which has the nature of penalty is not inflicted except upon a transgressor of law; but certainly not upon a transgressor of natural law, but upon a transgressor of ecclesiastical law. But one who is ignorant of ecclesiastical law does not transgress ecclesiastical law. Therefore irregularity is not inflicted upon those who are ignorant of the law of the Church. For the Church, establishing a penalty on account of a delict prohibited by the law of nature, adds a new law to divine law. Therefore one who sins with ignorance of ecclesiastical law indeed sins against divine law and incurs the penalty of divine law; but he does not sin against ecclesiastical law and does not incur the penalty of ecclesiastical law.

3. Ignorance of the ecclesiastical penalty alone, namely irregularity, probably also excuses from contracting irregularity from delict, unless it was crass: for irregularity has the nature of a vindicative penalty, and indeed of an extraordinary and exorbitant one, since it is very hard to be perpetually kept from certain

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Notes

735. Suarez, *De censuris* disp. 40. sect. 5. n. 10.

736. C. *Proposuisti* 2 dist. 82, from which it is established that the supreme pontiff Innocent I declared incontinent clerics, whom Pope Siricius had made irregular, immune from irregularity because they had been ignorant of the law of Siricius, but declared them affected by irregularity if after the law had been known they had sinned against it.

offices; but a vindicative penalty, if it is extraordinary and exorbitant, is not incurred by those ignorant of it.

129. Note. The older theologians, in recounting irregularities, not rarely exceed measure. Further, to eliminate those which have been invented gratuitously, and to establish those which really exist, one must especially insist first upon the principle that there is no irregularity which is not expressed in law; then irregularity, especially that which is from delict, must be carefully distinguished from suspension, with which it can easily be confused.[737] For suspension is a censure which is directly inflicted on account of fault; irregularity is a canonical impediment which is directly established on account of reverence for the divine ministry. Suspension affects clerics alone; irregularity affects clerics and laymen. Suspension primarily keeps one from the exercise of order or jurisdiction, or from a benefice; irregularity primarily keeps one from the collation and reception of orders, and only secondarily from the exercise of orders and from the collation of a benefice. Suspension removes jurisdiction; irregularity does not remove it. One violating suspension through the exercise of order becomes irregular; one violating irregularity contracts no irregularity.

Article Two

On Irregularities from Delict

130. Irregularities are numbered eleven in all, of which four are contracted from delict, but seven from defect. Irregularities from delict arise: a. from repetition of baptism; b. from violation of censure; c. from usurpation of order; d. from unjust mutilation or from unjust homicide, all of which are comprehended in this little verse:

Fonte reus, sacris, censuris, crimine, leto.

Fonte reus - sacrilegious repetition of baptism.

Sacris reus - illicit usurpation of orders.

Censura reus - violation of censure through the exercise of sacred order.

Crimine reus - crimes which by the law itself induce irregularity.[738]

Leto reus - homicide and mutilation.

§ 1. Repetition of Baptism

131. Culpable, absolute, and public repetition of baptism induces irregularity.[739]

1. Repetition of baptism: for from the repetition of other non-repeatable sacraments, namely confirmation and order, no irregularity is incurred, because none is expressed in law.
2. Culpable: for where there is no fault, irregularity from delict is not incurred; therefore one who rebaptizes from ignorance either of law, namely that repetition of baptism is prohibited, or of fact, namely that baptism had already been conferred, does not become irregular.
3. Absolute: for the words of penal law are of strict interpretation; but one who does not baptize absolutely is not strictly said to baptize. Therefore one who rebaptizes under condition does not become irregular,

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Notes

737. Cf. D'Annibale, *Summula* I. n. 399 s. Gasparri I. n. 175 s.

738. By these words is signified irregularity from defect of reputation.

739. C. *Confirmandum* 65. dist. 50.

even if he sins gravely, namely if rashly and without due investigation concerning the validity of the first baptism he baptizes again.

With Benedict XIV, authors commonly affirm that he becomes irregular who rebaptizes under condition where there is no reason for doubting the validity of the first baptism.[740] But the opinion denying irregularity in this case is probable, because this irregularity was established against the error of those rebaptizing; but by the condition added that error is excluded.[741]

4. Public,[742] so that concerning each baptism, the conferral and the repetition, it is publicly established.

There are those who, for contracting irregularity from the crime of rebaptism, demand that the second baptism be solemn;[743] nevertheless the text of law only says that it must be public. But in order that the repetition of baptism be public, it is required that each baptism be public.[744]

Note. This irregularity is not perfect, since according to the probable opinion of several authors it prohibits only the reception of further orders, but not likewise the exercise of orders received.[745]

132. Persons who contract irregularity are: the one rebaptizing, those ministering to him from office, and those rebaptized.

1. The one rebaptizing and those ministering to him incur only partial irregularity, namely one impeding ascent to higher orders, but not the use of orders received; but the rebaptized person contracts total irregularity.
2. Only those ministers become irregular who minister from office, namely clerics; wherefore parents, sponsors, and any others who cooperate in the repetition of baptism do not become irregular.
3. In order that the rebaptized incur irregularity, they must be knowingly rebaptized: for where sin is not committed, penalty is not incurred. Wherefore only adults, but not infants who have been rebaptized, become irregular.

Irregularity is incurred not only from repetition, but also from unworthy reception of baptism, namely where an adult receives baptism from a declared heretic outside the case of necessity; but infants baptized by heretics in a heretical sect are not irregular.[746]

§ 2. Usurpation of Order

133. A cleric who knowingly and solemnly exercises a sacred order which he does not have becomes irregular.[747]

1. Cleric: for since the title in the body of law has: "concerning a cleric not ordained who ministers," this irregularity is restricted to clerics alone. Therefore a layman does not become irregular who exercises sacred order, e.g. celebrates Mass, acts as subdeacon or deacon in solemn Mass, although he sins most gravely.

Notes

740. *De synodo* l. 7. c. 6. n. 3.
741. Gasparri I. n. 329. D'Annibale, *Summula* I. n. 410.
742. C. *Ex litterarum* 2 *De apostatis et reiterant. bap.* (V. 9).
743. Salmanticenses tr. 10. c. 8. n. 60. 64. and St. Alphonsus n. 356.
744. Gasparri I. n. 324. D'Annibale, *Summula* I. n. 410.
745. Busembaum apud St. Alphonsus l. 6. n. 356. Lehmkuhl, *Theol. m.* II. n. 1006.
746. C. *Placuit* 3 and C. *Qui apud* 4. c. 1. q. 4.
747. C. *Si quis* 1 *De clerico non ordin. ministrante* (V. 28).

Some canonists[748] contend that laymen also contract this irregularity who solemnly exercise sacred order; nevertheless several canonists, and especially moralists, teach that clerics alone contract it. Therefore, since with regard to laymen this irregularity is doubtful by a doubt of law, in practice it is not to be established.[749]

2. Knowingly, i.e. knowing both that he lacks the order which he exercises and that a cleric exercising an order which he lacks becomes irregular: otherwise he would not sin gravely.

3. Solemnly, i.e. as from office and with the ceremonies and ornaments proper to the order which he exercises.

To discern whether an order is exercised solemnly, attention must be paid to this: if the act can be exercised only by those who have such an order, it is always exercised solemnly; thus absolution, extreme unction, which is administered by a priest alone, and confirmation, which is administered by a bishop alone, are always said to be administered solemnly. But if the action can also be exercised by others who do not have the order, it is said to be performed solemnly when it is performed in that form in which the same act is customarily exercised by ordained persons alone. Thus if an inferior cleric acts as subdeacon without maniple, or at the washing of feet on the Lord's Supper chants the gospel without stole, he does not become irregular, because he does not minister solemnly.[750]

4. Sacred order: for since from today's custom minor orders are commonly exercised solemnly even by laymen, a cleric solemnly exercising some order from the minor orders which he does not have does not become irregular.

Therefore a priest becomes irregular who solemnly exercises a pontifical function, e.g. consecrates a church or chalice, confers minor orders or tonsure; a deacon who sacramentally absolves; a subdeacon who solemnly baptizes, solemnly chants the gospel with stole, supplies the ceremonies of baptism, acts as hebdomadary in choir by saying the prayer with *Dominus vobiscum*; a cleric who solemnly chants the epistle with maniple, because all these solemnly exercise an order which they do not have. But a simple priest is not irregular who sacramentally absolves; a deacon who without commission of the pastor solemnly baptizes or distributes holy communion; a subdeacon who chants the gospel without stole; a cleric who chants the epistle without maniple, because they do not exercise, or at least do not solemnly exercise, the order which they lack.[751]

Note. The older theologians, relying on C. *Veniens* 1. *De eo, qui furtive ordin. suscipit* (V. 30), nearly all had taught that those illicitly promoted to orders are irregular. Thus, according to the testimony of St. Alphonsus (n. 361), one bound by censure who receives order, one having a wife and being ordained in sacred orders while she is unwilling, one who receives order from a bishop excommunicated, suspended, or interdicted by name, not his own, one who is ordained by leap or before the age or in another's diocese, one who receives major orders without title or on one and the same day, or one who is ordained outside the times, contracts irregularity. But more recent authors, following Suarez, show that these penalties established in law are not irregularities, but suspensions, or at least doubtful irregularities, and therefore none.

Notes

748. Wernz II. n. 137. Scherer. Their reason is that c. *Si quis* 1 *De clerico non ordin. ministrante* (V. 28) does not restrict it to clerics alone, and that restriction from the rubric is not to be admitted.

749. Gasparri I. n. 334.

750. Ballerini-Palmieri VII. n. 426.

751. S. C. R., December 18, 1784 (n. 2525), responded: "Outside the case of absolute and precise necessity it cannot be permitted by superiors that a cleric in minor orders supply for a subdeacon in solemn Masses, vested without maniple," and that the bishop must take care that contrary custom be cut off. The same S. C. R., July 17, 1894 (n. 3832), resolved that a cleric can act as subdeacon in solemn Mass, provided he has been initiated with at least clerical tonsure, does not wear the maniple, and true necessity presses.

§ 3. Violation of Censure

134. A cleric who, bound by censure, solemnly exercises an act of sacred order, becomes irregular.[752]

1. He is said to violate censure who, entangled by a censure which prohibits the use of order, exercises order, whether the censure is excommunication, or suspension from order, or personal or local interdict, e.g. one celebrating in an interdicted place.

a. Therefore one who violates another suspension which is not suspension from sacred order does not become irregular; if, for example, a bishop suspended from pontificals celebrates in pontificals, he indeed acts against suspension, but does not become irregular.

b. Since grave fault is required for contracting this irregularity, an excommunicated tolerated person who is requested by others does not become irregular, nor an excommunicated person to be avoided who exercises order in order to avoid grave inconvenience.

2. Act of order: for incurring irregularity, any violation whatever of censure does not suffice, but it must be violated through an act of order. Therefore a cleric who violates censure through reception of a sacrament, even of order, does not become irregular.

There are those who are of the opinion that he becomes irregular who in the very reception of sacred order exercises order. From which it would follow that one who receives the presbyterate always becomes irregular, because he must concelebrate with the ordaining bishop. But this opinion is not to be admitted, because the action placed in the ordination itself is not properly held as the exercise of the order received, but as a ceremony which pertains to the reception of order.[753]

3. Of sacred order: the law indeed does not distinguish between sacred and minor orders; but authors rightly restrict this censure to sacred orders. For irregularity from delict supposes grave sin; but a cleric who in censure exercises, even solemnly, some order from the minor orders, does not sin gravely, since the office of minor orders is commonly exercised solemnly even by laymen.

4. Solemnly exercises, i.e. from office and with the insignia of the proper order, as we said above.

Therefore a censured bishop who approves confessors, dispenses in vows, or a pastor who in censure assists at marriage without nuptial blessing, does not become irregular, because these are not acts of order, but of jurisdiction or of simple power, the exercise of which does not violate censure.

§ 4. Homicide or Mutilation

135. Voluntary homicide. Unjust homicide directly, or at least indirectly, voluntary and gravely sinful, once the effect has followed, induces irregularity.[754]

1. Homicide is the killing of a human being done by a human being.

For homicide in this question it makes no difference whether he whose life is taken away has been born or has not yet been born; therefore also the procuring of abortion of an animated fetus is homicide.[755] Likewise it makes no difference by what means life is taken away: by fire, iron, poison, hunger, etc. He also contracts irregularity on account of homicide who is only the cause because of which death follows or is inflicted more quickly.

Notes

752. C. *Quum medicinalis* 1. C. *Is, qui* 18. C. *Is, cui* 20. *De sententia excom.* in 6. (V. 11).

753. Cf. S. C. C., January 31, 1688. Benedict XIV, *De synodo* l. 12. c. 3. n. 7.

754. C. *Si quis* 1 *De homicidio* (V. 12).

755. Constitution *Effraenatam* of Sixtus V, October 29, 1588.

a. Homicide is voluntary when homicide itself is intended, and it is casual when it happens beyond the intention.

b. Casual homicide is either entirely involuntary and inculpable, or it is indirectly voluntary and culpable, namely if due diligence is not employed to guard against foreseen homicide.

2. Real homicide. a. To contract irregularity from homicide it is required that death in fact follow: for where there is question of a penalty to be incurred, the words of law are to be taken strictly and properly.

C. *Pro humani* 1. *De homicidio* in 6. (V. 4), where one mandating killing through assassins is declared irregular even if perchance death does not follow, seems opposed to this doctrine. But it is a special case in which the supreme pontiff on account of an enormous crime established that irregularity be incurred even if death has not followed. But an exception does not weaken, but confirms, the rule.

b. Not only he who is the physical cause of homicide, but also he who is its moral cause, by mandate, counsel, or consent, provided he is an efficacious cause, incurs irregularity.[756]

c. Those who excite themselves to homicide are all irregular, even if only one is killed, because they are to be regarded after the manner of those counseling. Therefore if in an unjust war even one of the adversaries is killed, supposing grave sin, all become irregular who cooperated proximately in the killing by mutually exciting themselves; those nearer to the one killing are judged such. A soldier who is certain that he killed no one, because he either did not discharge or discharged into the air, is not irregular.

d. There are those who say that he also becomes irregular who does not impede a homicide which from justice he is bound to impede, even if he does not positively influence the homicide. Therefore they judge irregular a hired physician, a guard of roads, an advocate, who does not impede the death of a sick person, a traveler, or a client, which he could impede and from justice ought to impede. But since irregularity which is contracted from negative cooperation is nowhere read as expressed in law, it is rather to be denied.

e. Homicide induces irregularity even if it remains occult. Likewise, from a special disposition of law, doubtful homicide also constitutes a priest irregular, as was explained above (127); but irregularity is not incurred where it is doubtful whether the moral cause, mandate or counsel, was the efficacious cause of the homicide.

3. Unjust, i.e. joined with sin against justice: for homicide which is not against justice is not strictly and rigorously homicide.

Therefore he who kills another in defense of himself and with the moderation of blameless defense having been observed, or he who kills another from legitimate power, as soldiers in a just war or executioners, do not become irregular from this title, because they do not commit the sin of homicide.

136. Casual homicide. Not only voluntary homicide, but also casual homicide, provided it is gravely culpable, induces irregularity.

1. If casual homicide is entirely involuntary, no irregularity is incurred: for there is no irregularity from delict where no fault intervenes.

2. If the omission of diligence in guarding against homicide is gravely culpable, irregularity is contracted, whether someone applies his work to a licit or illicit thing, provided he foresaw the homicide: for the omission of diligence, not the prohibition of the action which someone exercises, effects that homicide

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756. C. *Is qui* 3 *De homicidio* in 6. (V. 4).

is indirectly voluntary and therefore culpable and inducing irregularity. The case is to be excepted in which the thing is illicit on account of the danger of homicide.

a. He who discharges a gun where the people are customarily numerous; he who throws a tile from a roof and does not warn passersby by voice or sign, becomes irregular if a human being is killed for that reason.

b. Therefore he does not become irregular who in good faith gives food or drink to a sick person, or moves him, or transfers him to another place, or does something else about him, from which death follows beyond intention, because there is no irregularity from delict where there is no fault; but in the case supposed, due diligence is not omitted.

c. An unskilled physician or surgeon who exercises the medical or surgical art becomes irregular if the death of the sick person follows, even if he employed every diligence to guard against it; but a skilled physician or surgeon does not, even if, with necessary diligence supposed, the death of the sick person follows from the remedy which he employs. Benedict XIV reports that physicians wishing to be promoted to orders are customarily granted dispensation for caution, because perhaps in the exercise of their art they did not always employ due diligence concerning those who died during their care.[757]

d. A cleric constituted in major orders and a religious who exercises the medical or surgical art joined with cutting or cauterizing becomes irregular, even if without his fault the death of the sick person follows. The reason for this irregularity is that he applies his work to an action prohibited to clerics for this reason, that it easily induces homicide or mutilation.[758] But he does not become irregular if he exercises, short of cutting or cauterizing, an art which he knows well, although the sick person whose care he conducts dies.

137. Procuring abortion. Those procuring abortion, and those cooperating for it, once the effect has followed, also contract irregularity.

a. Those procuring abortion do not contract irregularity unless the fetus is animated. Since there is question of an odious thing, concerning the animation of the fetus judgment can be made from the ancient and thus far unchanged canonical laws, which establish that the male fetus is informed by a rational soul after 40 days from conception, but the female fetus after 80 days. In doubt whether the fetus was animated or not, and in doubt whether the fetus was male or female, one must stand for the minimum; therefore that it was not animated, or was female.

b. In antiquity those procuring abortion and those cooperating in it incurred excommunication and irregularity; excommunication through the constitution *Apostolicae sedis* was restricted to those alone procuring abortion. But because concerning irregularity the ancient law was not changed through the said constitution, those cooperating also contract this irregularity.

138. Notion of mutilation. Mutilation is the cutting off of a member. By the name of member is understood a part of the body having a proper and distinct office, such as eye, arm, foot, hand, tongue, ear, etc.

In applying this definition, difficulty arises where it must be determined what part of the body has its own function and therefore is signified by the name of member. For since almost all members of the body are duplicated, it is asked whether one part, such as an eye, ear, leg, can be judged a member having its own office. But now, with common estimation considered, it seems to be said that those parts which are distinct

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Notes

757. *De synodo* l. 13. c. 10. n. 4.

758. C. *Dilectus* 13 *De homicidio* (V. 12).

and separate from each other, such as the eyes, have their own function; but those which are not distinct and separate from each other, such as nostrils, do not have their own function and therefore are not members. And indeed, where an eye is torn out, we say a member is cut off; where a nostril is cut off, we say part of a member, the nose, is cut off.[759]

a. Therefore he who injures some member or renders it useless, e.g. does not dig out the eye but blinds it, does not become irregular, because he does not cut off the member: for mutilation is cutting off or separation from the body.

b. He who knocks out a tooth, cuts off the outer ear, the cartilage of the ear, or a finger, and a fortiori he who tears out nails, beard, or hair, does not become irregular, because he does not cut off a member: for these do not have their own function in the human body. According to the mind of St. Alphonsus (n. 379), not even the knocking out of all the teeth is judged mutilation; but the cutting off of fingers certainly is mutilation.

139. Unjust mutilation induces irregularity. He who unjustly mutilates himself or another by a physical or moral action, or cooperates in it, becomes irregular.

1. What has been said above concerning homicide holds also concerning mutilation, with this case excepted: in doubt of fact whether a priest was the efficacious cause of mutilation or not, he does not become irregular; on the contrary, if the same doubt concerns homicide, irregularity is contracted.

2. He who freely mutilates or castrates himself, from a special disposition of law, becomes irregular,[760] even if he has not cut off for himself a member having its own office, but only a finger or joint of a finger.[761]

140. Note. To these must be added the irregularity which is established by the decree *Vigilanti* of S. C. C., May 25, 1893, and renewed by the decree *Ut debita* of the same sacred congregation, May 11, 1904. Besides the penalty of suspension (n. 113), clerics not yet initiated to the priesthood contract it who exercise shameful commerce concerning Mass stipends, so that they are incapable of receiving higher orders unless they have received dispensation from the Roman pontiff or from S. C. C.

The actions by which shameful commerce concerning Mass stipends is exercised are these:

a. Knowingly handing over the intention of Masses received from the faithful or from pious places to those who request them not in order that they may satisfy them, but for any other end whatever; likewise knowingly accepting them.

b. Separating stipends of manual Masses from their celebration, commuting them into other things, or diminishing them, namely by not handing them over wholly and in their own kind.

c. Selling or buying books or other things and entering into associations with newspapers and periodicals by means of Masses to be celebrated or celebrated, if this latter thing is done habitually and turns into the support of some commerce.

d. Subtracting something from the stipends of Masses which the faithful are accustomed to hand over to more celebrated sanctuaries, so that provision may be made for their dignity and ornament.

Notes

759. Ballerini-Palmieri VII. n. 444 ss.

760. C. *Ex parte* 3 *De corpore vitiatis* (I. 20).

761. C. *Qui partem* 6. dist. 55.

Article Three.

On Irregularities from Defect.

The seven defects on account of which irregularity is contracted are these: 1. defect of body; 2. defect of soul; 3. defect of liberty; 4. defect of birth; 5. defect of sacrament; 6. defect of reputation; 7. defect of mildness.

§ 1. Defect of Body.

141. From defect of body those are irregular who, on account of some bodily fault, cannot perform the sacred rite either at all or becomingly.

a. Therefore this irregularity arises from a twofold head: from impotence for exercising an order, and from indecency in its exercise. He who labors under impotence for celebrating is not indeed properly irregular, because he is kept from the reception of orders not by ecclesiastical law but by natural law; nevertheless authors are accustomed to refer here also those who are unable to celebrate.

b. This irregularity absolutely prohibits the reception of orders: for even if the defect impeded the exercise of only one order, e.g. the priesthood, nevertheless no order, not even first tonsure, can licitly be received. But the exercise of orders already received is not prohibited absolutely: hence if the defect supervenes after the reception of orders, the ordained man is prohibited from exercising only those orders for the exercise of which he has been made unfit, or which he cannot exercise without offense and scandal. Therefore nothing prevents, for example, one who cannot celebrate publicly without scandal from celebrating privately.

142. Therefore from defect of body the following are irregular:

1. **The mutilated,** who lack a foot, hand, or fingers, likewise those who lack the thumb or index finger either entirely or in part, so that they cannot break the host.[762]

a. He who lacks one of the three posterior fingers is not irregular; indeed, according to the opinion of some, neither is he irregular if two fingers are lacking. But if all three are lacking, he is irregular, not indeed on account of impotence, but on account of deformity. A priest, however, does not become irregular nor is he prohibited from celebrating, even if he has lost all three posterior fingers.[763]

b. He who lacks the index finger will more easily obtain a dispensation, because the middle finger can supply the place of the index finger in the sacred ministry. But a priest who has lost the index finger can use the middle finger in sacred functions, which, since the whole hand of the priest is consecrated, is consecrated equally with the index finger.[764]

c. Authors judge him to be irregular who has a wooden foot, because he cannot celebrate without great indecency; but since today artificial feet are constructed so aptly that he who is furnished with a foot of this kind can perform sacred functions without indecency, this irregularity, at least after orders have been received, no longer seems to have to be urged.

d. He was said to be irregular whose one eye was wholly taken away or torn out; yet because today a glass eye can be so aptly substituted that no deformity appears, he who is furnished with a glass eye does not seem to have to be called irregular.

Notes

762. C. *Thomas* 7 *De corpore vitiatis* (I. 20).

763. Cf. Ballerini-Palmieri VII. n. 478.

764. Cf. Ballerini-Palmieri l.c.

143. 2. The debilitated, who indeed have all their members, but for whom one or another member which is required for sacred ministry has become useless, as if someone's arm or hand has become stiff.

a. Therefore the mute are irregular; the blind, who are deprived of the power of seeing in both eyes, but not those with failing sight, provided they can read in the missal with the help of an ocular instrument; the deaf, who lack hearing in both ears, so that they cannot hear the server responding. But those who are hard of hearing are not irregular, nor those who lack hearing in only one ear;[765] stutterers are not irregular, unless either they have a tongue that is very lisping or altogether stumbling, or they move others to laughter. Those who have hands so trembling that they cannot celebrate without danger of spilling the Blood are irregular.

b. He is not irregular who lacks the power of seeing in one eye only, whether it is the right or the left eye; for what is established by some authors, namely that he is absolutely irregular who lacks the canonical eye, i.e. the left, lacks foundation, since no text of law declares him irregular. Therefore this irregularity must be restricted to the case in which one who lacks the left eye cannot read the canon without indecency with the right eye.[766]

c. A priest who has become blind is not prohibited from hearing confessions; indeed, if it is established that he will not err, he can receive license from the supreme pontiff for celebrating, with another priest nevertheless assisting. A priest who has become deaf is not prohibited from celebrating, even if he does not hear the server responding.[767]

144. 3. The deformed, who have a deformity in some member which cannot easily be hidden, to such a degree that they cannot discharge the sacred ministry without indecency, or they excite horror in others or move them to laughter. Therefore the following are irregular:

a. Those whose noses or outer ears have been cut off, unless, by hair aptly grown out, the defect of the ears can be covered.

b. Those who have a notable spot on the face or in the eye.[768]

c. Pygmies, who are so small in stature that they cannot perform the sacred rite upon the altar; likewise giants.

d. The hunchbacked, who have so notable a hump on the back that they cannot raise the head.

e. The lame, who cannot approach the altar or stand at the altar without a staff; but the lame who do not need a staff are not irregular, unless the limping is enormous and notably deforming.

A priest who has become lame can celebrate privately, although he needs a staff.

It pertains to the bishop to judge whether the deformity is great or small, if the one to be ordained is a secular or a non-exempt regular; but if he is an exempt regular, the judgment pertains to the regular prelate. Nevertheless the bishop who confers orders is not bound to stand by the judgment of the prelate.

145. 4. Those laboring under a grave and incurable disease:

Notes

765. Cf. *Acta s. sedis* IV. p. 595.

766. Cf. S. C. C. Sept. 17, 1887. *Acta s. sedis* XX. p. 380 ss.

767. Cf. St. Alphonsus n. 405.

768. C. *Quum* 2 *De corpore vitiatis* (I. 20).

a. Paralytics, that is, the paralyzed and the gouty, if namely the paralysis is so great that they cannot hold the sacred vessels or break the sacred species. Those who, on account of stiffness of the elbow, cannot bend the arm are irregular.[769]

But if paralysis does not wholly impede the exercise of an order, a distinction must be made: if it supervenes upon ordination, it does not impede celebration; if it precedes ordination, it will belong to the bishop to declare whether the infirm man is irregular; for in law nothing has been established on this matter.

b. Epileptics, or those laboring under the falling sickness,[770] as long as they are subject to the disease, cannot be ordained; but if it is established that they have been healed without probable danger of relapse, with the license of the bishop added, they can be ordained.

c. A priest who after ordination is seized by this disease is not prohibited from celebrating privately, if the disease returns rarely, i.e. once in a month or every fifteen days; if, however, he is not safe from an attack of the disease for this interval, a fasting priest must assist him, who, if the disease rushes upon him, may complete the Mass.

d. Epilepsy which began before puberty is not rarely healed completely; therefore he is not judged irregular who labored under this disease before puberty, but afterward, in the judgment of a physician, recovered entirely. But epilepsy which began after puberty, not from an accidental cause, e.g. from an inflicted wound, but from congenital disposition, according to the opinion of physicians is scarcely ever fully healed, i.e. without danger of relapse.

e. Those who abstain from wine, who cannot take even a little wine without danger of vomiting. It is clear that these cannot be dispensed even by the pope.

f. Lepers, because they bring in horror and scandal; but a priest who is infected with leprosy can celebrate in a private place.

146. On account of deformity the following are not irregular.

a. Those who have six fingers or some joined together, or who lack one finger, provided they can fittingly perform the sacred rite.

b. Those who have a spot on the face or in the eye that is not very deforming.

c. Those who lack the nail of the thumb, provided they can hold and break the host.

d. The one-eyed, or those looking obliquely, provided the deformity is not notable.

e. Those who lack testicles (eunuchs, the castrated, the cut), whether these have been cut by another, or lost by reason of disease or by accident.

Those are irregular who cut off their own testicles, or cause them to be cut off, in order to preserve a boyish voice (139).

§ 2. Defect of Soul.

147. A threefold defect of soul induces irregularity: defect of the use of reason, defect of knowledge, and defect of firm faith.

Notes

769. It is established from the declaration of S. C. C., Jan. 26, 1867. Cf. Aichner l.c. p. 210.

770. Those who are seized are in reality epileptics; but by the ancients they are numbered among the demoniacs, because in antiquity they thought this disease to be caused by a demon.

Defect of the use of reason and of knowledge can be perpetual, on account of an incapacity of nature, or temporary, which ceases with the passage of time. If the defect is temporary, the supreme pontiff can dispense during the defect, so that, for example, an infant or boy may be ordained, provided that he abstain from the exercise of the order until he has arrived at due knowledge and the required age.

1. From defect of the use of reason the insane are irregular. If the insanity is perpetual, the irregularity cannot be removed; if the temporary insanity now seems to have ceased, a distinction must be made: if the insane man has already been ordained, after a space of time in which, by the judgment of the bishop, recovery from the disease is proved, he can again minister in the orders received; if he has not yet been ordained, the matter must be defined by the judgment of a physician and the decision of the bishop. For if, by the judgment of a physician, it is established that the insanity has ceased, with the bishop consenting, ordination is licit.

2. From defect of knowledge the unlettered are irregular, who lack that instruction which is required by the Council of Trent for the several orders.[771]

3. From defect of firm faith the following are irregular:

a. Neophytes, i.e. those who from Jews, pagans, or other sects have been converted to the faith in adult age and recently baptized,[772] until their firm faith is established from the declaration of the bishop.

How long the ordination of neophytes must be deferred, so that they can be judged sufficiently firm in faith and Christian virtue, is permitted to the judgment of the bishop, whose part it is to issue an authentic declaration on this matter. There are those who say that after ten years from conversion a neophyte is no longer irregular.[773]

b. The non-confirmed, because before confirmation they are not yet Christians in the full sense (sheep and soldiers of Christ).

The Council of Trent established irregularity from defect of confirmation.[774] There are indeed those who deny this irregularity (Suarez, Reiffenstuel); nevertheless recent authors (Gasparri, Aichner, Wernz), appealing to repeated declarations of the Holy See,[775] affirm that it exists and must be removed by dispensation of the Holy See.

§ 3. Defect of Liberty.

148. He who lacks the liberty required by law for receiving orders is irregular.

This irregularity is not an irregularity properly so called; for it is induced because defect of liberty cannot be reconciled with the obligations of the clerical state. For he who intends to satisfy clerical obligations must necessarily neglect the duties of the state which induces the defect of liberty.

From defect of liberty the following are irregular:

1. **Slaves or bondsmen,** unless they first have obtained liberty from their master.[776]

Notes

771. Cf. sess. 23. c. 4. 11. 13. *De reform.*

772. 1 Tim. 3, 6.

773. Cf. St. Alphonsus l. 7. n. 402.

774. Sess. 23. c. 4. *De reform.*

775. S. C. C. Sept. 27, 1601; May 15, 1802.

776. C. *Instruendi* 1 *De servis non ordinandis* (I. 18).

2. **Married men,** upon whom not even tonsure may be conferred, unless they wish either to enter religion or to receive sacred orders.[777]

a. A married man can receive sacred orders if he has been released from his wife; but he is judged released from his wife: a. if divorce has been juridically effected on account of the wife's adultery, for in this case the wife has perpetually lost her right over the husband; b. if the wife freely and expressly consents that the husband receive orders or enter religion.

b. From a wife consenting to the husband's ordination or religious profession it is required by the statute of law either that she enter religion, or that she profess continence, i.e. that she emit a vow of perpetual chastity.[778] That she enter religion and profess continence in religion is required in a twofold case: a. if the husband is to be promoted to the episcopate;[779] b. if the wife is young or suspected of incontinence. Whether a wife is to be called young does not depend upon a determinate year of age, but must be judged from the circumstances by the prudent judgment of the bishop, namely from health, strength, the custom of her past life, etc.[780]

3. **Court officials,** i.e. those who, either by an oath emitted or by a stipend accepted, are bound to serve the courts of princes as presidents, judges, advocates, or soldiers, as long as they discharge this office.[781]

Since today, with ecclesiastical immunity disregarded, both clerics and religious are compelled to undergo military service, the Holy See has established the following concerning their admission to sacred orders or to religious profession (for Italians):

a. Those who have served for the space of one year or a longer time in the first class (category), and have remained firm in their vocation, are not to be admitted to sacred orders or to solemn profession unless they have proved constancy in their vocation for the space of at least one year.

b. They are to bring testimonial letters from the ordinaries in whose dioceses they have lived for at least three months.[782]

4. **Those bound to reckonings or to rendering accounts,** namely those who, from their office, are bound to render an account of another's money administered, whether public or private, such as magistrates, administrators, curators, and tutors, unless first they have rendered the account and have resigned the office.[783]

Yet those who bear offices and administrations which are not prohibited to clerics can be ordained, even if they have not rendered an account nor resigned the office; thus they licitly bear the administration of the money of their own blood relatives, of miserable persons, and of pious causes.

§ 4. Defect of Birth.

149. All illegitimate persons, even hidden ones, are irregular.[784]

Notes

777. C. *Nullus* 4 *De tempor. ordinat.* in 6° (I. 9).

778. C. *Coniugatus* 5 *De convers. coniugat.* (III. 32).

779. C. *Sane* 6. tit. cit.

780. S. C. C. Aug. 28, 1830.

781. C. *Aliquantos* 2; C. *Praeterea* 3 Dist. 51.

782. S. C. sup. disc. reg. Nov. 27, 1892.

783. C. *Magnus* un. *De obligatis ad ratiocinia* (I. 19).

784. C. *Is qui* 1 *De filiis presbyt.* in 6°. (I. 11).

The reason for establishing this irregularity is chiefly alleged as threefold: a. reverence for the ecclesiastical order, for illegitimate persons by reason of their origin are reputed low; b. detestation of the paternal crime, as a sign of detestation of which even the sons are affected by a privative penalty; c. danger lest the sons imitate the paternal incontinence.[785]

From defect of birth the following are irregular:

1. **Illegitimate persons.** In general those are called illegitimate who have not been begotten from legitimate marriage, i.e. from one either truly or at least putatively valid.[786]

Those who were born from parents between whom, at the time of conception or birth, a valid marriage could have existed are called natural; but those who were born from parents between whom at that time a valid marriage could not have been had (as if they were born from adultery, sacrilege, or incest) are called spurious.

2. **Those doubtfully illegitimate,** whose illegitimate origin is not certain, are not irregular: for no one ought to be judged illegitimate unless this is proved certainly; moreover no one can be deprived of his right of receiving orders unless it is established that he is impeded.

a. Therefore exposed children of themselves are not irregular, and so they can be ordained without dispensation; nevertheless, as a precaution, they are usually dispensed if they cannot indicate their parents.

b. If it is uncertain whether the offspring was conceived or at least born when marriage had already been contracted, or before it, the offspring is not irregular, because he is presumed at least to have been born after the marriage.

c. He who was born in marriage, although from adultery, and this known to the husband himself, is not irregular unless he is juridically demonstrated to be spurious: for the father is he whom the nuptials show.

d. Someone is judged certainly illegitimate in a twofold case: a. if he has arisen from an unmarried mother; b. if he has arisen from a married mother, but his illegitimate origin has been juridically demonstrated.

3. Even hidden illegitimate birth induces irregularity, provided the matter is certain. Therefore if someone knew that he had arisen from unmarried parents, or from parents joined in appearance only, inasmuch as a diriment impediment had stood between them, he could not approach orders without dispensation.

150. This irregularity ceases not only by dispensation, as the others do, but also:

1. **By subsequent marriage:** for those born from fornication, or natural children, if afterward their parents contract a legitimate marriage, cease by the law itself to be illegitimate and therefore also irregular.[787]

But the spurious, whose parents afterward contract marriage after the impediment has been removed, do not cease to be irregular or illegitimate, because the laws did not concede a privilege of this kind to the spurious.

2. **By religious profession.**[788] Solemn profession alone produces this effect, but not simple profession, unless a special privilege is present.[789] Nevertheless, by the cited canon, religious profession removes

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Notes

785. Cf. Council of Trent, sess. 25. c. 15. *De reform.*

786. C. *Ex tenore* 14 *Qui filii sint legitimi* (IV. 17). Marriage which was contracted without due proclamations and without dispensation of the ordinary must be excepted: for in this case the offspring is held to be illegitimate. C. *Cum inhibitio* 3 *De clandestina despons.* (IV. 3).

787. S. C. C. June 27, 1857. The case is excepted in which illegitimate persons were to be promoted to the episcopate or cardinalate.

788. C. *Ut filii* 1 *De filiis presbyterorum* (I. 17).

irregularity only with respect to orders, but not with respect to prelacies. Hence if an illegitimate religious is to be promoted to a prelacy either outside the order or within the order, he needs dispensation.

Legitimation which civil law induces cannot remove irregularity. For since the question concerning the legitimacy of offspring is joined with the question concerning legitimate marriage, and this belongs to the Church alone, that also must be said to pertain to the Church alone.

§ 5. Defect of Sacrament.

151. Declarations. Irregularity from defect of sacrament, namely of marriage, is also called irregularity from bigamy, because it has its origin from bigamy.

1. A threefold bigamy is distinguished: true, interpretative, and similitudinary.

a. True bigamy is had when someone successively contracts two valid marriages and consummates them by carnal copula. A bigamist is called a man who successively has had two wives and has known each; a man who successively has had three wives will be a trigamist, and so on.

b. Interpretative bigamy is had when someone indeed contracts only one marriage, which nevertheless by interpretation of law is twofold, and consummates it. But a marriage is judged twofold if a man marries a wife who already previously was known by another man (as if he marries a widow known by a previous husband, or a woman already corrupted by another), or if he approaches his own wife after she has committed adultery: for a woman who has known two or more is, as it were, a twofold wife.

c. Similitudinary bigamy is had: a. when someone contracts two marriages, one valid, the other invalid, and consummates each; b. when someone, after his wife has died, receives sacred order and then (invalidly) marries another wife and knows her; c. when someone, never before married, after religious profession or after sacred orders have been received, contracts marriage (invalidly) with a virgin and consummates it. In this case there is a twofold marriage, one spiritual with Christ, the other carnal with a woman. This bigamy is called similitudinary, because in an invalid marriage there is indeed not a sacrament, but nevertheless some likeness of a sacrament.

2. In order that the reason for this irregularity may be declared, it must be noted that marriage, from its institution, according to the Apostle, signifies the union of Christ with the Church, and this as one and indivisible.[790] The man represents Christ, the woman the Church. This signification is had fully and perfectly only in a marriage entered and consummated with a virgin. For just as Christ is joined to only one Church, so the man who contracts and consummates marriage with a virgin is joined to only one wife.

But bigamy is not suitable for perfectly representing the union of Christ with the Church, because the bigamist has joined himself to two wives. On account of this defect, which by its nature inheres in bigamy, a bigamist is declared irregular by the Church. And because the defect is in this, that bigamy cannot perfectly exhibit the signification which belongs to the sacrament of marriage from its institution, it is called irregularity from defect of sacrament, or rather from defect of the signification of the sacrament. Therefore the reason of the irregularity is the defect inhering in the sacrament which the bigamist has received, not the incontinence of a man passing to second nuptials. Therefore a man who has carnal knowledge of a woman outside marriage does not become irregular.

Notes

789. S. C. Ep. et Reg. Jan. 20, 1860. Gregory XIII granted a privilege of this kind to the Society of Jesus by the constitution *Ascendente Domino*, in which irregularity from defect of birth ceases through simple profession.

790. Eph. 5, 32.

152. True, interpretative, and similitudinary bigamy induce irregularity.

1. **Concerning true bigamy.**

a. Irregularity from true bigamy is not established by divine law, but by ecclesiastical law. For although from Sacred Scripture a bishop or priest ought to be the husband of one wife,[791] nevertheless by these words the Apostle does not promulgate a divine law; but these words gave the Church occasion for establishing a law by her own authority.[792] For a law in which the Church truly dispenses cannot be divine law, but must be ecclesiastical law. On account of the analogy which each other bigamy has with true bigamy, the Church extended irregularity also to them.

b. Bigamy constitutes irregularity even if someone married two wives before baptism, or one before baptism and the other after baptism. For the defect on account of which irregularity was established inheres also in an unbelieving bigamist and cannot be washed away by baptism. Before baptism a bigamist is not indeed irregular except radically, but once baptism has been received he becomes formally irregular, as Innocent I expressly declared.[793]

2. **Concerning interpretative bigamy.**

The individual cases of interpretative bigamy are expressly established in law; namely, he is irregular: a. who marries a widow;[794] b. who marries a corrupted woman;[795] c. who has known an adulterous wife.[796]

This irregularity applies also to a cleric constituted in sacred orders who marries a widow or a corrupted woman, even if his marriage is invalid.[797]

3. **Concerning similitudinary bigamy.**

a. The first case of similitudinary bigamy, which is had if someone enters two marriages, one valid, the other invalid, St. Alphonsus refers to interpretative bigamy. But according to St. Alphonsus himself as witness, this irregularity is not had as expressed in law; authors establish it on account of similitude with another particular case expressed in law. But since an irregularity which is not expressed in law is not to be established, and since it is not licit to conclude from a case to a similar case, this irregularity is asserted gratuitously, or at least is doubtful.

b. The particular case expressed in law is this: if a cleric constituted in sacred orders, who before ordination had been joined in marriage and had known his wife, marries another wife (certainly invalidly) and knows her.[798]

c. The second case of similitudinary bigamy, which is had if someone after solemn profession or after sacred order has been received contracts marriage with a virgin and knows her, is indeed established by the common opinion of authors; but with Suarez as witness this case is not contained in law.[799]

Notes

791. 1 Tim. 3, 2. In verse 12 it is established: deacons are to be husbands of one wife.

792. C. *Ut bigami* 1 *De bigamis* (I. 21).

793. C. *Si quis viduam* 13. dist. 34.

794. C. *De bigamis* 3 *De bigamis* (I. 21).

795. C. *Debitum* 5 *De bigamis* (I. 21).

796. C. *Si cuius* 11. and C. *Si laici* 12. dist. 34.

797. C. *A nobis* ult. *De bigamis* (I. 21).

798. C. *Nuper* 4 *De bigamis* (I. 21).

799. Suarez disp. 49. sect. 4. n. 3.

153. Therefore no bigamy intervenes, and consequently no irregularity from bigamy, in the following cases.

a. If someone contracts espousals with two women, even if he has known them carnally, because the union of Christ with the Church is signified only by marital copula, not by fornicatory copula.

b. If someone enters marriage with two women, but consummates it with only one, because a division of flesh into two wives is not made.

c. If someone marries a widow carnally known neither by her husband nor by another, because she is not a twofold wife.

d. If someone marries a woman previously corrupted by himself, but not by another, because she is not a twofold wife.

e. If someone, whether unmarried or married, has fornicated with a prostitute, because fornicatory copula does not signify the union of Christ with the Church, or because a division of flesh into several wives is not made.

§ 6. Defect of Reputation.

From defect of reputation those contract irregularity who are infamous in any manner whatsoever, whether by law or by fact.

The ministers of the Church ought to be irreprehensible and without crime. Therefore in antiquity any delict whatever kept a guilty man from the sacred ministry and constituted him irregular. But today only graver delicts, and indeed those which are expressed in law, make one irregular; nor properly the delicts themselves, but the infamy which is contracted on account of the delicts.

154. Declarations. 1. Infamy is the privation or diminution of good reputation or good estimation.

2. One infamy is of law (legal), which is inflicted by the authority of law on account of a delict; the other is of fact (popular), which is contracted from public knowledge of a crime committed.

a. Infamy of law is contracted either by the fact itself, namely by the very commission of the crime before every sentence of the judge;[800] or by sentence of the judge which decrees infamy. The former infamy is called by some immediate, or of latae sententiae; the latter mediate, or of ferendae sententiae.

b. Infamy of fact is contracted by its nature from public notice of a crime committed. This notice can become public in a twofold mode: either by sentence of a judge condemning the guilty man concerning the crime, or by actual divulgation.

No infamy is contracted from an office which someone discharges or has discharged, although in the estimation of men that office is low and abject, such as the office of butcher, executioner, actor, etc. He who discharges an office of this kind is kept from orders by natural law, unless he has renounced it.

3. Infamy of law induces irregularity, even if the delict is hidden;[801] but infamy of fact by its nature requires that the delict be publicly known, either by sentence of a judge or by actual divulgation.

Notes

800. By law indeed a declaratory sentence of the crime committed, or rather of the infamy contracted, is required; but since declaratory sentences of this kind today are rarely issued, authors commonly teach that immediate infamy of law is contracted without sentence of a judge.

801. Gasparri I. n. 288, following Suarez.

Infamy of fact actually existing induces irregularity, even if the sentence of the judge is unjust or the judgment of men concerning the crime committed is false; for an unjust sentence and a false estimation generate infamy equally with a just and true one.

4. Irregularity arising from infamy of law, whether it is of latae sententiae or ferendae sententiae, is an irregularity properly so called, perpetual of itself, which cannot be removed except by dispensation. But irregularity arising from infamy of fact is not an irregularity properly so called: for it does not need dispensation, but is removed by amendment of life, which has been proved and has become notorious by perseverance for three years. For when infamy is removed by amendment of life, the irregularity also, which arises from it, is removed.

155. Irregularity from infamy of law. 1. In antiquity, by canon law, those were held infamous whom Roman civil law marked with infamy (immediate) on account of delict. But, Roman law having been abrogated, the ancient canon: *All are said to be infamous whom the laws of the age call infamous*[802] does not seem to have to be extended to recent civil laws, so that today according to the mind of the Church those are not marked with infamy of law except those who are declared infamous by canon law.[803]

2. By the law itself chiefly the following are declared infamous:

a. Duelists and their seconds.[804]

b. Ravishers of women and their cooperators.[805]

c. He who has two wives at the same time, as one who attempts civil marriage while his legitimate wife is living.[806]

d. Heretics, apostates, and those favoring heretics. More will soon be said concerning irregularity from heresy.[807]

156. Irregularity from infamy of fact. 1. Infamy of fact is contracted by any enormous delict which is publicly known, whether by sentence of a judge condemning the delinquent or by actual divulgation.

2. Delicts of this kind are: homicide, perjury in court, adultery, sodomy, simony, robbery, preparation of arms against parents, public exercise of usury, etc.[808]

Therefore one who is accused on account of a crime of this kind and is condemned by an ecclesiastical judge contracts infamy, even if no mention of infamy is made in the condemnatory sentence. But if a cleric is condemned by a civil judge on account of a crime of this kind, by this condemnatory sentence itself he is not yet of himself infamous; but the ordinary, after the cause has been examined in the ecclesiastical forum, must either absolve or condemn the cleric, and when this has been done the condemned man will be infamous.[809] Ordinarily, however, already by the sentence of a civil judge, at least on account of the actual divulgation of the crime, he is held infamous.

Notes

802. C. *Omnes* 2. c. 6. q. 1.

803. Moreover, modern civil codes establish the penalty of infamy rarely, if ever.

804. Council of Trent, sess. 25. c. 19. *De reform.* From the declaration of S. C. C., Aug. 9, 1890, academic duels also are to be numbered among the duels to which infamy of law is annexed.

805. Council of Trent, sess. 24. c. 6. *De reform.*

806. C. *Nuper* 4 *De bigamis non ordinandis* (I. 21).

807. Cf. Aichner p. 216 s.

808. Cf. St. Alphonsus n. 363.

809. Cf. instruction of S. C. Ep. et Reg., Jan. 11, 1880.

157. Concerning irregularity from heresy. 1. Heretics who publicly adhere to a condemned sect are irregular from infamy of law.[810]

a. All affirm that heretics are irregular; but they dispute whether they are irregular from the crime itself of heresy, or from the infamy of law which is annexed to heresy. But because in law there is no canon which declares heretics irregular on account of heresy itself, it seems it must be said that they become irregular on account of infamy, which is annexed by law to the crime of heresy.

b. Heretics who have not defected to a condemned sect, even public ones, are not irregular: for there is no text of law from which this irregularity can be proved. Therefore Catholics who have denied one or more articles of faith, even publicly, are not judged to be irregular, neither they themselves nor their sons.

2. Also the sons and grandsons of heretics are irregular if they descend from a heretical father; the sons alone, but not also the grandsons, if they descend from a heretical mother;[811] and this indeed if the sons were born after the parents had lapsed into heresy, and if the parents die in heresy.

It was the common opinion of authors that this irregularity is not contracted in Germany and England and places of this kind, where heresy spreads unpunished and heretics themselves are not marked with infamy. But the following response of the Holy Office given to the bishops of Germany is opposed to this opinion: "heretics converted to the Catholic faith, and the sons of heretics who persist in heresy or have died in it, to the first and second degree through the paternal line … are irregular even in Germany and in the other places concerning which inquiry is made, and therefore need dispensation in order to be promoted to tonsure and to orders."[812]

§ 7. Defect of Mildness.

158. According to the mind of the Church it is plainly unfitting that he who has shed another's blood, or has cooperated in the killing or mutilation of a man, should represent the person of the most meek Christ, who never injured anyone. Therefore she established an irregularity proceeding from a twofold head: from just war and from judgment of blood. That is called a judgment of blood in which a case is treated that is concluded by the imposed penalty of death or mutilation. This irregularity is usually called from defect of (Christian) mildness: for this defect is contracted only after baptism has been received.

159. Irregularity from judgment of blood. He who in a just judgment concurs directly, proximately, and efficaciously, from public authority, toward the killing (or mutilation) of a man becomes irregular. Although there is no text of law which clearly establishes this irregularity, nevertheless from the practice of the Church its existence cannot be doubted.

1. A just judgment: for if the judgment is unjust, irregularity is not contracted from defect of mildness, but from the delict of homicide or mutilation.

2. Toward killing: to incur this irregularity some other penalty is not sufficient, such as flogging, even if joined with the shedding of blood; but killing or mutilation is required, and this really following, even if it is accomplished without the shedding of blood. Nevertheless the penalty of mutilation is no longer inflicted in recent law.

3. From public authority: for he who kills or mutilates a man by private authority does not become irregular from defect, but from delict.

Notes

810. C. *Excommunicamus* 13 *De haereticis* (V. 7).

811. C. *Quicunque* 2 and C. *Statutum* 15 *De haereticis* in 6° (V. 2).

812. S. Officium, Dec. 4, 1890.

4. He concurs directly, proximately, and efficaciously who by his action influences the effect; but he influences the effect by his action who places an action necessary for the judgment, either by conducting the trial, or by rendering the sentence, or by executing it.

a. Therefore, of those who concur in a judgment of blood, whether by reason of the trial, or by reason of the sentence, or by reason of execution, the following become irregular from defect of mildness:

b. The judge pronouncing the sentence of death.

c. The accuser and witness deposing against the accused.

d. The advocate and procurator acting against the accused.

e. Assessors, or at the present time especially jurors, who by their vote concur toward the death of the guilty man.

f. Lictors and executioners themselves, who as ministers of justice put the guilty man to death.

g. Of those who cooperate in some way in a judgment of blood, the following do not become irregular:

h. The prince who made the law concerning a crime to be punished by death, because he concurs only remotely.

i. The jurist who, privately asked whether the accused has merited the penalty of death, replied that according to the laws he is to be punished by death, because he does not act in court nor by public authority.

j. The confessor who accompanies the guilty man to the place of punishment, even if he exhorts him to acquiesce in the sentence, to ascend the ladder, to bend his neck, etc., because he acts outside the judgment and by private authority.

k. Spectators of the fatal execution, even if they are clerics, both because by watching they do not cooperate, and because they act outside the judgment and lack public authority.

160. Irregularity from just war. He who in an offensive just war himself by his own hand kills or mutilates someone (in the sense explained above) becomes irregular.

1. In a just war: for he who in an unjust war kills or mutilates someone, just like he who by his own authority kills or mutilates another, does not become irregular from defect, but from delict.

2. Offensive: for he who in a defensive war, even by his own hand, kills or mutilates another does not become irregular, unless he is a cleric, just as neither does he who kills or mutilates an unjust aggressor in order to defend himself. Nevertheless clerics who voluntarily serve as soldiers in a defensive war and kill or mutilate someone become irregular.[813]

3. By his own hand: for those who kill or mutilate no one, even if they are present at the battle, indeed even if by words or deeds they add courage to the soldiers, whether they are laymen or clerics, do not become irregular. For against those who themselves kill or mutilate no one, even if they concur physically or morally in a just war toward homicide, the Church has established no irregularity.

Notes

813. C. *Petitio tua* 24 *De homicidio* (V. 12).

Article Four.

On the Cessation of Irregularity.

161. How irregularity ceases. A contracted irregularity ceases: a. by removal of the cause; b. by religious profession; c. by dispensation.

a. Irregularity properly so called is removed only by dispensation: for irregularity is established by law; but a law in force can be removed only by relaxation of the law, or dispensation. Hence irregularities which are removed otherwise than by dispensation are not irregularities properly so called.

b. There are those who say that irregularity is also removed by baptism. But this manner of speaking seems less apt, because irregularity is induced by ecclesiastical law; therefore, since the not yet baptized are not subject to the power of the Church, before baptism no irregularity is contracted which is removed by baptism. Therefore he who before baptism committed a delict from which irregularity otherwise arises is not irregular once baptism has been received; but he who before baptism labors under a defect which induces irregularity is irregular once baptism has been received, if the defect perseveres after baptism. Thus a bigamist after baptism has been received is irregular, because even as baptized there inheres in him the defect of representing Christ, the one spouse of the Church.

162. 1. By removal of the cause a temporary irregularity ceases; thus irregularity from defect of liberty or reputation ceases when liberty or reputation has been recovered.

2. By religious profession irregularity arising from defect of birth ceases, yet in such a way that the illegitimate person becomes capable of receiving orders, but not of prelacies (n. 150).

a. The dispensation which a religious irregular from defect of birth needs in order that he can be promoted to the ordinary prelacies of his order can be granted by the general in a general chapter and by the provincial in a provincial chapter.

b. Not only religious profession, but also dispensation of itself avails only for receiving orders, not also for obtaining dignities and prelacies. Indeed in apostolic rescripts commonly even benefices with care of souls are excepted, for the obtaining of which the dispensed man needs a new dispensation of the Holy See.[814]

3. By dispensation any irregularity properly so called can be removed.

In order that dispensation may be granted licitly, these things are required:

a. The irregular person must manifest the circumstances of his person and the cause from which the irregularity arose.

b. He who has contracted several irregularities must set forth all of them.

c. A just cause for dispensing must be present. The chief cause is constituted both by shortage of priests and by the good morals of the one to be ordained.

d. The one dispensing must impose a salutary penance upon the dispensed person.[815]

Notes

814. Aichner l.c. p. 225.

815. Council of Trent, sess. 24. c. 6. *De reform.*

e. A determinate form by which the dispensation is granted is not prescribed. This or a similar one can be used: I dispense with you in the irregularity which you incurred on account of this cause, in the name of the Father and of the Son and of the Holy Spirit. Amen.

Note. A dispensation upon irregularity from defect of birth on account of the heresy of parents, once granted for receiving tonsure and minor orders, avails also for receiving major orders.[816]

163. Who can dispense. 1. The supreme pontiff can dispense in every irregularity: for since every irregularity arises from the law of the supreme pontiff, it can also be removed by the same.

a. Nevertheless there are irregularities in which the supreme pontiff is accustomed to dispense very rarely, such as a. irregularity from true bigamy; b. irregularity from voluntary homicide, unless it is so hidden that it cannot be proved in judgment; c. irregularity from defect of body which is very deformed.

b. To obtain this dispensation, recourse must be had to the Congregation on the Discipline of the Sacraments, if the irregularity is public and dispensation is sought for the external forum; but to the Penitentiary, if the irregularity is hidden and dispensation is sought for the internal forum alone.

2. Bishops can dispense either by themselves or through their delegate:

a. In all irregularities arising from hidden delict, except irregularity on account of homicide (simply voluntary, from c. *Liceat*).[817]

b. In irregularities from similitudinary bigamy relative to sacred orders, and from illegitimate birth relative to minor orders.

c. In irregularities, whether from delict or from defect, which are doubtful, as a precaution; nor must recourse be had to the supreme pontiff if afterward it has been established that the irregularity certainly was present. In a case of urgent necessity, if access to the supreme pontiff is not open, and the irregular person cannot abstain from the reception or exercise of an order without grave inconvenience. Some bishops have still broader faculties from special privilege.

3. Regular prelates can dispense with their subjects in all irregularities in which bishops can dispense: for they have quasi-episcopal jurisdiction, by force of which they can dispense with their subjects in those matters in which bishops can dispense with their diocesans.[818]

4. Regular confessors can dispense all seculars, whether clerics or laymen, from all irregularities arising from hidden delict (except hidden homicide), from which bishops can dispense their own subjects.[819] But other confessors have no power concerning irregularities.

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The Arabic number indicates the marginal number.

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Notes

816. S. Officium, Dec. 5, 1906.

817. Council of Trent, sess. 24. c. 6. *De reform.*

818. St. Pius V granted this power by the constitution *Ad immarcescibilem*, Feb. 6, 1567.

819. St. Alphonsus l. 7. n. 355. The privilege granted to the Minims by Sixtus IV and confirmed by Julius II is extended also to other regular confessors by communication of privileges (Gasparri I. n. 229). As to the use of this faculty, let each consult the statutes of his own order.

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A. M. D. G.

To the greater glory of God.