Summa of Moral Theology

Adapted for the use of schools

by

H. Noldin, S.J.

Professor of Sacred Theology in the University of Innsbruck.

III.

On the Sacraments.

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

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Introduction

1. a. Man must merit for himself eternal life, to which he has been destined by the supreme goodness of God, by works worthy of so great an end. The sacraments are so many means and helps divinely instituted for attaining this end. Moreover, sacraments are means and helps of eternal life in two ways: both because they infuse sanctifying grace, and because they confer actual graces, by which we can observe the precepts of God and of the Church as is required for the supernatural end: for through the sacraments all true justice either begins, or, once begun, is increased, or, once lost, is repaired.[1] In moral theology the sacraments are to be considered as means and helps of eternal life granted to us by God.

b. From the institution of the sacraments a new order of precepts arises, of which some pertain to ministers, while others pertain to those who are about to receive the sacraments. Now it belongs to moral and pastoral theology to explain the precepts which are referred to the sacraments being rightly administered and received. Therefore, after the treatment of the sacraments in general has been premised, the individual sacraments must be treated in particular in such a way that the precepts are proposed which, from their institution, are enjoined upon the faithful and upon the ministers of the sacraments.

c. All the sacraments are aptly divided into two genera: for some are referred to the utility of the community, order and matrimony; others regard the utility of individual men, baptism, confirmation, the eucharist, penance, and extreme unction. The former indeed produce their effect also in the individual persons receiving them, but that effect is not so much necessary to the receiver himself as to the community, that is, to the Church and to civil society.

The sacraments of the latter genus are again divided into two classes: for some, abstraction being made from one's own sins, were instituted for generating, preserving, or increasing supernatural life, baptism, confirmation, the eucharist; others were instituted for destroying one's own sins, penance and extreme unction. Therefore the treatment of the sacraments in particular can be divided into three parts, of which the first treats the sacraments which confer or increase supernatural life, baptism, confirmation, the eucharist; the second treats the sacraments which destroy one's own sins, penance, extreme unction; finally the third treats the sacraments which are referred not to individuals, but to the community, order and matrimony.

Notes

1. Council of Trent, sess. 7, *De sacramentis*, Proemium.

Book First. On the Sacraments in General

[2]

Question First. On the Nature of the Sacraments

2. Definition. A sacrament of the new law can be defined: a visible sign divinely instituted for signifying and effecting the sanctification of men.

A visible sign, that is, sensible, which can be perceived by some external sense. Divinely instituted, because the author of the sacraments is Christ Jesus: for God alone can institute a sacrament, because God alone can give to material things the power of producing sanctifying grace. For signifying and effecting sanctification: for the sacraments are not only signs of grace, but also causes of the same. Besides this, by these words the end of the sacraments is shown, all of which tend to this, that they sanctify man through grace. Moreover, the grace which all the sacraments signify and confer is principally sanctifying grace: for they either first confer this grace or increase it once already conferred.

3. Effect of the sacraments in general is threefold: one is common to all the sacraments: sanctifying grace, supernatural virtues, and the gifts of the Holy Spirit; another is peculiar to the individual sacraments: sacramental grace, by which name is understood both the right of obtaining all helps necessary for pursuing the end proper to each sacrament, and these helps themselves actually conferred in their own time; finally, the third is proper to three sacraments, baptism, confirmation, and order, namely character.

Character is an indelible sign impressed upon the soul, by which the soul is conformed to Christ and is specially deputed and consecrated to His service in a diverse state and grade: for through the character of baptism a man is constituted a sheep and member of Christ, and is conformed to Christ the head and supreme shepherd; through the character of confirmation he is constituted a soldier of Christ and is conformed to Christ the supreme leader of our warfare; through the character of order he is constituted a minister of Christ and is conformed to Christ the supreme prince of shepherds, the bishop of our souls, the high priest.[3]

Concerning the grace which the diverse sacraments confer, these things can be established from the more common doctrine of theologians.

a. If sacraments diverse in species, baptism, confirmation, etc., are compared with one another, they do not all produce the same grace, but one sacrament produces a grace greater and more perfect than another: for one is in itself more worthy and perfect than another, and therefore it also produces a greater and more perfect effect; and since the most holy sacrament of the eucharist is the most worthy of all, it confers an effect more perfect than all the others. And indeed the end of diverse sacraments is more perfect in one case than in another; therefore it also demands that one sacrament produce a more perfect effect than another. Since, for example, the end of order is more perfect than the end of confirmation, order confers a more perfect grace upon those receiving it.

b. If sacraments diverse only in number are considered, for example, several baptisms, it must be said that in subjects of the same disposition they of themselves, as to grade, always produce the same effect: for any sacrament whatever, from divine institution, is ordered of itself to producing a certain and determinate

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Notes

2. St. Thomas III, q. 60-65. St. Alphonsus, bk. 6, n. 1-89. Fr. Suarez, *De sacramentis in genere*, disp. 1-18. Io. de Lugo, *De sacramentis in genere*, disp. 1-9. Sporer-Bierbaum, *Theologia moralis decalogalis et sacramentalis*, tom. III, pars 1, *De sacramentis in genere*, n. 1-196. Aeg. Coninck, *De sacramentis*, quaest. 60-64. Chr. Pesch, *Praelectiones dogmaticae*^3, tom. VI, VII. A. Lehmkuhl, *Theologia moralis*^10, II, n. 1-54 (n. 1-74). The numbers added within parentheses refer to the twelfth edition. Ballerini-Palmieri, *Opus theologicum morale*^3, IV, n. 642-710. Nik. Gihr, *Die hl. Sakramente der kath. Kirche*^2 (Freiburg: Herder, 1903). I. B. Pruner, *Lehrbuch der Pastoraltheologie* (Paderborn: Schoningh, 1900), I. Bd. Dom. Prummer, *Manuale Theologiae Moralis* (Freiburg: Herder, 1915), t. III. The new Code of Ecclesiastical Law, for the sake of brevity, is cited in this manner, e.g. cn 371, or cn 859, 3.

3. Cf. Sporer-Bierbaum III, pr. 1, n. 57.

effect. But in subjects of diverse disposition, all teach that a diverse effect, as to grade, is produced, namely a greater effect in a better-disposed subject and a lesser effect in a less-disposed subject. Yet some say that the effect of the individual sacraments is limited according to a certain grade and measure from divine institution, so that a certain measure is not exceeded even in him who is disposed to receive a greater one. Others, on the contrary, think that the effect of individual sacraments is determined to a certain grade not from divine institution, but only from the disposition of the receiver, so that those unequally disposed obtain unequal grace according to the perfection of their disposition, which is limited only by the disposition, finite by its own nature.[4]

4. Division of sacramental effects. Of the effects which are conferred by the individual sacraments, some are called effects per se, others effects per accidens. An effect per se is that for producing which the sacrament has been instituted, and which therefore is always and in every case produced; thus the remission of original sin is the effect per se of baptism. An effect per accidens is that for obtaining which the sacrament has not been instituted, and which therefore is produced by the sacrament only in some extraordinary case; thus the remission of mortal sin is an effect per accidens of the eucharist. An effect per se is distinguished into primary, which God principally intends in the institution of the sacrament, and which therefore is the adequate reason for instituting the sacrament; and into secondary, which God intends only remotely, and which therefore is not the reason for instituting the sacrament. Thus the remission of mortal and venial sin is produced per se and by force of institution by the sacrament of penance, but the former primarily, the latter only secondarily.

5. Mode of effecting. The sacraments produce their effect ex opere operato, that is, by force of the sacramental action itself, which has this from the will and institution of Christ, that of itself it can confer grace and sufficiently sanctify; not ex opere operantis, that is, not from the dignity and merit of him who administers the sacrament, nor of him who receives the sacrament. For the dispositions of the receiver which are required constitute a necessary condition, but not an efficient cause of grace; and the dispositions of the minister are required so that the sacrament may be administered worthily, not so that it may be administered validly. Therefore, once the sacramental action has been placed, the sacraments infallibly produce their effect and confer it on the receiver, provided no obstacle is present which impedes it.

Sacraments are said to produce their effects ex opere operato negatively indeed, so that they do not have their force from the merit of the minister conferring or of the subject receiving; positively, however, it signifies that the sacramental action itself has the force of causing grace.

6. Number of the sacraments. There are seven sacraments of the new law, neither more nor fewer: baptism, confirmation, eucharist, penance, extreme unction, order, and matrimony. This is certain by faith from the definition of the Church: "If anyone shall say that the sacraments of the new law were not all instituted by Jesus Christ our Lord, or that there are more or fewer than seven, let him be anathema."[5]

a. The number seven of the sacraments can be gathered not from the nature of the thing, but only from the will and good pleasure of God. Yet it was most fittingly done that seven sacraments were instituted: for the end of the sacraments is supernatural life, which has a likeness with this natural life. Now for natural life, both private and public, seven things are necessary: that a man be generated, strengthened, nourished, freed from infirmity and its remnants; because he lives in society, superiors must be constituted who rule society; because he is mortal, the legitimate conjunction of male and female is necessary for propagating the human race, lest society fail. In like manner, for supernatural life seven things are necessary: generation through baptism, increase and strengthening through confirmation, nourishment through the eucharist,

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4. Cf. Laymann, bk. 5, tr. 1, c. 6, n. 6; Sporer-Bierbaum III, pr. 1, n. 49 ss.

5. Council of Trent, sess. 7, can. 1.

remedy against sin through penance, remedy against the remnants of sins through extreme unction, power of ruling the Church through order, and propagation of the human race destined for the worship of God through matrimony.[6]

b. The individual sacraments differ especially by the end for which they have been instituted. Therefore, although all the sacraments confer sanctifying grace, nevertheless they confer it as diverse according to the diverse end. Namely, the sanctifying grace which is conferred in the individual sacraments is the principle and foundation of the helps which afterward conduct to obtaining the peculiar end of the sacrament. In baptism, therefore, there is conferred sanctifying grace insofar as it contains a right to divine helps by which man can worship God and observe His precepts; in confirmation there is conferred sanctifying grace insofar as it contains a right to divine helps by which man is strengthened for preserving and defending the faith; in the eucharist there is conferred sanctifying grace insofar as it contains a right to divine helps by which man can possess Christ through greater charity in union with Christ; in penance there is conferred sanctifying grace insofar as it contains a right to divine helps by which a man who has relapsed into sin may arise again; in extreme unction there is conferred sanctifying grace insofar as it contains a right to divine helps by which man is aided to bearing with a calm soul the annoyances of sickness and of the last struggle; in order there is conferred sanctifying grace insofar as it contains a right to divine helps by which one ordained may be able worthily and fruitfully to exercise the offices of his order; in matrimony there is conferred sanctifying grace insofar as it contains a right to divine helps by which married persons may fulfill the duties of the common life rightly and worthily. Hence it follows that a man who by mortal sin loses sanctifying grace at the same time loses the right to the helps which is contained in it.

7. Division of the sacraments. The seven sacraments of the new law are:

a. Repeatable, which can be received often because they do not imprint upon the soul an indelible character: eucharist, penance, extreme unction, matrimony; and non-repeatable, which can be validly received only once, because they imprint an indelible character upon the soul: baptism, confirmation, order.

b. Sacraments of the dead, which per se and primarily have been instituted for conferring first grace, and therefore for infusing spiritual or supernatural life into a man spiritually dead: baptism and penance; and sacraments of the living, which per se and primarily have been instituted for conferring second grace, and therefore for increasing supernatural life of grace in him who already lives by grace: confirmation, eucharist, extreme unction, order, and matrimony.

alpha. It happens per accidens that even sacraments of the dead confer second grace, namely if the one who receives them, through perfect contrition, is already in the state of grace. Likewise it can per accidens happen that sacraments of the living confer first grace, namely if he who receives them is in the state of mortal sin but in good faith thinks himself to be in the state of grace, provided he has attrition; this indeed is certain concerning extreme unction, but concerning the others it is not equally certain.

beta. Those who affirm that the sacraments of the living confer first grace per accidens use this argument: sacraments confer grace ex opere operato on those who do not place an obstacle; but he who in good faith and with attrition receives a sacrament does not place an obstacle; otherwise the sacraments of the dead would not produce an effect. But those who deny this answer that this very thing is in question, whether in sacraments of the living only the culpable obstacle or also an inculpable obstacle is constituted by the lack of the state of grace.[7] Since the whole matter depends upon the will of Christ instituting the sacraments, but the will of Christ

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6. Cf. St. Thomas III, q. 65, a. 1.
7. Cf. St. Thomas III, q. 79, a. 3.

in this matter has not been manifested, beyond extreme unction nothing certain can be defined concerning it.[8]

c. Necessary and non-necessary: alpha. baptism and penance are necessary for all men who after baptism have lapsed into grave sin, by necessity of means; beta. the eucharist is necessary by necessity of precept; gamma. the remaining four sacraments per se are not necessary to individuals, either by necessity of means or by necessity of precept.

d. Invalid, in which the sacrament itself is null and only its external rite is performed; and fruitless, in which the sacrament itself is validly conferred, but nevertheless lacks the effect of grace.

alpha. Invalid sacraments produce no effect in the soul of the receiver; fruitless sacraments produce some effect: some imprint a character, and all confer a right to the grace suited to the sacrament received.

beta. It happens that he who administers or receives an invalid sacrament sins more gravely than he who receives or administers a fruitless sacrament.

e. Formed, which produce their effect, sanctifying grace or the form of the soul, when they are received; and unformed, which indeed are validly received, but on account of an obstacle existing in the receiver do not produce their effect.

alpha. Obstacle or fiction is called the defect of the necessary disposition which in the receiver impedes the sacrament from being able to produce the effect of grace. It consists in mortal sin, or rather in adhesion to and affection for the will of mortal sin. Yet an obstacle does not impede the imprinting of character.

beta. Sacraments can be unformed through fault or without fault, because the obstacle can be found in the soul culpably or in good faith. Moreover, all sacraments can be unformed; concerning penance alone several doubt whether this is possible, as will be said below.

8. On the reviviscence of the sacraments. For sacraments to revive signifies that they afterward, once the obstacle has been removed, confer the same grace which they would have conferred if the obstacle had not been present in the soul. To remove the obstacle signifies to acquire for oneself the necessary dispositions which, when the sacrament was conferred, should have been present, but were not present either culpably or without fault.

1. All indeed readily concede that there is no repugnance in the reviviscence of the sacraments, since reviviscence is explained in this way: every validly conferred sacrament produces its proper effect, that is, it confers upon the receiver either the grace itself or a right to grace to be produced through the sacrament. Since this grace cannot be applied to the soul on account of an obstacle existing in it, it remains meanwhile suspended until the obstacle is removed; but once the obstacle has afterward been removed, that grace is applied to the soul itself. Now it can easily be understood that by the reception of a sacrament there is acquired a right to grace to be conferred by force of the sacrament, which is actually conferred as soon as the obstacle is removed. The only question is whether, and which, sacraments in fact revive from the institution of Christ. For some teach that baptism alone revives; others, on the contrary, affirm that all sacraments revive once the obstacle is removed; others finally attribute reviviscence to some sacraments, namely those which imprint a character, but deny it to the others.[9]

2. It is certain that baptism revives once the obstacle has been removed: for a character impressed demands the complement of the sacramental effect. Besides, since baptism cannot be repeated, if it did not revive, many would have to lack graces very necessary to salvation and ordinary to it.

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8. Benedict XIV, *De synodo*, bk. 7, c. 11, n. 1.

9. Coninck, q. 62, n. 64 ss.

It is very probable that confirmation and order also revive once the obstacle has been removed: for since these sacraments on the one hand produce an effect altogether proper to them, and on the other hand cannot be repeated, if they did not revive, there would be men who would have to lack graces ordinary and necessary to the state constituted for them; besides, character seems to demand reviviscence.

It is also probable that extreme unction and matrimony revive once the obstacle has been removed, because these sacraments have certain effects proper to them which endure during the same sickness or the same marriage and cannot be repeated.[10]

But because in favor of the eucharist, which can be received daily, a similar reason does not hold, it is not very probable that this sacrament also revives once the obstacle has been removed.

The reviviscence of penance depends on whether it can be unformed or not; but whether the sacrament of penance can be unformed will be stated below.

3. As to the disposition which is required that unformed sacraments afterward revive, one must distinguish among the sacraments of the living, the sacraments of the dead, and extreme unction. In the sacraments of the living, except extreme unction, contrition or attrition with absolution is required; in the sacraments of the dead and in extreme unction, attrition suffices, unless sacrilege or grave sin committed in the reception was present: for in this case contrition, or attrition with absolution, is required.

Question First. On the Nature of the Sacraments

9. Essential parts of a sacrament. Things and words, or, as we are now accustomed to speak, matter and form, intrinsically constitute a sacrament, a sensible sign, as essential parts; and these indeed must be performed by the minister with the intention of doing what the Church does: for by this intention the sacramental action is truly constituted as sacramental, or as signifying and causing sanctifying grace.

Therefore sacraments intrinsically consist of matter and form as of a material and formal cause; but they are perfected by this, that to these there accedes, as an efficient cause (ministerial), the intention of the minister performing the sacramental action. Therefore three things are essentially required for confecting a sacrament: matter, form, and the intention of the minister. For this reason the Council of Florence has these words in the decree for the Armenians: "All sacraments are perfected by three things, namely by things as matter, by words as form, and by the person of the minister conferring the sacrament with the intention of doing what the Church does; if any of these is lacking, the sacrament is not perfected."[11]

10. On valid, licit, worthy, and fruitful reception. a. Sacraments are said to be conferred and received **validly**, when none of those things is lacking which are essentially required for confecting a sacrament: for if these are present, the sacramental action is of itself apt to produce its effect. Therefore, if a sacrament is conferred or received invalidly, no sacrament is really had; and he who knowingly confers or receives a sacrament invalidly commits sacrilege.

b. Sacraments are said to be conferred or received **licitly**, if all those things are observed by the one conferring or receiving which, from the will of Christ and of the Church, must be observed besides the essentials of the sacrament. Therefore he who confers or receives a sacrament illicitly indeed confers or receives a true sacrament, but in its conferral or reception he commits grave or light sin, according as he neglects a precept of greater or lesser moment.

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10. Several teach that extreme unction certainly revives.

11. Cf. Denzinger, *Enchiridion symbolorum et definitionum*, n. 590.

c. Sacraments are said to be conferred and received **worthily**, when in the minister and the receiver there are present the dispositions of soul which, from the will of God, are required for the sacrament to be administered or received rightly. Therefore he who knowingly receives or administers a sacrament unworthily commits sacrilege.

d. Sacraments are said to be received **fruitfully**, if they are received in such a way that their effect is actually obtained. He who receives a sacrament worthily, on his own part also receives it fruitfully.

Question Second. On the Matter and Form of the Sacraments

11. Notions. Sacraments consist of matter and form, which, since they are essential parts of a sacrament, if either one is lacking, no sacrament exists: for a sacrament cannot be confected without that which constitutes the essence of the sacrament.

a. The **matter** of a sacrament is a sensible thing to be determined to the notion of a sacrament by the form. A twofold matter is distinguished: remote matter is the sensible thing itself which is employed in confecting the sacrament, as water in baptism, bread in the eucharist; proximate matter is the application or use of the remote matter in the sacramental action, e.g., washing, anointing.

b. The **form** is that part of the sacrament which determines the matter to the sacrament; the form ordinarily consists in words uttered by the minister.

In order that sacraments be rightly conferred, several conditions are required as to matter and form, of which some regard matter and form together, others only the form.

12. Conditions required on the part of matter and form: matter and form must be a. certain; b. united together; c. applied by the same minister; d. applied without change.

1. Certain, that is, certainly valid outside a case of necessity; for the reverence due to the sacraments demands that they not be exposed to the danger of invalidity; but a sacrament is exposed to the danger of nullity if either the matter or the form is not certain but doubtful, or only probably valid: for probability does not remove the danger of invalidity. Hence outside a case of necessity to use doubtful matter is sacrilege. **Outside a case of necessity:** for since the sacraments are for men, it is permitted to expose them to the danger of nullity whenever necessity or the great utility of men demands it.

Therefore it is not permitted to use doubtful matter where certain matter can be had; but where certain matter cannot be had, doubtful matter must be used if the necessity of administering the sacrament is present, if, for example, baptism must be conferred upon an infant placed in danger of death; and doubtful matter can be used if a great utility of the receiver is present; thus the sacrament of extreme unction can be conferred upon a dying man with the oil of catechumens.

13. 2. United together by a unity or simultaneity not indeed physical (except in the eucharist), but at least moral, namely in such a way that according to the moral estimation of men, the nature of each sacrament being considered, the words are judged to affect the matter and to constitute one sign with it: for since matter and form constitute one essence of the sacrament, they must be applied together; but since this essence is a moral composite, it suffices that the component parts be morally united, so that, for example, the minister who pronounces the form is judged, in the judgment of prudent men, to wash, to anoint, etc.

Hence even if the form somewhat precedes or follows the matter, yet in such a way that they coincide in part, the sacrament is certainly valid; if, after the washing or anointing has been done, after some minutes at last the words are uttered, the sacrament is certainly invalid; but if matter and form are applied in such a way that the matter has already been entirely placed when the form is begun, or on the contrary that the form has already been entirely uttered when the matter begins to be applied, according to the mind of certain ancient authors

the sacrament is indeed doubtful; nevertheless there is no reason for doubting the validity of the sacrament, if the matter or the form precedes and immediately after it the other part is placed.[12] This opinion seems morally certain to St. Alphonsus (n. 9), who notes from other authors that the delay of one *Our Father* interposed between the matter and form of baptism renders the sacrament invalid. In practice (excepting penance and matrimony) care must be taken that matter and form are at least so united that one is begun before the other is finished.

14. 3. Applied by the same minister: for the administration of a sacrament is one sacramental action to be placed in the name of Christ, which is composed of two parts, from the application of the matter and from the utterance of the form; but it would not be one action if it were divided between two ministers. Moreover, if one applied the matter and another pronounced the form, the words of the form, e.g., *I baptize you*, would not be true, since the same one would not be placing the whole sacramental action.

a. Whether a sacrament is absolutely invalid if the sacramental action is placed by two persons is not entirely certain; therefore there are some who permit this in a case of necessity, so that, for example, in conferring baptism one pours the water, another pronounces the form: for each acts not in his own name, but in the name of Christ, in whom both parts have unity. Moreover, the words are uttered in the person of Christ; and words so uttered have a true sense.[13]

b. If several ministers confect a sacrament, so that several place the entire matter and form, for example, several baptize the same child at the same time, consecrate the same matter, the sacrament is indeed valid, but, excepting the consecration in the ordination of priests, gravely illicit. And if the sacrament consists of several parts, as the eucharist, extreme unction, order, and several persons so confect the sacrament that one places one part and another another part, the sacrament likewise is valid, but outside a case of necessity gravely illicit.

15. 4. Without change. One change is substantial, another accidental.

As to **matter**, a change is called substantial if the thing is no longer, either in fact or in name, that which Christ determined, as if wine were taken in baptism instead of water; but a change is called accidental if, while the essence of the thing instituted by Christ is preserved, only its qualities are changed, as if a little wine were mixed with water, or a little water with wine.

As to **form**, a change is called substantial if the sense of the words is changed into another sense, as if in consecration it were said: *This is my work*; and accidental, if the words, although varied, nevertheless retain the same sense, as if in baptism it were said: *I wash you*, or if the words were transposed: *You I baptize*.

a. A substantial change of matter or form renders the sacrament invalid, and if it is voluntary, constitutes grave sin. The reason for the first is that the sacrament instituted by Christ is no longer had where this change occurs, whether it is voluntary or involuntary. But the reason for the second is that the reverence due to the author of the sacraments is most gravely injured.

b. An accidental change of matter or form does not render the sacrament invalid, but only illicit; and if it is voluntary, it constitutes grave or light sin according as the change is notable or not notable. Therefore he who notably corrupts the form or utters it inarticulately certainly sins gravely.

In order that it may be judged whether changed forms are valid or invalid, these things must be attended to:

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12. Cf. Suarez, disp. 2, sect. 2, n. 6.

13. Cf. Suarez, *De baptismo*, disp. 23, sect. 3, n. 14.

alpha. A private error of the minister, which is added in a distinct proposition, if in other respects the essentials are present, does not render the sacrament invalid, as if someone baptized with this form: *I baptize you in the name of the Father, whom I think greater, and of the Son, whom I think lesser, and of the Holy Spirit, whom I think equal*, because the sacrament is conferred in the name of Christ and from the intention of the Church. But an error which vitiates the form itself renders the sacrament invalid, e.g., *I baptize you in the name of the Father greater and of the Son lesser and of the Holy Spirit equal*, or *in the name of the uncreated Father and of the created Son and of the created Holy Spirit*, because the sense intended by Christ is essentially changed.

beta. If the sense of the form is ambiguous, its value depends upon the intention of the minister, and therefore the form is invalid if the minister explicitly intends to confer the sacrament with an erroneous form: e.g., this form: *I baptize you in the name of F. and S. and H. Sp. and of the blessed Virgin Mary* is valid, if the last words are added only from a certain devotion, but is invalid if one intends also to baptize in the name of the blessed Virgin, because the form is essentially changed. For the sense of the form must be judged not only from what the words signify of themselves, but also from what the minister intends to signify, because the utterance of the form must be a truly human act.

gamma. It is not necessary that the words have of themselves the signification intended by Christ, but it suffices that from the manner in which they are uttered here and now they convey that sense to the hearers. Hence if the words of the form are corrupted by a natural defect of the tongue, by hesitation or haste, or by the minister's lack of skill, the sacrament is valid, provided the sense of the form is not wholly vitiated; because the words, although corrupted for this reason, are nevertheless rightly understood by the hearers. Therefore this form is valid: *hoc est corpus meus*; indeed this form is held valid: *baptizo te in nomine Patris et Filia et Spiritu Sancta*, if the corruption comes from ignorance, and likewise if it has not been made deliberately; but this other one is not valid: *ego te baptizo in nomine Matris et Filii et Sp. S.*

16. Conditions required on the part of the form. The pronunciation of the form must be vocal, uttered without interruption and without repetition.

1. Vocal, that is, the form of the sacraments must be pronounced by the organs destined for speaking in such a way that the minister can hear himself: for that pronunciation is not sensible which cannot in any way be perceived by hearing; but the sacrament would be exposed to the danger of nullity if the pronunciation of the form were not sensible.

2. Without interruption. There can occur an interruption of the words or of the syllables of the form. Now if the interruption is so great that the words no longer produce one integral sense for the hearers, the sacrament is invalid; but if the interruption is so slight that the following words morally cohere with the preceding and produce one sense for the hearers, the sacrament will be valid.

a. If one baptizing, after saying *I baptize you*, should interject, *turn the page*, or should sneeze slightly, or cough, or spit, he could proceed to the following words without needing to repeat the earlier ones. If a confessor, after saying *I absolve you*, noticing that the penitent has gone away from the sacred tribunal, should call him back and, with these words interposed, *What is this? Why did you not wait? Return and kneel until I shall have absolved you*, should add *from your sins*, he absolves validly, because any prudent person assisting at such an administration would have understood the sense of the form.[14] But if someone, after saying *this is the body*, begins to be shaken by coughing for several minutes and afterward adds *my*, this no longer morally coheres with the preceding words.

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14. Cf. Elbel-Bierbaum, *Theologia moralis*^2 (Paderborn: Typogr. bonif., 1894), III, pr. 1, n. 13.

b. But the interruption of syllables much more easily destroys the sense, so that even a slight interruption renders the sacrament doubtful; therefore it is advisable to repeat the word begun, unless the interruption is very slight. Thus he invalidly confects the sacrament who, after saying *hoc est cor*, coughs two or three times and then adds *pus meum*; likewise he who, after saying *ego te bap-*, interposes *the water is too cold* and afterward adds *tizo in nomine*, etc.

3. Without repetition. It can happen that over the same matter the entire form is repeated, or several of its words; but each is per se a grave sin. The reason for the first is that the sacramental form is uttered in vain, and thus a grave irreverence is committed against the sacrament and its author; the reason for the second is that the sacramental form is changed and Christ is exhibited as speaking in a ridiculous manner.

a. Therefore he who repeats the form from an irrational doubt, from an empty suspicion (even conditionally), certainly sins against the sacrament. Scrupulous persons, however, who sometimes repeat the form under a condition, are excused from sin, either by reason of perplexity, which impedes prudent deliberation, or by reason of the end, namely that of rendering their own conscience tranquil. But those who frequently and almost from custom repeat the form certainly cannot be excused from light fault, and, if sufficient advertence is present, even from mortal fault, especially where, because of the inept repetition, the sacrament is exposed to the danger of nullity.[15]

b. Without a reasonable cause to repeat one word or one syllable does not exceed venial sin.[16] But he who should utter the form in this manner: *hoc, hoc, hoc, est, est, enim, corpus, corpus, corpus, meum, meum*, would indeed consecrate validly, but would per se commit grave sin.

Question Third. On the Minister of the Sacraments

Article First. On the Minister Himself

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17. Notions. 1. The minister of the sacraments is said to be he who performs, in Christ's name, the sacred rite instituted by Christ. The principal minister of the sacraments, namely he in whose name the sacraments are confected and administered, is Christ Himself. The secondary minister of the sacraments is he who dispenses the sacraments in the name of Christ. Therefore man acts as the minister of Christ and as an instrumental cause in administering the sacraments.

a. Concerning the secondary minister, this must be recalled from dogmatic theology: only man as a wayfarer is a minister of the sacraments; yet not every man can administer all sacraments, but only he can administer sacraments validly to whom there belongs a power divinely conferred, because God alone can bring it about that the action of the minister confers grace.

b. Because the minister of the sacraments is an instrumental cause, and that a human and rational one, his deliberate will must flow into the sacramental action; for only by the fact that deliberate will flows into the sacrament can he in a human manner be its cause.

2. The secondary minister is twofold, ordinary and extraordinary. He is called ordinary who, by the power which he has, can dispense the sacrament on any occasion, and does not need some special commission;

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15. Sporer-Bierbaum III, pr. 1, n. 96 ss.
16. Gobat, *Experientia theologica*, tr. 1, n. 42.
17. Cf. Pesch VI, n. 228 ss.

he is called extraordinary who can administer the sacrament only in a case of necessity and by special delegation.

3. A consecrated minister is distinguished, who in a special way has been deputed by the Church for confecting the sacraments, and a non-consecrated minister, who has not been specially deputed by the Church for confecting the sacraments.

Five sacraments require a consecrated minister: confirmation, eucharist, penance, extreme unction, and order; baptism, because of its supreme necessity, can be validly administered by any man; but for confecting matrimony it was not necessary to depute a minister specially, because it is administered by the contracting parties themselves.

4. A public and private minister is distinguished; public is he who administers a sacrament by special deputation of the Church with the prescribed solemnity; private is he who, in a case of necessity, without solemnity, administers a sacrament by the general permission and concession of the Church.

Not only any layman administers a sacrament privately, but also a priest who, in a case of necessity, baptizes without solemnity: for in this case he acts not as a public minister of the Church, but as a private person.

Article Second. On the Requisites for Valid Administration

Since it is one thing to administer a sacrament validly and another to administer a sacrament licitly, some conditions are required for valid administration and others for licit administration of a sacrament. Now what conditions must be present in the minister, whether for valid or for licit administration, must be explained in the following sections.

Section 1. On the Faith and Power of the Minister

18. How far they are required. 1. For validly confecting the sacraments, neither faith nor uprightness or the state of grace is required in the minister:[18] for the sacraments do not have their efficacy from the disposition of the minister, but from the merits of Christ and from divine institution.

Therefore the Church has always held as valid baptism or order conferred by a heretic or apostate, if nothing else was lacking.

2. For validly confecting the sacraments, a divinely conferred power is required in the minister: for God alone can join grace to the sacramental action of the minister.

Certain sacraments can be conferred by bishops alone, either exclusively, as order, or by ordinary power, as confirmation. Others can equally be conferred by a bishop and by priests, yet with due subordination, as eucharist, penance, extreme unction. Others finally do not require a specially consecrated minister, as baptism, which can be validly conferred by any man, and matrimony, whose ministers are the contracting parties themselves.

Section 2. On the Attention of the Minister

19. On due attention. Attention is an act of the intellect, namely the application of the mind to those things which are being done. One is internal, which is defined as the very advertence of the mind to that which is being done; the other is external, which consists in the absence of any external action which cannot coexist with internal attention. Therefore external attention requires nothing else than that the external rite be performed in a human manner, that is, in such a way that the minister knows what he is doing.

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18. Council of Trent, sess. 7, can. 11, 12.

a. For the valid administration of the sacraments external attention is required and suffices: for that attention is required and suffices by which the administration becomes a truly human act; but for this external attention suffices. Therefore even a distracted minister, and one thinking at the same time about other things, validly confers the sacraments.

b. But for the licit administration of the sacraments that internal attention is required which excludes every voluntary distraction: for the reverence due to the sacraments and the obligation of avoiding the danger of error in the conferral of the sacraments demand internal attention also.

Voluntary distraction in the administration of the sacraments does not exceed venial fault, unless the minister exposes himself to the danger of erring in those things which pertain to the essence, and therefore of frustrating the sacrament. According to certain authors, because of the dignity of so great a sacrament, voluntary distraction in the confection of the eucharist is a grave sin; yet several authors contradict this opinion, which therefore cannot be called certain.[19]

Section 3. On the Intention of the Minister

Intention is an act of the will by which we will to do or omit something. It can be considered in three ways: in itself, insofar as it is an act of the will; according to the object which the will intends; and according to the mode by which the act of the will tends toward the object.

20. On intention considered according to itself. Explanations. If it is considered according to itself, four diverse intentions must be distinguished:

a. **Actual** is called that which exists here and now, flows into the work, and is adverted to reflexively when the work is performed. This intention, by reason of the object, can be explicit or implicit, concerning which below.

b. **Virtual** is called that which exists here and now and flows into the work, but is not adverted to when the work is placed. This, therefore, is an intention previously had and never retracted, so that by its force and virtue the work now occurs, even if it is not adverted to by the agent.

alpha. A priest, for example, about to celebrate, elicits the intention of celebrating or consecrating; moved by this act of will he prepares himself, goes into the sacristy, puts on the sacred vestments, proceeds to the altar, duly completes all things up to the consecration. Now although at the consecration he does not renew the intention of consecrating, indeed, thinking of other things, does not even advert to the intention of consecrating, nevertheless he has the virtual intention, by whose influence he utters the words of consecration.

beta. Actual and virtual intention agree in this, that each is present and flows into the work; but the difference between the two seems to be this, that the former is present and is adverted to by the agent, while the latter is not adverted to by the agent who thinks about other things, although it is present and moves him to act. In like manner, between internal and external attention the difference seems to be this, that the agent has consciousness of the former, but does not have consciousness of the latter. Therefore external attention is not called external because it is in no way internal, but because it is not reflexive or joined with consciousness.[20]

c. **Habitual** is called that which was had at some time and was never retracted, but no longer exists and therefore does not flow into the work. Therefore this intention can be present even in those sleeping, mad, and drunk.

Notes

19. Cf. Lacroix, bk. 6, pr. 2, n. 443.

20. Cf. Ballerini-Palmieri IV, n. 653.

If someone previously had the intention of confecting a sacrament and afterward, having become drunk, confects it, he confects the sacrament with a habitual intention. Likewise he who yesterday proposed today to offer Mass for a friend, and today, not moved by yesterday's proposal, indeed forgetful of it, offers Mass, is said to have the habitual intention of offering for the friend.

d. **Interpretative** is called that which was never present, but which nevertheless, because of the habitual inclination of the will toward the object, would be present if that object came into mind.

He who never had the intention of consecrating a particle unknowingly placed on the corporal, which nevertheless he would wish to consecrate if he had knowledge of it, has an interpretative intention of consecrating. He who never expressly desired baptism, and yet would desire it if the thought of it came into his mind, is said to will baptism interpretatively, or to have an interpretative intention of baptism.

21. Principles. 1. Actual intention is best and greatly to be recommended, but it is not required for validly confecting the sacraments: for neither from the nature of the thing nor from any positive law is it prescribed. Moreover, actual intention, considering human frailty, is morally impossible; but it cannot be affirmed that Christ required for the validity of the sacraments something which is morally impossible for their ministers.

2. Virtual intention is required and suffices for validly confecting the sacraments: for an intention is required which flows into the sacramental action and therefore into its effect; but only actual and virtual intention flow into the work: therefore at least virtual intention is required. But since from the nature of the thing this one thing is demanded, that the sacramental action proceed from the deliberate will of the minister, virtual intention certainly suffices.

It is not permitted to repeat the form of the sacraments, even if it was uttered with distraction, whether voluntary or involuntary, because distraction does not impede virtual intention nor therefore the validity of the sacrament.

3. Neither habitual nor interpretative intention suffices for validly confecting the sacraments: for, in order that the sacrament be valid, it must be confected from the intention of the minister as from a cause; but neither habitual nor interpretative intention flows into the work; wherefore if the minister does not have another intention, the sacrament is not confected from his intention (n. 17).

Therefore there would be no sacrament if it were administered in sleep, or by a madman or by a drunk man, even if the one administering had intended it before drunkenness or sleep.

22. On intention considered according to the object. Explanations. According as the willed object is represented by the intellect and intended by the will in a diverse manner, one must distinguish:

a. **Determinate** and **indeterminate**, according as a certain and definite object, or a vague and uncertain one, is intended; for example, he who from ten diverse Mass intentions intends to discharge one definite intention has a determinate intention; but he who intends to discharge one of them, not defining which one, has an indeterminate intention.

b. **Explicit** and **implicit**, according as the thing itself is expressly intended in itself, or not in itself but in another thing (in which, expressly known and willed, it is contained) is intended.

Thus he who expressly thinks of and desires to receive extreme unction has an explicit intention; but he who expressly desires to die as Christians are accustomed to die has an implicit intention of extreme unction. Likewise he who explicitly thinks of and intends to receive the subdiaconate, but thinks nothing about the obligation of preserving chastity, which he knows to be joined to the order, at the same time implicitly wills and intends to receive this obligation.

23. Principles. 1. For validly confecting a sacrament there is required at least the implicit intention of doing what the true Church does.[21] Certainly some intention of confecting the sacrament is required, both because matter and form must be determined to the sacramental action by the minister's intention of confecting the sacrament (n. 9), and because the minister becomes the instrumental cause of the sacrament only by this intention (n. 17, 1); but in the intention of doing what the Church does, that intention is contained implicitly and confusedly. But in order to have the intention of doing what the Church does, it suffices that the minister wishes to perform the rite which he has seen or heard to be done by the Church of Christ, or the rite which either he himself or others hold as sacred: for in this intention is contained the intention of doing what the Church does.

a. Therefore, for validly confecting a sacrament, it is not required that the minister wish to confer this determinate sacrament (to baptize, to confirm), nor that he wish generally to confer a sacrament or a sacramental effect, nor that he wish to do what the Catholic Church or the Roman Church does, but it suffices that he wish to do what the true Church instituted by Christ does, even if he falsely thinks his own sect to be the true Church.

b. Therefore certainly he would not confect a sacrament who positively did not wish to do what Christ instituted or what the Catholic Church does. For this reason especially Anglican ordinations are invalid: for it is established that the Anglican bishops changed the rite of ordination for this reason, lest they should do and confer what the Catholic Church does and confers.[22] Likewise he does not confect a sacrament who would wish only to place the external rite, that is, to place this matter and utter these words. Likewise he who would place the whole external rite, say of baptism, for another end, for example, for the sake of washing another, of jest, of mockery, or of practice.

c. Therefore a heretic who by error thinks that there are no sacraments, or that sacraments confer no grace, can nevertheless validly baptize or consecrate, if he wishes to do what Christ instituted. Indeed, an unbeliever baptizes validly, provided he wishes to place the rite which Christians hold as sacred, or wishes to do what Christians are accustomed to do.

2. The intention must be determinate toward certain matter or toward a certain person: for the very words of the sacramental form demand this (*I baptize you; I absolve you; this is my body*), which designate certain matter or a certain person as present in some way. Yet an error of the minister concerning the person requesting the sacrament or concerning the quantity of matter to be consecrated does not render the sacrament invalid (except in matrimony), provided he intends to confer the sacrament on the one requesting it or to consecrate the matter present; which intention indeed he is always judged to have, unless he expressly restricts it to a determinate person or to definite matter.

a. Therefore he who intended to consecrate one from several particles placed on the corporal, or in time of plague to absolve one from several dying persons in a hospital, not determining whom, would do nothing. If someone absolving a penitent whom he thinks to be Peter, when nevertheless he is Paul, intended to absolve Peter and no other, he would absolve no one. If someone consecrating, as he judges, three particles, when nevertheless there are four, intended to consecrate only three, he would consecrate none.

b. Wherefore it is best to direct the intention to the matter or person present, whatever it may be; for then truly, to remain in the examples just given, Paul is absolved, although he is thought to be Peter, and four particles

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21. Council of Trent, sess. 7, can. 11: "If anyone shall say that in ministers there is not required the intention at least of doing what the Church does, let him be anathema." Cf. prop. 28 of Alexander VIII.

22. Cf. constitution of Leo XIII, *Apostolicae curae*, 13 Sept. 1896.

are consecrated, although they are judged to be only three, because the intention of the one confecting the sacrament is referred to this determinate present matter.

24. On intention considered according to the mode. Explanation. According to the mode by which the will is borne toward the object, absolute and conditional intention is to be distinguished, according as the will is borne toward the object independently of every event or circumstance, or only depending on some event or circumstance. But the condition added can be of the present: *if you are alive, I baptize you*; or of the past: *if you have made restitution, I absolve you*; or of the future: *if it rains tomorrow, I baptize you.*

What is said here concerning conditional intention is to be understood of a suspensive condition, namely by which the effect is suspended until the condition is fulfilled.

25. Principles on conditional intention. 1. A sacrament conferred under a condition of the present or of the past is valid if the condition has been fulfilled; but if the condition does not obtain, it is null: for if the condition added is true, the intention of the one conferring the sacrament passes into an absolute intention; but if the condition added is not true, the intention of conferring the sacrament is lacking.

Therefore the effect of a sacrament which is conferred under a condition of the present or of the past is always certain: either valid or null. Thus a sacrament conferred in this way: *I absolve you, if you wish to dismiss the concubine, if you are capable*; *I baptize you, if you are not baptized*, is valid if the condition is true; otherwise it is null.

2. A sacrament conferred under a condition of the future is null: for it is not valid immediately, when the sacramental action is placed, because then the intention of confecting the sacrament is lacking; nor is it valid afterward, when, the condition having been fulfilled, the intention of the minister is had, because then the matter and form of the sacrament no longer exist; therefore a sacrament conferred in this way is never valid.

If a condition of the present is added, but one hidden and known to God alone: *I baptize you, if you are predestined; I absolve you, if God sees that you will die this year*, some with Viva and Lacroix think that the sacrament is valid, because the added condition is of the present; but others, with Coninck, Dicastillo, and St. Alphonsus (n. 26), teach that the sacrament is invalid, because it cannot be supposed that God gave men the power of confecting sacraments under such a condition: for since God committed the administration of the sacraments to the knowledge and will of men, a condition cannot be added which cannot be known by the human mind. Whatever the case may be, to add a condition of this kind is certainly gravely illicit, because the sacraments would be rendered uncertain and men would not know whether they had received them validly or invalidly.

3. For a just cause it is licit to confer a sacrament under a condition of the present or of the past: for what can be valid is also licit in a case of necessity; but it is never licit to confer a sacrament under a condition of the future (except matrimony), because it is not permitted to confer a sacrament which is certainly invalid.

a. Without reasonable cause it is not permitted to confer a sacrament under a condition, because the sacramental action is performed in vain and therefore irreverence is inflicted on Christ. There is a just cause for conferring a sacrament under a condition whenever a sacrament conferred absolutely would be exposed to the danger of nullity, while, if denied absolutely, it would deprive a man of the effect of a necessary sacrament or at least a very useful one, as if it is doubted whether a man to be baptized or absolved or anointed is still living, whether the matter is valid, etc.

b. To add a condition which the minister believes to have been fulfilled, for example, to absolve under the condition *if you are disposed* someone whom he judges to be disposed, does not seem to exceed venial sin: for

since the danger of nullity of the sacrament itself is excluded, the mere addition of a superfluous condition does not seem to be a grave irreverence.[23]

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25. Principles on conditional intention.

4. If a sacrament of doubtful validity must be confected or repeated, it must be confected or repeated under a condition, so that, as far as can be done, provision may be made for the reverence due to the sacraments: for if the condition is verified, the sacrament has been validly conferred; but if the condition is not verified, the sacrament is not really conferred. But that in this case matter and form are applied in vain is without fault, because this can licitly be done from a just cause: for the sacraments are for men.

a. **Whether the condition which is to be added must be expressed by words.** Where the rubric prescribes this, as in baptism[24] and extreme unction,[25] the condition must be added orally; but if positive law does not prescribe this, it suffices that it be conceived in the mind: for the condition affects the intention; but this intention does not have to be expressed orally for the validity of the sacrament; therefore neither does the condition. Indeed, there are those who think (Gobat n. 272) that it is enough if the condition is had implicitly and virtually in the mind, as he has it who wishes to administer the sacrament according to the institution of Christ or the intention of the Church.

b. If someone has elicited two contrary intentions, the predominant intention is valid. But that intention is judged predominant which would be chosen if the incompatibility of the intentions were known. Hence it can happen that a habitual intention prevails over an actual one which is had at the same time.

alpha. Thus if a priest had resolved on a determinate day to apply a Mass owed from a stipend for the happy outcome of a business to be transacted on that very day, but afterward, forgetful of the obligation contracted, on that day celebrated for himself, the former intention, although habitual, would prevail over the second, actual intention.

beta. If a confessor had resolved to defer absolution for Mark, habituated in sins though disposed, in order to strengthen his will, and nevertheless absolved him because he did not recognize him as he approached among several others, the absolution would be valid, because if he had foreseen the future error, he would have wished the absolution to be valid.[26]

Article Third. On the Repetition of the Sacraments

26. Principles. Sacraments which imprint a character, baptism, confirmation, and order, may not be conferred again upon a man who has once received them validly; extreme unction cannot be repeated during the same danger of death, nor matrimony during the same marriage; but there is nothing to prevent eucharist and penance from being repeated, except that the Church has prohibited the eucharist from being received twice on the same day.

If someone confers again a sacrament which cannot be repeated, he effects nothing, since the sacrament is simply null; and he who knowingly confers or receives a non-repeatable sacrament sins gravely by the sin of sacrilege; and in the repetition of baptism both he who confers the sacrament and he who receives it incur an irregularity besides, which does not happen in the repetition of confirmation or order.

Notes

23. St. Alphonsus, n. 28.
24. *Rituale Romanum*, tit. 2, c. 1, n. 9.
25. Ibid., tit. 5, c. 1, n. 12.
26. Cf. Lugo, disp. 8, sect. 8; Gury, *Casus*, II, n. 162.

27. On the repetition of a doubtful sacrament. The following rules must be observed:

1. If the doubt concerning the validity of a sacrament is altogether imprudent and vain, it is not permitted to repeat the sacrament already conferred, and he who repeated it, even conditionally, would commit grave sin: for rashly to repeat a sacramental action contains a grave injury against the sacrament. But a condition, if the doubt is vain, is held as not added.

Wherefore, if after the sacrament has already been conferred, or after the form of the sacrament has already been uttered, a doubt arises concerning its validity which is a merely negative doubt, as if someone only reflexively does not remember that he said or performed the things which pertain to the essence of the sacrament, nothing is to be repeated. Yet for the most part they are excused from grave sin who, because of a vain doubt concerning the validity of the sacrament, are troubled by scruples and, with no time for deliberating, absolve again or again utter the words of consecration.

2. If the doubt concerning the validity of a sacrament is prudent and reasonable, whether the doubt is one of fact or of law, all sacraments can be repeated, and some also must be repeated; but they must be repeated under condition, so that provision may be made for the reverence which is owed to the sacrament (n. 25, 4).

a. All can be repeated: for the danger prudently feared, lest the receiver have to lack the fruit of the sacrament, is a sufficient reason for conferring it anew, since the sacraments are for men.

b. Some must be repeated, namely those which are necessary for the receiver unto salvation, or whose defect redounds to the grave harm of religion or of neighbor. And these sacraments must be repeated even if the doubt concerning their validity is slight only, which is especially true of baptism because of its supreme necessity.

alpha. Sacraments absolutely necessary unto salvation are baptism, absolution for one dying in mortal sin, and extreme unction for a dying sinner deprived of the senses. The good of religion requires that consecration be entirely certain, lest danger of idolatry be introduced. The good of religion and of neighbor requires that the conferral of order be certain, lest sacraments be administered invalidly.

beta. In sacraments there is a doubt of law when, in their conferral, doubtful matter (whether remote or proximate) or a doubtful form was used, concerning which authors, namely, hold opinions on both sides; there is a doubt of fact if it is doubted whether the sacrament was really conferred or in what way it was conferred, namely whether with due matter, form, and intention.

gamma. Whether a sacrament which is not necessary unto salvation, as confirmation, matrimony, or extreme unction where the sick person, being in possession of himself, has already received the other sacraments, must also be conferred again, must be judged from these circumstances: how great the doubt concerning validity is, how great the utility of the receiver is, and how much inconvenience the repetition brings to the minister.

Note. It can happen, however, that sacraments, even those most necessary, can indeed be repeated because of some slight doubt concerning their validity, especially for the greater peace of mind of him who received the sacrament, but that they need not be repeated, because the opinion denying the validity of the sacrament is not truly probable. Thus baptism conferred on the breast can indeed be repeated, but no obligation exists to repeat it. The same must be said of baptism in whose administration water was poured immediately after the utterance of the form; the same of order, in whose conferral the words *Receive the power* were uttered immediately after the touching of the instruments. It can happen that baptism conferred by a heretic need not be repeated, because there exists no reason for doubting either the right intention or the due matter and form,

but that it can be repeated, because a full and evident certainty concerning its validity is not had.[27]

Article Fourth. On the Requisites for Licit Administration

28. Required conditions. For licitly administering the sacraments, these four conditions especially are required in the minister:

1. That he be in the state of grace: for holy things must be treated holily; but among sacred things the sacraments hold the chief place, whose sanctity shines forth especially from the fact that they produce the divine gift of sanctifying grace, and therefore their minister immediately concurs in producing this divine gift. Moreover, the minister in conferring the sacraments bears the person of Christ, who is holy and the holy of holies. Finally, the special office of administering the sacraments has been entrusted to the priest, and that he may perform this office holily and worthily, he has been consecrated by a special sacrament and is aided by a special help of grace.[28] Therefore he who administers the sacraments in the state of sin, whether he is a priest or not, commits irreverence against the sacraments themselves and their author, and therefore sacrilege.

Wherefore if a priest or another about to administer a sacrament knows that he is in the state of mortal sin, he is bound first to elicit contrition; but he is not bound to confession, although it is to be recommended, unless he wishes to celebrate or unless he cannot elicit perfect contrition. For the Church does not prescribe that before the administration of the sacraments, excepting the eucharist, the state of grace must be recovered by sacramental absolution rather than by perfect contrition.[29] And in order that a sacrament can be licitly administered, contrition probably judged to exist suffices: for since the question is not of validity, but only of the honesty of the action, it is permitted to use probability concerning the honesty of the action.

29. 2. That he act according to the norm of the Roman Ritual, whose rubrics, however, are not all of the same value. Therefore outside a case of necessity it is not permitted to administer the sacraments with the solemnities and ceremonies prescribed in the Ritual omitted.

a. The Roman Ritual, edited by Paul V by the brief *Apostolicae sedi* (17 Jan. 1614), was approved and communicated to all the churches of the world. The Supreme Pontiff indeed greatly desires that all churches use the Roman Ritual in sacred functions; nevertheless, he does not oblige them to its use, but only exhorts them. Although there was no precept introducing the Roman Ritual, and at first several churches retained their own rituals, nevertheless by use the Roman Ritual was gradually received in most churches, so that now there are very few churches of the Roman rite which use their own ritual. But where once it has been received, the Roman Ritual cannot be changed into another. For this reason it can truly be affirmed that today the Roman Ritual morally constitutes the norm to be observed in the administration of the sacraments in the universal Church.

b. The rubrics of the Roman Ritual are not all of the same authority and value, and the same is to be said entirely of the Missal, Breviary, Pontifical, and other liturgical books.

alpha. The Ritual contains in its rubrics the rites to be observed in the administration of the sacraments. Some of these rites are called essential, others accidental. Essential rites concern matter and form; these were instituted by Christ Himself and therefore are required for valid administration. Accidental rites concern the worthy and

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27. Cf. Lugo, *Responsa moralia*, l. 1, dub. 33, n. 3; Lacroix, l. 6, pr. 1, n. 310 ss.; Lehmkuhl II^11, n. 27 note.

28. St. Thomas III, q. 64, a. 6.

29. Cf. *Rituale Romanum*, tit. 1, n. 4.

fitting administration of the sacraments; these have been prescribed by the Church and therefore are required not for valid but for licit administration.

beta. Some rubrics of the Ritual are preceptive, which impose an obligation in conscience; others are only directive, which impose no obligation, but contain counsels and instructions. Of those which contain a precept, some oblige under grave sin, others under light sin.

gamma. For solving the rather difficult question which rubrics are preceptive and which directive, these criteria can serve as some rule: the words of the rubric, the matter of the rubric, a declaration of the Sacred Congregation of Rites, and the consensus of authors.

c. The precept of observing the preceptive rubrics of the Ritual is of itself grave, because it pertains to the virtue of religion; but religion of itself obliges under grave sin. Therefore he who violates rubrics prescribed in the Ritual in a grave matter sins gravely. What matter is grave and what is light will be explained below in the individual sacraments.[30]

30. 3. That he have license to administer the sacraments to others. This license belongs to priests alone, and not to all priests, but only to those to whom the care of souls (whether ordinary or auxiliary) has been entrusted. Therefore these licitly administer the sacraments to their subjects in the place in which they exercise the care of souls; but outside their own territory only when the permission of the proper pastor of that place has been received.

a. Hence a bishop sins who outside his own diocese confers orders or confirmation without the faculty of the proper bishop of that place; and a parish priest sins who outside his own parish administers sacraments without the faculty of the proper parish priest of that place.

b. Baptism in a case of necessity, if the priest of that place is not present, may be licitly administered by any other person, indeed by any man, yet with the order preserved which will be stated in its own place.

c. The last sacraments (penance, viaticum, and extreme unction) in a case of necessity, and with the proper pastor lacking, any priest licitly administers.

d. Any priest furnished with the necessary power can administer the sacrament of penance to the sick. Yet if there is need, the parish priest must be made more certain of the sacrament administered by testimony left among the sick.

31. 4. That he be immune from censures and from irregularity. a. If an excommunicated person administers a sacrament, the administration is valid but gravely illicit, except in the case in which the faithful by right seek sacraments from him. If an excommunicated person to be avoided, or an excommunicated person against whom a condemnatory or declaratory sentence has been issued, does this, the sacrament of penance is also invalid, unless the faithful seek the sacrament by right.[31] Cn. 2261, 2264. When the faithful can seek sacraments from an excommunicated person is stated in n. 43.

b. If an irregular person administers a sacrament, the sacrament likewise is valid, even penance, because an irregular person is not deprived of jurisdiction, but only of the license of exercising the order received; but the administration is gravely illicit unless the sacrament is sought by the faithful by right.[32]

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30. Cf. Pighi, *Dell' autorita del rituale romano* (Verona: Cinquetti, 1891).

31. A condemnatory sentence is that by which excommunication is judicially inflicted on someone for a public delict; a declaratory sentence, when circumstances require, is added to a penalty latae sententiae contracted for a hidden delict. It effects this, that the penalty or censure must be publicly observed from the moment the delict was committed.

32. How great a sin it is to administer a sacrament in the state of sin. A consecrated minister certainly commits a grave sin who solemnly confects a sacrament with the entire rite prescribed by the Church while in the state of mortal sin, except in the case in which the necessity of conferring the sacrament is urgent and there is morally lacking time to procure for himself the state of grace at least through contrition: for since the sacraments were instituted for men, they can be administered in the state of sin rather than that the salvation of a soul be endangered.

a. Therefore he commits grave sin: alpha. who celebrates in mortal sin; beta. who solemnly baptizes; gamma. who absolves; delta. who confers extreme unction; epsilon. a bishop who confirms in mortal sin; zeta. who confers sacred orders. And indeed he commits one sin in number who in one administration confers the same sacrament successively upon several persons; therefore he who absolves several, baptizes several at once, confirms several, or ordains several in the state of sin commits several sins.[33]

b. He who celebrates in mortal sin, according to the mind of St. Alphonsus (n. 35), following Holzmann and Mazzotta, commits four sacrileges: alpha. because he unworthily confects the sacrament; beta. unworthily receives it; gamma. unworthily ministers it; delta. ministers it to himself as unworthy. Others, with de Lugo[34] and Ballerini,[35] rightly teach that one celebrating unworthily commits two sacrileges, because he unworthily consecrates and unworthily receives the sacrament.

33. Corollaries. Since grave sin must not be established unless it is certainly evident, grave sin is not committed where one of the three conditions required above for grave sin is lacking; but all concede that a light irreverence is committed. Therefore they do not sin gravely:

a. A layman who, when necessity is urgent, baptizes in the state of mortal sin, because he is not ordained and does not solemnly confect the sacrament; contracting parties who contract matrimony in mortal sin, insofar as they themselves are the ministers; but insofar as they are receivers, they indeed sin gravely.

b. A priest who administers the sacrament of baptism not solemnly, but privately without ceremonies in a case of necessity: for although he is consecrated, he does not act as consecrated, or as a public minister of the Church, but only as a private person (n. 17).

c. A priest or deacon who administers the eucharist, or touches or carries it, in mortal sin; likewise a parish priest assisting at matrimony in mortal sin, because they do not confect the sacrament. St. Alphonsus (n. 35), as to the dispensing of the eucharist, whether it is done by a priest or by a deacon, follows the stricter opinion as true.

d. A priest who hears a confession but does not absolve, or who exercises other sacred functions besides the conferral of a sacrament; a deacon who assists at solemn high Mass, although he exercises his order; likewise a preacher who gives a sacred sermon in mortal sin.

e. A bishop who in mortal sin confects chrism, blesses a chalice, consecrates a church, confers first tonsure or minor orders, because he does not confect a sacrament, although he exercises an order.

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32. In more urgent hidden cases, in which the Ordinary cannot be approached and danger of grave harm or infamy is imminent, any confessor can dispense from irregularities arising from a hidden delict, except homicide and procurement of abortion, to the end that the penitent may licitly exercise orders already received. Cn. 990.

33. Cf. *De principiis*^13, n. 304.

34. Cf. Lugo, disp. 8, n. 161.

35. Cf. Ballerini-Palmieri IV, n. 680.

f. Indeed, not even a priest who solemnly ministers in mortal sin, but when necessity is urgent, as if the sacraments had to be conferred immediately upon a dying man and he could not so quickly elicit perfect contrition.[36]

g. Although he cannot be excused from light irreverence who performs the sacramentals of the Church in the state of mortal sin, because he has been ordained to perform them and through them communicates graces to the faithful; nevertheless he cannot in any way be accused of sin who recites the divine office in the state of sin, because by it he simply satisfies a burden which does not have an intrinsic connection with ordination.

Article Fifth. On the Obligation of Ministering the Sacraments

As to the sacraments to be ministered, one obligation belongs to pastors and another to those who are not pastors. For the former are bound to minister the sacraments by office, the latter only by charity; wherefore the obligation of the former and its extent are taken from justice and charity, but the obligation of the latter only from charity. But all those are bound to administer the sacraments by office to whom the care of souls has been entrusted as an office: bishops, parish priests, their coadjutors or vicars, and, as regards regulars, their superiors.

34. Obligations of pastors. 1. Pastors are bound per se under grave sin from justice to administer the sacraments to their subjects reasonably asking, if they can do so without grave inconvenience: for by undertaking the pastoral office they have bound themselves to this by a tacit contract. The gravity of the sin which the pastor commits in this case must be measured from the spiritual harm of the subjects.

a. Subjects are judged to ask reasonably not only when they ask for the sacraments because of necessity, but also when they ask because of spiritual utility, e.g., if someone asks because he is in temptation or otherwise must remain long in sin.

b. Hence he who denies the sacraments to one asking irrationally or at an importune time does not sin, as, for example, one who does not always hear scrupulous persons or devout women whenever they present themselves. He who once or twice denies the sacraments to one who is not in spiritual necessity sins only lightly, because the harm can easily be repaired.

c. He who frequently shows himself difficult and morose in administering the sacraments sins gravely, because by this manner of acting he deters the faithful from receiving the sacraments. He sins gravely who reluctantly, and only hesitatingly and slowly, goes to the sick who are in danger of life in order to administer the last sacraments to them, because from this manner of acting there arises danger of grave spiritual harm for the parishioners. Parish priests sin gravely who hear confessions only on fixed days, for example, once or twice each month, or only on Saturdays and Sundays, and refer all the faithful who desire to confess during the week to Saturday, unless the faithful can elsewhere without difficulty find an occasion of confessing. For a petition of this kind cannot be called irrational; indeed, grave spiritual harm arises for the faithful from this manner of acting: for besides the fact that frequency of the sacraments is impeded in this way, among those asking, some can be in the state of sin, others in grave temptation, and others perhaps desire to gain a particular indulgence.

2. They are bound to minister necessary sacraments not only with grave inconvenience to themselves, but even with danger to health or life, to subjects who are in extreme spiritual necessity, and indeed also to those who are in grave spiritual necessity.

Notes

36. Cf. Lugo, disp. 8, n. 151.

a. The Sacred Congregation of the Council declared two things: alpha. that a parish priest is bound to minister to his parishioners suffering from plague only the two sacraments necessary unto salvation, namely baptism and penance; beta. that it is not permitted to a parish priest to depart from the parish in time of plague, even if he leaves a suitable vicar in his place; nevertheless it is permitted to him to reserve for himself the care of the healthy, if the vicar is prepared to undertake the care of the sick, lest, namely, the healthy dread him whom they see approaching the plague-stricken.[37]

b. Extreme unction is also to be referred to the necessary sacraments for those who have been deprived of their senses before they could be absolved. Although pastors in time of contagious disease are bound to administer, with grave danger of life, only the necessary sacraments, nevertheless it is most fitting that they confer also the non-necessary sacraments on the dying, namely viaticum and extreme unction.

c. He is found in spiritual necessity who is in danger of losing salvation.

He is found in extreme spiritual necessity who cannot provide for himself, and therefore without the help of another is in danger either simply or certainly morally of losing salvation. In extreme necessity are infants dying without baptism; unbelievers and heretics in danger of death; dying sinners who do not know that contrition is necessary for them and therefore do not think about having it, or who do not know how it is to be elicited.

He is found in grave spiritual necessity who can provide for himself only with great difficulty, and therefore without the help of another is in probable danger of losing salvation, as dying sinners who, neglecting the care of salvation, have lived rather unchristianly.

He is found in common spiritual necessity who, by applying some effort, can provide for himself without difficulty. In this necessity dying Christians ordinarily are found who have lived rather piously and have diligently fulfilled Christian duties.

3. Nevertheless pastors themselves are not bound personally to minister the sacraments, but can satisfy this office through their vicars; but if they are required by name by penitents or the dying, they themselves must come personally, unless they are impeded by more serious affairs.

35. Obligations of those who are not pastors. 1. Those who are not pastors are ordinarily bound to administer sacraments only if they can do so conveniently, and they are not bound under grave sin except to one who is in grave necessity.

2. They are bound under grave sin and with great inconvenience, indeed even with grave danger of life, to administer sacraments only if others are lacking, and only to those who are in extreme necessity.

Note 1. In order that a grave obligation of administering the sacraments, and that with danger of life, can be established, whether the question concerns pastors or those who are not pastors, it is required: a. that from this obligation greater evils not follow, as if, with a priest lacking, the salvation of several others would be brought into danger; b. that the necessity of the neighbor be certain; c. that the hope of saving the neighbor be morally certain.

Note 2. A common grave necessity, or necessity of the community, is equated with extreme necessity, because among many dying persons there certainly are not lacking those who are in extreme necessity. Therefore, in a common spiritual necessity, even a priest who is not a pastor is bound, if others are lacking, to impart absolution to the dying with danger to his own life.

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37. S. C. C., decree of 12 Oct. 1576, approved by Gregory XIII, issued by S. C. C. on 6 Dec. 1576. Cf. Benedict XIV, *De synodo*, l. 13, c. 19, n. 2.

Article Sixth. On the Obligation of Denying the Sacraments

36. To whom they must be denied. 1. Always, even if it is demanded under threat of death, a sacrament must be denied to an incapable subject, because its administration is intrinsically evil, as being an abuse of a sacred thing and a sacrilegious lie committed by deed.

He is called incapable who is not an apt subject for receiving the sacrament, as if order were conferred on a woman, or baptism on one already baptized. Therefore he who administers a sacrament to an incapable subject frustrates not only its effect, but the sacrament itself.

2. The minister is per se bound under grave sin to deny sacraments to the unworthy.

a. There is especially a twofold reason why the sacraments must be denied to the unworthy: from fidelity: for since the minister is not the lord of the sacraments, he must administer them as a faithful dispenser according to the will of his lord; but it is against the will of Christ that they be dispensed to the unworthy: "Do not give what is holy to dogs, nor cast your pearls before swine."[38] From charity: for the minister himself, who dispenses a sacrament to an unworthy person, cooperates in a most grave sacrilege; and the faithful would suffer grave scandal if they saw the sacraments administered to an indisposed and impenitent sinner. Nevertheless the unworthiness of the one requesting the sacrament must be morally certain: for if there were present only doubt or probable suspicion, the sacrament could be conferred, because in doubt anyone is to be presumed good.

b. The unworthy are first of all heretics and schismatics; therefore cn. 731, 2 has these words: It is forbidden to minister the sacraments of the Church to heretics or schismatics, even those erring in good faith and asking for them, unless first, their errors having been rejected, they have been reconciled to the Church.

Those are also called unworthy, or persons asking for a sacrament unworthily, who are known to be in the state of mortal sin without the will to amend themselves. An unworthy person truly receives the sacrament, although because of the obstacle he does not receive the grace of the sacrament; therefore he who dispenses a sacrament to an unworthy person frustrates its effect, not the sacrament itself. The following number (3) concerns these persons.

Therefore before the dispensing of a sacrament, the minister must have knowledge of the worthiness of the receiver. But this knowledge must not be the same in all sacraments: for in some he must inquire into the disposition of the receiver and judge positively about it, as in the baptism of adults and in penance; but in others it suffices that the disposition of the receiver can be prudently presumed; and it is rightly presumed in those who ask for sacraments, unless their unworthiness is evident. In order and matrimony, moreover, he must investigate the determinate conditions of the subject prescribed by law.

3. Nevertheless, from a most grave cause it is licit to administer sacraments to those asking unworthily. For fidelity in the ministry does not require that sacraments be denied where they cannot be denied without very grave inconvenience; moreover, if cooperation in another's sin is material, it is licit from a proportionately grave cause; but scandal must be prevented.

a. The causes from which it is licit to give a sacrament to an unworthy person are reduced almost to these: alpha. lest the sacramental seal be violated; beta. lest scandal and disturbance of the faithful arise, who, if they were ignorant of the cause of the denial, would be kept from the sacraments, since they too would fear repulse for themselves; gamma. lest danger of death or of an evil morally equivalent be undergone by him

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38. Matt. 7, 6.

who ministers the sacrament; delta. lest he who asks for the sacrament be defamed, whose hidden crime would become known from the denial.

b. Concerning the two causes alleged in the last place, authors dispute whether they suffice so that a sacrament can licitly be administered to an unworthy person. St. Alphonsus (n. 49) and Lehmkuhl[39] teach that danger to life, or an evil morally equivalent, which cannot be avoided in another way, for example by dissimulation of the sacrament, does not suffice; they judge that it is licit to administer a sacrament to an unworthy person only to prevent public harm, not private harm: for where a sacrament cannot be denied without danger to the life of the one who denies the sacrament, they hold that provision must be made for the reverence due to Christ rather than for the life of the minister. But others think that this cause suffices:[40] for since the question is of cooperation, although proximate, in the sacrilege of the receiver, and since charity alone directly forbids cooperation, which of itself does not oblige with grave inconvenience, the cooperation seems licit in order to avoid so great an evil. The same must be said of the fourth cause, where the question concerns only the defamation of him who asks for the sacrament. Nevertheless all warn that it is not licit to administer a sacrament to an unworthy person if it is sought in hatred of the faith or in contempt of religion; and in like manner, in no case whatsoever, not even in danger of death, is it licit to administer a sacrament to an incapable subject.

37. Rules. From these principles now flow the rules which must be observed in the administration of the sacraments, especially of the eucharist, if at any time a public or hidden sinner asks for it, whether publicly or secretly.

a. A public or notorious sinner is called one whose delict is commonly known, or at least is already known to so many persons that it can no longer be concealed. A hidden sinner is called one whose crime will not become known, and therefore one whose crime is known either to the priest alone or only to a few; and he is called hidden so long as there is hope that his crime can be concealed. Moreover, a crime can be absolutely public, if it has already come to the common knowledge of men, or relatively public, if the greater part of those present know it. He is said to ask publicly who asks before others, and secretly who asks before the minister alone or a few others, of whom nevertheless no account is to be taken, as little children.

b. In three ways a crime can be absolutely public: alpha. by publicity of law, or through the sentence of a judge; beta. by publicity of fact, if the crime was committed publicly; gamma. by publicity of reputation, if the rumor of the crime has been spread in the place and at the same time vehement indications of the committed crime are present.

1. The sacraments must be denied to a public sinner, whether he asks secretly or publicly: for in this case no reason exists for conceding the sacraments; moreover, grave scandal would be prepared for the faithful.

In order to prevent doubts which can arise in applying this rule, the following must be noted:

a. If the crime of the one asking is absolutely public, the sacrament must be denied, even if among the men present many are present who are still ignorant of the crime; for a public sinner has already lost the right to reputation.

b. If the crime of the one asking is relatively public, the sacrament must be denied whenever among those present there are only a few who are still ignorant of the crime; but it must not be denied if many are present who are still ignorant of the crime, even if on the other hand many also are present who have knowledge of

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39. Cf. *Theologia moralis*, II, n. 43 (n. 59).

40. Lugo, disp. 8, n. 181; Sporer-Bierbaum III, pr. 1, n. 188; Gobat, *Experientia theologica*, tr. I, n. 274; Ballerini-Palmieri IV, n. 689; D'Annibale III, n. 264; Genicot, *Theologiae moralis institutiones*, II, n. 122.

the crime, because the one asking for the sacrament has not lost the right to reputation in relation to those who are still ignorant of the crime.[41]

c. If the crime of the one asking is not known in the place where he asks for the sacrament, it must be denied where knowledge of the crime will shortly come even to that place: for the irreverence of the sacrament and scandal of the faithful must be prevented rather than a slight acceleration of defamation; but if it will not come there, or only after a long time, the sacrament must not be denied: for the one asking is compared to a hidden sinner asking publicly.

2. The sacraments must likewise be denied to a hidden sinner asking secretly: for in this case each reason set forth above is valid, unless his crime is known from confession: for because of the sacramental seal a sacrament must never be denied because of a crime heard in confession.

3. The sacraments must not be denied to a hidden sinner asking publicly, lest he be defamed and lest the faithful, who because of a hidden crime would fear repulse for themselves also, be kept away from the sacraments.

a. From the first rule there must be excepted: alpha. the sacrament of penance, to which not only must he be admitted who seriously asks for it, but per se anyone also must be absolved who is judged disposed. Moreover, beta. the sacrament of matrimony must be excepted, for contracting which the Church, for most grave reasons, admits both heretics and public sinners.

b. Therefore, in order that a public sinner can be admitted to the sacrament of the eucharist, it is not enough that he be worthy or disposed, but in addition it is required that his worthiness be known to others, for avoiding the scandal of others. Nevertheless, in order that his worthiness become known to others, some time of good conduct is not required; rather, it suffices that he has confessed publicly before others who will soon make known his amendment. Wherefore, once confession has been publicly made, he can ordinarily also be admitted publicly to holy communion immediately; indeed, even if he has not confessed publicly, he can ordinarily be admitted immediately to holy communion, unless it is evident that he has not confessed, because confession made can and must be presumed. Yet if public scandal which still endures must be removed by a public sinner, whether because he is in an occasion of sinning, or because he has spread impious doctrine, etc., ordinarily it must be required of him that by retracting the doctrine or removing the occasion, etc., he remove the scandal before he approaches holy communion, unless he wishes to communicate secretly or can prevent the scandal of the faithful in another way.

Whether the parish priest can assist at the matrimony of those of whom both, or one, is a public sinner.

The parish priest assisting as witness at the matrimony of those of whom at least one is unworthy cooperates in the sacrilege which is committed by contracting; but he does not administer the sacrament. But this cooperation is material; therefore it can be permitted from a just cause. But a just cause is the good of the contracting parties, the good of the innocent party, and the good of the community. Whether one of the contracting parties can administer the sacrament to the other, who is unworthy, will be stated in its own place.

38. On the simulation of the sacraments. Definitions. 1. Simulation in general is the fictitious placing of a sign, or it is the placing of an action which signifies something other than what the agent has in mind. Simulation of a sacrament is the fictitious placing of a sacramental sign, or it is the placing of a sacramental action without the sacrament being confected. A twofold simulation is distinguished: formal, by which the

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41. Ballerini-Palmieri IV, n. 688; Lehmkuhl, *Theologia moralis*, II, n. 39, 3 (n. 55).

foreseen deception of others, who think that a true sacrament is confected, is intended; and material, by which the foreseen deception of others is only permitted.

2. From simulation of a sacrament there must be distinguished dissimulation of a sacrament, which is the placing of a non-sacramental action in those circumstances in which others falsely judge that a sacrament is conferred. Dissimulation is accustomed to have place for the end that denial of the sacrament may be hidden either from the receiver himself or from others.

a. Therefore he simulates a sacrament: alpha. who applies the matter and form of a sacrament without the intention of confecting the sacrament; beta. who employs matter invalid because of a hidden defect; gamma. who over matter utters an invalid form; and (because of analogy) delta. who presents to one about to communicate a host not consecrated as though consecrated.

b. He does not simulate but dissimulates a sacrament: alpha. who dismisses an indisposed penitent with only a blessing, lest those present notice that he is dismissed without absolution; beta. who, by arrangement with one about to communicate, only utters the words *Corpus D. N. I. Ch.*, but does not give the sacred host to him, but immediately places it back in the ciborium, which can licitly be done from a grave cause;[42] gamma. a penitent who enters the confessional and speaks with the confessor about another matter, or asks from the confessor only a sacred blessing, when he is not disposed for making confession.

39. Principles. 1. It is never permitted to simulate a sacrament, whether formally or materially, not even to avoid danger of death, since any simulation, even material simulation, is in itself and intrinsically evil.[43] For simulation, even material simulation only, is an abuse of a sacred thing instituted by Christ solely for sanctifying man; therefore it is a most grave injury inflicted on Christ. Moreover, he who simulates a sacrament commits a sacrilegious and gravely harmful lie. But if simulation is committed in confecting the eucharist, others are also induced to material idolatry; and if it is committed in distributing the eucharist, there intervenes indeed no simulation of the sacrament, but nevertheless an inducement to material idolatry.

Wherefore it is never permitted, in order to avoid a sacrilegious communion, to present a host not consecrated, not even to one knowing and consenting; nor is it permitted, in order to avoid a sacrilegious celebration, to utter the words of consecration without the intention of consecrating: for the simulation itself is a graver sin than sacrilegious communion or celebration.[44]

2. It is licit to dissimulate a sacrament from a just cause: for in dissimulation, since matter and form are lacking, no injury is inflicted on the sacrament, but only the deception of the neighbor concerning the administration of the sacrament is permitted, which can be licitly done from a just cause, for example, to avoid infamy or scandal.

In hearing confessions it sometimes happens that, after a simple blessing has been given and certain prayers recited, denial of absolution must be hidden from others, lest the seal be broken and lest the penitent be defamed because his unworthiness is betrayed. Indeed, St. Alphonsus (n. 59) judges that the very form of absolution can be uttered in a low voice by interposing *not*, namely: *I do (not) absolve you*, etc.

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42. Cf. St. Alphonsus, n. 61.

43. This proposition (29) was condemned by Innocent XI: "Urgent grave fear is a cause for simulating the administration of the sacraments."

44. Cf. Viva, *Theses damnatae*, on prop. 29 condemned by Innocent XI, n. 7; Bucceroni, *Casus conscientiae*^5 (Rome: Typogr. august., 1904), n. 109, 10.

Question Fourth. On the Subject of the Sacraments

40. Who he is. The subject of the sacraments is called he who, capable of the grace of the sacrament, receives the sacrament. From the will of Christ, the institutor of the sacraments, only man in the state of the way is a subject capable of the effect of the sacraments. The reason for this divine will is that the sacraments were instituted for first conferring or increasing grace; but in the present order of providence, only man as a wayfarer is capable of first grace or of its increase: for the damned are not capable of the first grace, nor are the blessed in heaven and the souls in purgatory capable of the second grace.

All sacraments except the eucharist are confected in the subject to whom they are administered; in the eucharist alone the confection of the sacrament must be distinguished from its administration.

Note. What is required both for valid and for licit reception of the sacraments (especially of those which have been instituted for all) must now be explained briefly. Yet the things which are said here generally must be understood "with the exceptions to be excepted," concerning which it will be said below, where the individual sacraments will have to be treated.

Article First. On Receiving the Sacraments Validly

41. Required conditions. 1. For validly receiving the sacraments (except penance), neither uprightness nor faith is required in the receiver; wherefore the Church has always held as valid baptism and orders conferred on heretics or impious persons.

a. Although faith is not required for validly receiving the sacraments, nevertheless for receiving them licitly and fruitfully faith is absolutely necessary, because without faith an adult is not capable of the grace of justification.[45]

b. Penance is excepted, because for validly receiving the sacrament of penance certain acts of the penitent, either as matter or as a necessary condition, are prerequired; but the prerequired acts cannot be elicited without faith.

2. For validly receiving the sacraments no attention is required. And indeed, in an adult receiver nothing else is required except that the reception be habitually voluntary; but for this attention is not required, not even external attention.

Therefore distractions, even voluntary ones, in the very act of reception do not harm the validity of the sacraments. Hence Gury rightly notes (n. 229) that penitents are sometimes troubled by scruples in vain from the fact that they suffered distractions while they were being absolved, or that they were absolved without adverting to it. Nevertheless voluntary distractions in the reception of the sacraments must be carefully excluded because of the reverence due to them. For although voluntary distractions in receiving the sacraments do not impede their validity and can be excused from mortal sin, nevertheless they are by no means excused from venial sin: for holy things must be treated holily.

3. In infants and the perpetually mad no intention is required for receiving the sacraments of which they are capable; the intention of Christ and of the Church supplies the intention which they cannot have.

But they are capable of four sacraments: baptism, which they can and must receive; confirmation, which they indeed can receive, but need not; the eucharist, which now by the will of the Church they cannot receive; order, which they could never licitly receive. These things are evident from tradition, which manifests to us the will of Christ instituting the sacraments.

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45. Cf. *De praeceptis*^12, n. 7 s.

4. In adults, that is, in those who have attained the use of reason, for validly receiving the sacraments there is required at least a habitual implicit intention of receiving such a sacrament.[46] Wherefore it is not enough that they do not positively refuse the sacrament, but a positive will of receiving the sacrament is altogether required, and one that is true and serious: since from the will of Christ reception in adults must be voluntary, because He did not will them to be sanctified without their will and consent. But a habitual intention suffices, because for receiving a gift and benefit no intention is required besides free acceptance; and free acceptance is also contained in a habitual will. Indeed, in certain sacraments (confirmation, viaticum, extreme unction) a habitual implicit intention suffices, namely one which is contained in the will either of embracing the Christian religion, or of doing all things which are necessary unto salvation, or of living and dying in the Catholic manner: for in this will is contained the intention of receiving the sacraments which are necessary unto salvation, or at least the sacraments which the Church is accustomed to confer on the faithful placed in danger of death.

a. Almost all concede that in the will of embracing the Christian religion the intention of receiving baptism is implicitly contained, even if someone has not known baptism or has not thought about it; nevertheless they do not agree whether in the will of doing all things which are necessary unto salvation, such as is contained in every contrition, the intention of receiving baptism is included. Now although some authors affirm this,[47] others nevertheless, not without reason, entirely deny it where the question concerns a man who has never heard anything about the Church of Christ and baptism.[48] For in contrition, whether imperfect or perfect, there is indeed contained a will of baptism; but this will is not absolute, but only conditional, nor is it an immediate will of baptism itself, not even implicitly, but only a will of observing the precepts. And indeed the obligation which lies upon him who has heard nothing either about the Church or about baptism is not that of receiving baptism, but immediately is the obligation of examining the Christian religion when it has been proposed to him, and of embracing it through baptism if, after an examination has been made, he has recognized its truth and necessity. But this will (vow) of baptism indeed suffices for obtaining justification through perfect contrition, but does not suffice for validly receiving baptism: for for this an absolute intention is required, and indeed of baptism itself, at least implicit. The reason for this matter is this. He who receives baptism at the same time contracts the obligation of observing the precepts of the Christian religion; but an adult must will this very thing at least implicitly, because no one is bound except voluntarily; wherefore he must also know the same at least implicitly.[49]

b. Therefore the sacraments are validly conferred on those sleeping, drunk, and those who after attaining the use of reason have fallen into madness. Yet the sacraments cannot be validly administered to them unless beforehand they have had a will, at least implicit, of receiving them. Therefore if there are those who affirm that even an interpretative intention suffices for validly receiving the sacraments, this must be conceded if by this name a habitual intention is understood, namely in such a way that an actual, at least implicit, intention preceded and was never retracted and would now be present if thought of the sacrament occurred; but if by interpretative intention there is understood that which would now be present if thought of the sacrament occurred, although before this no thought and will of this sacrament had been had, this intention certainly has no value.

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46. As to how far the sacraments of penance and matrimony are to be excepted from this rule, it will be said in their own places.

47. Coninck, *De sacramentis in genere*, q. 64, n. 103; Reuter, *Theologia moralis*, pr. 4, n. 63, 5; Lacroix, l. 6, pr. 1, n. 168.

48. Suarez, *De sacramentis in genere*, disp. 14, sect. 2, n. 4; Lugo, *De sacramentis in genere*, disp. 9, n. 130.

49. Therefore, in order that a missionary can licitly baptize a dying pagan or Jew deprived of the senses, it is not enough that he prudently presume that he had at least attrition, but it is required that from positive indications he can prudently judge that he had the desire of baptism or the resolution of entering the Church. Holy Office, 18 Sept. 1850; 30 Mar. 1898.

c. To the sick deprived of the senses, as regards intention, the sacraments (confirmation, absolution, viaticum, extreme unction) can be validly conferred, unless it is evident that they remained impenitent up to unconsciousness, because they are rightly supposed to have a habitual implicit intention of receiving those sacraments. For there will scarcely be a faithful man living piously and Christianly who has never had the will both of receiving the means which are granted to the faithful for conducting a religious life, and of dying piously and Christianly; but in that former will there is implicitly contained the intention of confirmation, and in this latter will there is implicitly contained the will of receiving the sacraments which are granted to the faithful in death. Moreover, the faithful are rightly supposed to be penitent, unless they have given manifest signs of impenitence; but in any act of contrition or attrition there is implicitly contained the will of doing the things which are necessary unto salvation.

d. Hence he who only feignedly or in jest permits a sacrament to be conferred upon himself, or who behaves himself merely negatively while a sacrament is conferred upon him, without a serious will, at least implicit, of receiving it, receives nothing. Likewise, if someone, ignorant of what a sacrament is, merely materially permits something to be conferred upon himself, he does not receive it. On the other hand, he who, even from grave and unjustly inflicted fear, receives a sacrament, validly receives it, provided an intention at least implicit is present (matrimony is excepted). In practice, however, those who have received baptism only from fear and afterward spontaneously desire it are to be baptized again under condition, because it can be discerned only with difficulty whether internal consent to baptism was present or internal repugnance against baptism. A delirious person who resists in every way one wishing to confer extreme unction validly receives it from the at least implicit intention which he had before the illness.

e. If the receiver from error has two contrary intentions, one by which he actually refuses, another by which he habitually desires the sacrament, it can be conferred upon him where the intention of receiving it prevails. Which intention prevails must be gathered from the disposition of the soul: namely that one prevails which he would retain if he knew the truth. Imagine, for example, a parish priest treating with a gravely ill man, who had just devoutly received holy communion, about receiving extreme unction, which the sick man now refuses to receive because he is not yet in danger of death. The sick man meanwhile, deprived of his senses, the parish priest begins to anoint with sacred oil and continues in the anointing, although the sick man in the meantime, having returned to himself, shows his displeasure by agitation of the head. The sacrament is valid, because the habitual intention is the predominant intention.[50]

5. For validly receiving the other sacraments, baptism validly received is prerequired: since the other sacraments were instituted for the members of the Church alone; but by baptism alone a man becomes a member of the Church.

Therefore a sacrament which is conferred on one not baptized is null, because one not baptized is not a subject capable of the other sacraments.

Article Second. On Receiving the Sacraments Licitly

42. Required conditions. 1. For receiving the sacraments licitly and fruitfully, at least that disposition is required without which the sacraments cannot produce their principal effect, namely sanctifying grace, either first or second; therefore generally it must be said:

a. For receiving the sacraments of the dead licitly and fruitfully, attrition concerning committed sins is required: for no remission is granted by God without conversion and sorrow for sin.

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50. Cf. Elbel-Bierbaum III, pr. 8, n. 69.

b. For receiving the sacraments of the living licitly and fruitfully, the state of grace is required, as is evident from the nature of the thing.

There exists a twofold way by which the state of grace can be recovered: perfect contrition or sacramental absolution; although this latter is not always necessary, nevertheless it is always to be recommended as more certain and more secure.

2. He who knowingly receives a sacrament without due disposition commits the most grave sacrilege of irreverence, and one graver than that which is committed by him who confects a sacrament in the state of mortal sin, because he not only treats a sacrament unworthily in some way, but also frustrates it of its effect.

St. Alphonsus (n. 86) brings forward two indeed rare cases in which it is permitted to receive the sacrament of the holy eucharist in the state of mortal sin: a. If a priest at the altar or a layman reclining at the table of communicants should remember a mortal sin committed by him and could not elicit an act of contrition except by interrupting the sacrifice of the Mass or by withdrawing from the table of communicants with danger of defamation, he would licitly receive the most holy sacrament. b. If a consecrated host were exposed to danger of profanation on the part of impious persons and there were no time for eliciting contrition, the host could be received without sin, but it would also be received without fruit.

43. Whether it is permitted to seek or accept sacraments from an unworthy minister.

An unworthy minister is called one who is known certainly not to be about to administer a sacrament without mortal sin. It is said certainly: for if he is not known certainly to be unworthy, he must be presumed worthy. Now a minister can be unworthy either because of mortal sin or because of a censure by which, being bound, he is prohibited from administering the sacraments (cn. 2261).

1. Per se it is not permitted to seek or accept sacraments from an unworthy minister. And indeed it is not permitted to seek the sacraments, because the law of nature forbids that we incite anyone to that which he either cannot do without sin or is not going to do without sin; but it is not permitted to receive, because it is not permitted to cooperate in the sin which one administering a sacrament in mortal sin commits.

Besides this reason of cooperation, which is the principal one, a twofold other reason sometimes accedes, namely scandal and danger of perversion, to which an unworthy minister, especially if he is a heretic, can tempt. Therefore without cause it is certainly not permitted to receive sacraments from an unworthy priest, even if he is ready to minister them and, indeed, offers himself of his own accord.

2. Nevertheless, from a just cause it is licit to seek and accept sacraments from an unworthy minister who can administer them without sin. For from a proportionately grave cause it is licit to seek an action which another can furnish without sin, although it is foreseen that he will commit sin; moreover, from a just cause it is licit to cooperate materially in the sin of another. Yet if, because of a particular censure or prohibition, he could not confer sacraments without sin, it would not be permitted to seek sacraments from him, because it is never permitted to induce another to sin.

But the just and proportionately grave causes on account of which even an unworthy priest could be called or approached are these: for administering the sacraments to the sick; for making paschal confession and communion; for baptizing an infant; for receiving absolution, lest the receiver have to remain longer in the state of sin; for gaining an indulgence; for preventing imminent danger of a fall because of vehement temptation or an occasion of sin.[51]

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51. St. Alphonsus, n. 89.

3. As to excommunicated persons. The faithful can, from any just cause, seek sacraments from an excommunicated person, especially if other ministers are lacking. But from excommunicated persons to be avoided, and also from those excommunicated persons against whom a condemnatory or declaratory sentence has been issued, the faithful can seek, in danger of death alone, both absolution and also, if other ministers are lacking, the other sacraments.

a. Therefore one who would be about to die without a sacrament unless he sought it from an excommunicated person to be avoided (or from a heretic or schismatic) could seek from these persons not only baptism or absolution, but also extreme unction and viaticum.

b. Public heretics and schismatics indeed are not to be avoided in the juridical sense; nevertheless it is not permitted to seek sacraments from them except in proximate danger of death. Indeed, ordinarily they are not to be called even then, because of danger of perversion: for scarcely will a heretical minister minister the sacraments to a dying man unless he has admitted the faith of that minister's sect. Wherefore it is better, after eliciting an act of perfect contrition, to commit oneself to the divine mercy than to expose oneself to so great a danger.

Question Fifth. On Sacramentals

[52]

Article First. On the Nature of Sacramentals

44. Definition. Etymologically, a sacramental signifies everything which pertains to a sacrament, but especially the sacramental ceremony which is observed in the administration of the sacraments.

But sacramentals properly and specifically, as they are understood in this question, can be defined: sacred signs (things or actions) instituted by the Church in some imitation of the sacraments, which she is accustomed to use for obtaining, by her impetration, effects especially spiritual.[53] Therefore three things belong to the notion of sacramentals: a. that they be sacred signs instituted by the Church; wherefore she herself, and she alone, exercises full power over sacramentals: she can constitute them, interpret them authentically, abolish or change some of them;[54] b. that they produce supernatural effects, both spiritual and bodily; c. that they produce these effects by force of impetration.

a. Sacramentals, which theologians call lesser sacraments, must be defined in such a way that from one side they differ from the sacraments, and from the other side they exhibit the greatest likeness with the sacraments that can be admitted.

b. **Sacred signs:** sacramentals, however many there are, are either sacred things or sacred actions; but all agree in the common notion of a sacred sign, by which external worship is shown to God and which the Church uses for conferring supernatural effects. Sacramentals are practical signs, which not only signify effects, but also produce them; yet they do not signify them in the same apt and determinate way as the sacraments, nor do they produce them in the same way.

c. **Instituted by the Church:** sacramentals, according to the mode and form in which they are actually had and performed, have been instituted by the Church. By this it is only denied that sacramentals were insti-

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52. Suarez, *De sacramentis*, disp. 15; J. B. Pighi, *Liturgia sacramentalium*; G. Arendt, S.J., *De Sacramentalibus*; Fr. Schmid, *Die Sakramentalien der kath. Kirche*; Probst, *Sakramente und Sakramentalien*; Kutschker, *Die hl. Gebrauche*; Amberger, *Pastoraltheologie*, Bd. 3, Abt. 2, S. 191 ff.; *Kirchenlexikon*^2, "Sakramentalien."

53. Cn. 1144.

54. Cn. 1145.

tuted by Christ in the same way, in species and individually, as the sacraments were instituted by Him; but it is not denied that sacramentals also were instituted by Christ in a twofold sense: alpha. mediately, because the Church received from Christ the power of instituting and performing sacramentals; beta. in general, because Christ Himself instituted at least some sacramentals in general and committed only the specific form to be determined by the Church. And indeed Christ Himself instituted blessings and exorcisms in general; but the particular blessings and exorcisms which are employed for the utility of the faithful received their determinate form and mode from the Church. Therefore sacramentals depend on the power of the Church in an entirely different way than the sacraments, whose specific matter and form are independent of the power of the Church.

d. From the stated definition of sacramentals it follows that the following are not to be referred to the number of sacramentals: alpha. the Lord's Prayer, the prayers of the faithful, the sign of the cross, almsgiving, and blessing which parents invoke upon their children, both because they were not instituted by the Church and because they do not have their force from the impetration of the Church; beta. nor the prayers of the Church, the ceremonies of the eucharistic sacrifice, genuflections, beatings of the breast, etc., because they do not produce their effects from the prayer of the Church, although they have been instituted by the Church. For a work which produces a particular supernatural effect either by its nature, as the Lord's Prayer, which by reason of its author pleases God exceedingly, or from a special divine promise, as almsgiving does, does not pertain to sacramentals, which produce their effects by force of the prayer of the Church.

e. Sacramentals differ from sacraments: alpha. by reason of origin, because the sacraments were instituted by Christ, sacramentals by the Church; beta. by reason of effect, for the sacraments immediately produce grace and remit sins and the punishment of sins, while sacramentals cannot immediately confer grace or remit sins; gamma. by reason of the mode of operating, for the sacraments produce their effects ex opere operato, but sacramentals ex opere operantis (of the Church).

45. Division. Sacramentals are of great multitude and variety, so that they are not contained under a determinate number. Several which were in use in antiquity have now gone into disuse, and when the circumstances of time require it the Church can repeatedly institute new ones; thus she has instituted some even in recent times, as is seen in the Roman Ritual, in whose appendix several most recent blessings are contained. Yet all sacramentals can be reduced to certain genera. They are divided:

1. By reason of the object, into actions and things, according as the effect is produced immediately by some action, e.g., by blessing, or mediately, namely through the blessed thing.

Actions are called transient sacramentals and are compared with the sacraments which are confected by a passing action; blessed things are called permanent sacramentals and are compared with the most holy sacrament of the altar, which remains in being and produces its effect by use.

2. By reason of the end, transient sacramentals are divided into blessings and exorcisms, according as they are employed for conferring a supernatural effect or for weakening or breaking the power of the devil. Further divisions are below (n. 52).

3. By reason of the minister, into reserved, which can be confected only by a determinate minister, and non-reserved, which can be performed indiscriminately by all ministers.

a. Some reserved sacramentals are reserved to the pope, as the blessing of the pallium, the Agnus Dei, the golden rose, etc.; others are reserved to bishops, which are of two kinds: alpha. real blessings, which are so proper to bishops that they cannot be delegated to a priest without apostolic indult; beta. verbal blessings, which are found in the Missal or Ritual under the title: *Blessings reserved to bishops or to others having the faculty, to be made*, which bishops can commit to priests either by ordinary or by delegated right.

The series of blessings which are reserved to certain religious orders and are found in the Ritual under the title *Blessings proper to certain regular orders* must be remembered.

b. Among the non-reserved sacramentals, which by force of order can be performed by any priest without delegation, those must be noted which are of parochial right, and therefore cannot be performed by another priest without the permission of the parish priest: the nuptial blessing, the blessing of the baptismal font, the blessing of a woman after childbirth, the blessing of houses on Holy Saturday, the blessing of fields and crops if it is done solemnly; generally, blessings are not to be made publicly and solemnly in a place which is subject to the jurisdiction of another.

Nothing prevents a simple priest, whether secular or regular, from being able by a private rite to bless fields, animals, and similar things, since these blessings are not of parochial right.[55] A private rite, insofar as it is opposed to public and solemn, does not exclude surplice and stole, but does exclude the gathering of the people summoned by the sign of the bell.

46. Minister. Subject. The legitimate minister of sacramentals in general is a cleric to whom power has been conferred for this and who has not been prohibited by ecclesiastical authority.[56] But according to the diverse dignity of sacramentals, diverse ministers are assigned:

a. For consecrations the episcopal character is required, unless law or an apostolic indult grants the power also to a priest.

b. Any priest can give blessings, unless they are reserved; but even reserved blessings, if they are given by a priest without permission, are illicit, not invalid, unless something else is expressed.

c. Deacons and lectors can give validly and licitly only those blessings which are expressly permitted to them by law.[57]

d. The ministers of exorcisms which occur in baptism and in consecrations or blessings are the same as those who are the legitimate ministers of the same sacred rites.[58]

Therefore lay persons cannot confer sacramentals; nevertheless the use of certain permanent sacramentals is permitted immediately to lay persons themselves, as holy water, the Agnus Dei, a blessed medal, etc.; but other permanent sacramentals, as blessed ashes, etc., must be applied to the faithful through the ministry of priests.

Subject. a. Blessings, which are especially to be imparted to Catholics, can also be given to catechumens, indeed, unless the prohibition of the Church stands in the way, even to non-Catholics for obtaining the light of faith or, together with it, bodily health.[59]

Sacramentals which can be given even to catechumens must also be understood to include public sacramentals, and therefore catechumens can be admitted to the imposition of ashes and the distribution of candles and palms.[60]

b. Exorcisms can be performed not only over the faithful and catechumens, but also over non-Catholics or excommunicated persons.[61]

Notes

55. S. C. R., 13 June 1893, n. 3801.
56. Cn. 1146.
57. Cn. 1147.
58. Cn. 1153.
59. Cn. 1149.
60. S. R. C., 8 Mar. 1919.
61. Cn. 1152.

Article Second. On the Effects of Sacramentals

47. Efficacy of sacramentals. That there is in sacramentals a special force and efficacy of producing certain supernatural effects, whether spiritual or bodily, is evident both from the persuasion of the Church and from the power conferred upon her. Concerning these effects it must be explained: a. what they are; b. what is the power conferred on the Church; c. in what way they are produced.

a. The efficacy of sacramentals is called special so that it may be distinguished both from the force and efficacy of impetrating which belongs to the prayers of the faithful, and from the meritorious force which is in the good works of the just.

b. The special efficacy of sacramentals does not consist in this, that by their own nature, insofar as they are sacred signs, they excite pious movements, by which afterward supernatural help is obtained ex opere operantis, but in this, that by the very action or by the blessed thing itself, by force of the blessing conferred, supernatural effect is obtained.

48. What effects they produce. The effects which are produced by sacramentals can be reduced especially to four:

1. The conferral of actual grace, which must be called the primary and principal effect of sacramentals; thus the blessing of an abbot, the coronation of a king, minor orders insofar as they are sacramentals, the nuptial blessing, etc., confer actual graces for rightly carrying out the offices received. Moreover, actual graces are judged to be not only sufficient but also efficacious for the effects of sacramentals.

2. The remission of venial sin, which all theologians attribute to sacramentals, although they dispute concerning the mode by which venial sins are destroyed by them. Thus holy water, ashes blessed at the beginning of Lent, the *Confiteor* with the prayers joined to it, chiefly have the force of destroying venial sins.

Whether sacramentals have the force of remitting temporal punishment is not evident; "nor do I see," says Suarez, "on what sufficient foundation this could be affirmed."[62]

3. The restraining of the devil. The dominion of the devil over men arising from sin exerts itself by divine permission especially in a threefold way: a. in that he inflicts physical evils on men or on their goods; b. in that interiorly he urges them to sin by evil temptations; c. in that he possesses the very bodies of men. Now for restraining, weakening, or repelling these malignant influences of the devil, several sacramentals, and especially the manifold exorcisms, are employed.

a. Sacramentals produce this effect in various ways according to the variety of diabolical influence: for they either move the good angels to repel the malignant infestations of the devil with greater force and virtue, or confer helps of grace for overcoming temptations more easily, or prevent evil spirits from harming men or their goods, or finally expel the devil entirely from possessed bodies, or at least weaken his influence.

b. From ordinary exorcism, which is numbered among the sacramentals, there must be distinguished an extraordinary charism by which God sometimes confers upon holy men the power of miraculously expelling devils from possessed bodies. For the force and efficacy of ordinary exorcisms, although it is always valid for weakening the power of the devil, is not always valid for fully expelling the devil himself.

4. The producing of a temporal good, as of bodily health or of other benefits. Sacramentals produce this effect in diverse ways: by the fact that, through the special providence of God, man and his goods are preserved from future evils; or by the fact that present evils are removed and health is restored to bodies; or by the fact

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62. *De sacramentis*, disp. 15, sect. 4, n. 9.

that temporal prosperity is conferred. Thus the blessing of the sick and most blessings which are conferred upon irrational creatures chiefly intend these effects.

Note 1. Yet individual sacramentals do not produce all these effects: for both from their institution and from the mode by which they are performed, they are diverse and destined for diverse ends, and therefore they also produce diverse effects. But what fruits each one confers must be gathered both from their institution and from the prayers by which the Church administers them.[63]

Note 2. Blessings and consecrations by which things or persons are consecrated by the Church and deputed to divine worship, as the consecration of a church, the consecration of a chalice, the blessing of an abbot or abbess, first tonsure, minor orders, etc., are sacramentals insofar as the consecration itself or the use of the consecrated thing has the force of conferring supernatural effects, but not insofar as they have the force of constituting a thing or person truly sacred and deputed to divine worship. For the Church consecrates things and persons and permanently destines them to divine worship not by that power by which she institutes and confects sacramentals, but by the power with which she is furnished for ruling and ordering the external worship of God in the religious society instituted by Christ. Indeed, sacramentals also are ordered to divine worship, since by their own nature they are acts of divine worship; but the power of ruling external worship does not suffice for instituting and confecting sacramentals, unless there accedes the special power of blessing and the power of restraining devils.

49. On the power of the Church. For instituting and confecting sacramentals the Church is furnished with a twofold power: the power of blessing and the power of restraining devils.

1. **On the power of blessing.** a. That this power was handed down by Christ to the apostles, and in them to the ministers of the Church, is evident from these words of Scripture: "Into whatever house you enter, first say: Peace to this house; and if there be there a son of peace, your peace shall rest upon him."[64] For the words *Peace to this house* do not exhibit a commonly used greeting, but a blessing by which supernatural goods are asked, as is evident from the following words.[65]

b. Christ taught the apostles by His example how they ought to exercise the power of blessing for the utility of men: for He Himself, imposing hands on little children, blessed them;[66] He blessed the loaves and fishes afterward to be multiplied;[67] He blessed the bread to be changed into His body;[68] and finally, before His ascension into heaven, with hands lifted up He blessed the apostles and disciples.[69]

2. **On the power over devils.** That this power was handed down to the apostles and disciples, and in them to the ministers of the Church, is demonstrated by these words of Scripture: "And having called together the twelve apostles, He gave them power and authority over all devils."[70]

Note. That the Church exercises the power handed down to her by Christ especially through her priests is already evident from the very office of priests, and is expressly signified by the words which she uses in the ordination of a priest: "Deign, O Lord, to consecrate these hands … so that whatever they bless may be blessed, and whatever they consecrate may be consecrated and sanctified." And although she confers on clerics in the

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63. Cf. Amberger III, 2, p. 197 ff.
64. Luke 10, 5, 6.
65. Cf. Knabenbauer, *Commentarius in quatuor evangelia*, I, p. 387.
66. Mark 10, 16; Matt. 19, 15.
67. Mark 6, 41; Matt. 14, 19.
68. Matt. 26, 26.
69. Luke 24, 50.
70. Luke 9, 1; cf. Matt. 10, 1; Luke 10, 17.

ordination of exorcists the power of imposing hands over the possessed and by imposition of hands restraining unclean spirits, nevertheless it is not permitted to use this power except for priests.[71]

50. In what way they produce effects. Sacramentals produce effects from the impetratory force of the Church, which, while she confects sacramentals through her ministers, herself begs God for those to whom sacramentals are administered or who afterward use them. To the question whether sacramentals produce their effect ex opere operato or ex opere operantis, it seems one must answer thus:

a. **Not ex opere operantis:** for by this term it is signified that the effect depends on the sanctity of the minister or on the disposition of the subject; but sacramentals have their force and efficacy not from the sanctity and devotion of the minister nor from the disposition of the subject, but from the impetratory force of the Church.

alpha. If we sometimes read that sacramentals produced richer and almost wonderful effects where they were performed by holy men, this must be attributed not to the ordinary efficacy of sacramentals, but to a singular charism conferred by God upon a determinate person in view of sanctity. Yet by these things it is not denied that the ordinary effect of sacramentals, even apart from a special charism, can be increased, and actually is increased, from the merit of the minister who exceedingly pleases God, just as the fruits of the Mass are sometimes increased in view of the sanctity of the minister offering.

beta. For perceiving the effects of sacramentals, the due disposition of the subject is required, just as the due disposition is necessary for perceiving the fruits of the sacraments. Hence it must be conceded that the effect of sacramentals is richer in proportion as the disposition, or sanctity, faith, and devotion of the subject, is more perfect; but the force of producing these effects belongs to the impetration of the Church.

b. **Nor ex opere operato:** for by this term it is signified that the effect is produced by force of divine institution, so that the sign itself, by force of this institution, is efficacious for producing the effects; but sacramentals are efficacious not by force of institution, but by force of the Church praying and impetrating.

c. **But ex opere operantis ecclesiae.** The mode by which sacramentals operate agrees with the mode of operation of the sacraments in this, that their efficacy does not depend on the merit of the minister nor on the sanctity of the subject; but it differs from the mode of operation of the sacraments in this, that efficacy belongs to them not by force of institution, but by force of the impetration of the Church performing the sacramentals. Therefore although it can truly be affirmed that sacramentals act ex opere operato, if only the negative force of this term is considered, nevertheless sacramentals are more aptly said to produce their effects ex opere operantis ecclesiae, so that for the singular mode by which the sacraments operate, the singular term ex opere operato may also be reserved.

51. The effect of sacramentals must be called infallible: for the effect is produced by the prayer of the Church; but the prayers of the Church are always heard. Yet if the effect which is intended does not always actually come from the administration or use of sacramentals, this must especially be explained from the twofold condition on which the infallible efficacy of all prayers depends. For if temporal goods are sought, such as health of body, abundance of crops, etc., it can happen that the granting of them does not conduce to the salvation of the soul; and if supernatural goods are sought, it can happen that the granting of them is not conformed to the order of divine providence and predestination.

a. Although the proximate and immediate subject of sacramentals is most diverse, namely a creature both rational and irrational, nevertheless the remote and ultimate subject is always man as wayfarer, to whose spiritual utility every effect produced through sacramentals yields.

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71. *Pontificale Romanum, De ordinatione presbyteri, De ordinatione exorcistarum.*

b. From these things it is concluded that those sacramentals (as sacramentals) are worth nothing for which the impetration of the Church does not assist; but this does not assist those which are not performed with that matter and form which she herself prescribes. Therefore sacramentals in whose confection or use the conditions designated by the Church are not observed have no effect; and in this matter neither inculpable ignorance nor good faith can supply anything: for the whole force of ecclesiastical blessings, says Gardellini, is placed in the prayer and invocation of the Church, which is made through her ministers, who must use no other words or formulas than those which have been constituted for them by the Church.[72] And cn. 1148, 2 has these words: Consecrations and blessings, whether constitutive or invocative, are invalid if the formula prescribed by the Church was not used.

Article Third. On Blessings and Exorcisms

Since blessings and exorcisms are the two great genera to which all transient sacramentals are reduced, it is useful to add a few things about them specifically.

Section 1. On Blessings

52. Notion and division. 1. A blessing is a prayer moving another to confer some good on someone.

One blessing is called lay, which is made by a secular person, especially if he has some title over the thing or person to be blessed, as a father and mother have over their children; another is called ecclesiastical, which is made by an ecclesiastical person in the name of the Church. Blessings which are performed by lay persons are not sacramentals, since they have not been instituted by the Church and are not made by the authority of the Church.

2. Ecclesiastical blessings, which are very many, are divided:

a. By reason of effect, into constitutive blessings (*Weihesegen*), by which things or persons, their state being changed, become truly sacred; and invocative blessings (*Bittsegen*), by which, without a change of the state of things or persons, some special good is implored. To the former belong first tonsure, minor orders, consecration of virgins, consecration of a chalice or church, the blessing of an *Agnus Dei* or of holy water, etc.; to the latter belong simple blessings conferred on persons or things, such as the blessing of the sick, of a new house, of vineyards, of medicine, etc.

Constitutive blessings are of two kinds: alpha. some, by which blessed or consecrated persons or things are only deputed to divine worship and become sacred, some of which are ordered to confecting other sacramentals, as chrism, sacred oil; beta. others, by which blessed things become permanent sacramentals, namely when things are blessed for this end, that from their application or pious use some good may redound to man or some evil may be driven away from him, as holy water, an *Agnus Dei*, etc.

b. By reason of form, into real and verbal blessings, or into consecrations and simple blessings: in the former an anointing is employed, as in the consecration of a chalice; the latter are completed by words and signs alone, as the blessing of a ciborium or of holy water.

Section 2. On Exorcisms

53. Notion and division. By the name exorcism is signified an imperative adjuration of the devil.

It is distinguished: a. into solemn exorcism, which is done for expelling devils, and simple exorcism, which is done only for restraining the power of the devil, lest he harm persons or things.

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72. *Decreta authentica S. C. R.* (ed. Gardellini, Rome, 1857), note to n. 4782.

b. Into public exorcism, which is done by the ministers of the Church in the name and authority of the Church, and private exorcism, which is done in the proper name of the one exorcising.

Exorcism is properly directed against the devil, who is imperatively adjured to depart from possessed bodies; but sometimes it is also directed toward persons or things, as toward harmful animals, water, salt, lest they themselves or their use harm men. For since all creatures, even irrational ones, are subject to the curse of sin and therefore to the power of the devil, the Church by simple exorcism everywhere repels the devil and prohibits his influence.

54. Assertions. 1. Solemn exorcism can be performed only by priests of the Church, and this with the express permission of the Ordinary presupposed: for it is performed in the name of the Church; but the Church prohibits any priest, whether secular or regular, from doing this without permission.

a. Clerics receive the power of exorcising through the order of exorcist; but their power is impeded, because according to the present discipline of the Church they cannot use it: for it is not permitted to perform a solemn exorcism without special permission; but this permission, for preventing abuses, is not granted except to priests.

b. The formula of solemn exorcism is contained in the Roman Ritual (tit. X, c. 1), where there are also precepts to be observed in the use of solemn exorcism. It is provided there (n. 14) that the exorcist not mingle curious and useless conversations with the possessing devil; nevertheless to make one or another useless question does not exceed venial sin.

c. The universal law which requires the permission of the bishop is this: No one can lawfully utter exorcisms over the possessed unless he has obtained a special and express permission from the Ordinary. This is not to be granted except to a priest endowed with piety, prudence, and integrity of life. Cn. 1151.

2. Solemn exorcism is not to be employed unless the fact of possession is certainly evident. Cn. 1151, 2.

a. Although the fact of demoniacal possession cannot be denied without the sin of heresy because of the testimony of the Gospels, nevertheless this must be conceded, that possessions in our time are much rarer; indeed, several phenomena which in antiquity were held as signs of possession must be attributed not to the devil but to natural illnesses. Wherefore in judging facts of possession great caution and discretion are needed.

b. The Roman Ritual (n. 3) lists these signs of possession: "to speak in an unknown tongue with several words or to understand one speaking; to disclose distant and hidden things; to show strength above the nature of one's age or condition, and other things of this kind"; yet these and things of this kind are not certain signs of possession, but, as the Ritual itself warns, certain indications which are greater as more of them occur together: for there are natural illnesses, especially hysteria and demonomania, in which phenomena of this kind are observed.[73] In doubt about the fact of possession, it is useful to consult a skilled and thoroughly Catholic physician, who does not reject a priori the very fact of possession.

c. Although probability of possession of itself suffices for licitly performing an exorcism, nevertheless now it must be employed only when moral certitude exists. This is required both by scandal, which today is more easily apt to arise because of the mockeries of the impious, and by the welfare of the one to be exorcised, whom exorcism, especially more frequent exorcism, could greatly harm if he is in reality laboring only from a natural illness;[74] and the cited canon also requires this.

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73. Cf. Olfers, *Pastoralmedicin*, p. 128 ff.; Heyne, *Uber Besessenheitswahn* (Paderborn: Schoningh, 1904).

74. Genicot I, n. 300, 3.

3. Simple exorcism can be performed by all having power for this, that is, by priests; and absolutely it could be performed also by exorcists, unless the present discipline of the Church stood in the way.

An exorcism of this kind is, for example, that which occurs in the rite of baptizing or of confecting blessed water.

4. Private exorcism can be performed by all the faithful: for to avert temptations or vexations of the devil, anyone can command the devil through God or through Jesus Christ not to harm himself or others.

The effect of this exorcism is not derived from the authority and prayers of the Church, since it is not done in the name of the Church, but from the virtue of the name of God and of Jesus Christ. "For devils," says Pesch (l.c., n. 342), "naturally dread the mysteries of faith by which they know themselves to have been conquered; therefore, when they see the sign of the cross and hear the name of Jesus and other similar things, they are tormented and flee."

Note 1. The use of sacramentals is indeed prescribed nowhere, yet the faithful are earnestly to be exhorted to use them frequently and devoutly in order to perceive their manifold effects. Therefore pastors of souls should explain the nature of sacramentals to the faithful and aptly instruct them in their right use, so that those who seem to themselves wiser may not despise them, and the more uneducated may not use them in a superstitious way.

Note 2. Priests should remember that the priestly blessing itself is a sacramental which it is permitted to employ privately, here and there, by the formula *May the blessing of almighty God*, etc., or *May He bless you*, etc. The power of blessing is conferred upon priests in ordination together with the power of consecrating, and they can by the use of this power avert many impending evils from men and pour out an abundant blessing upon them, especially upon infants and the sick, whom the divine Savior so often blessed from His heart. The effect of the priestly blessing will be more abundant in proportion as the faith and confidence of the priest blessing is firmer.

Note 3. It is greatly to be recommended to the ministers of the Church that they perform simple exorcism rather often, mindful of the word of the Lord: *in my name they shall cast out devils*; but especially over those who are troubled by vehement temptation, and over penitents whom they notice to experience difficulties in eliciting sorrow and purpose concerning sins or in sincerely manifesting their sins. They can use this or a similar formula: *In the name of Jesus I command you, unclean spirit, to depart from this creature of God.*

Book Second. On Baptism

[75]

Question First. On the Nature of Baptism

55. Definition. 1. Baptism is a sacrament by which, through the washing of the body in water under the prescribed form of words, the grace of regeneration is conferred.

In this definition the first words, *baptism is a sacrament*, exhibit the generic note, in which all the sacraments agree; but the words which follow exhibit the note or specific difference by which this sacrament is distinguished from the others. Now two things constitute the specific difference: the matter and form of this

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75. St. Thomas III, q. 66-71; St. Alphonsus, l. 6, n. 94-160; Sporer-Kazenberger, *Supplementum theologiae moralis sacramentalis*, c. 1, sect. 1-4; Gobat, *Theologia experimentalis de sacramentis*, tract. 2, *De baptismo*; Tamburini, *Explicatio moralis de sacramentis*, c. 2, *De baptismo*; Ballerini-Palmieri IV, n. 717-784; Lehmkuhl, *Theologia moralis*, II, n. 55-88 (n. 75-119); Genicot, *Theologiae moralis institutiones*, II, n. 127-158; Gassner, *Pastoral* (Salzburg: Mittermuller, 1881), cap. 13.

sacrament, *through the washing of the body in water under the prescribed form of words*, and its peculiar effect, *the grace of regeneration.*

2. From baptism of water there is distinguished baptism of desire and baptism of blood.

a. **Baptism of desire** (or of the Holy Spirit) is charity or perfect contrition, in which there is contained the desire of receiving the sacrament of baptism in reality; but charity and perfect contrition have the force of conferring sanctifying grace. Nevertheless baptism of desire does not imprint a character, and in like manner it does not always destroy every guilt of venial fault and of temporal punishment, but according to the intensity of the act of love it remits now more, now less, and sometimes even all.

b. **Baptism of blood** is martyrdom endured for the sake of the faith. The holy Fathers everywhere affirm that martyrdom has the force of remitting every fault and every punishment, both in adults and in infants, appealing to the privilege which Christ conceded to martyrdom, namely that of producing the same effect of justification which baptism produces.[76] Martyrdom does not imprint the baptismal character, but it does bring about that every fault and punishment is destroyed.

3. Solemn baptism is distinguished, which is conferred with all the prescribed rites and ceremonies, while it does not matter whether it is administered in a church or in a private house; and private or non-solemn baptism, which is administered without rites and ceremonies. Cn. 737, 2.

Thus if one upon whom solemn baptism has been conferred is rebaptized under condition because of doubt concerning its validity, it is a private baptism. The most frequent case in which baptism is conferred privately without rites and ceremonies is the case of necessity in danger of death; therefore private baptism is ordinarily called baptism of necessity (*Nottaufe*).

56. Effects. The effect of this sacrament is fourfold: a. remission of every sin, both original and personal, committed before baptism; b. remission of every punishment, not only eternal but also temporal; c. infusion of sanctifying grace, of gifts, and of sacramental grace, which is the right to all those actual graces by which the baptized person can lead a Christian life; d. impression of character, by which a baptized man becomes a member of the Church, of the mystical body of Christ, and capable of the other sacraments.[77] But the disposition necessary in an adult who has committed personal sins, for obtaining these effects, besides faith, is attrition concerning the sins committed.

Wherefore it can happen that in an adult not every fault nor every punishment is immediately remitted: for since punishment cannot be remitted where fault has not yet been remitted, and since fault is not remitted without attrition, if an adult approaches baptism without attrition for some venial sin with which he is burdened, this is not remitted in baptism; but after sorrow has afterward been elicited, by force of the baptism received the sin is destroyed both as to fault and as to punishment.

57. Necessity. 1. Baptism (of water), received in reality or at least in desire, is necessary by a (hypothetical) necessity of means for salvation: "Unless a man be born again of water and the Holy Spirit, he cannot enter into the kingdom of God."[78]

That is said to be necessary for salvation by necessity of means which is a means of obtaining eternal salvation so necessary that, if it is omitted even without fault, salvation is not obtained. This necessity is called absolute if the necessary means cannot be supplied by any other means; and it is called hypothetical if in certain

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76. Cf. *De principiis*^13, n. 282.

77. Cf. Council of Trent, sess. 5, can. 5.

78. John 3, 5.

conditions it can be supplied by another means. Therefore the necessity of baptism is hypothetical, because in circumstances in which baptism cannot be received in reality, it can be supplied by another means.[79]

2. In infants the sacrament of baptism can be supplied by nothing except martyrdom; therefore, except in the case of martyrdom, for them the sacrament received in reality is necessary. But in adults, besides martyrdom, the sacrament of baptism can also be supplied by baptism of desire; therefore for an adult who cannot receive baptism in reality, excepting the case of martyrdom, the sacrament received at least in desire is necessary.

The desire of baptism is called the act of perfect charity or perfect contrition, because in this act the desire of baptism is contained: for he who elicits an act of this kind has the will of doing all things which God has commanded; but God commands all to receive baptism; therefore he has the will of receiving baptism. Therefore he who elicits an act of charity or contrition has at least implicitly the desire of baptism. Yet cf. n. 41, 4.

Question Second. On the Matter and Form of Baptism

Article First. On the Matter of Baptism

58. The valid remote matter of baptism is only natural water, which is such both in itself and in the common estimation of men. This is clear from the words of Sacred Scripture: "Unless a man be born again of water and the Holy Spirit," etc.[80] We know from the definition of the Church that these words are to be understood of true and natural water.[81] Therefore what water is to be held as valid matter must be taken not so much from the analysis of chemists as from the use and estimation of men; for when Christ determined the matter of the sacraments, he spoke according to the notions of the people and common sense.

Matter certainly valid is: a. water of springs, wells, rivers, the sea, ponds, marshes, lakes, cisterns; b. rainwater, distilled water, water produced by chemical art, water dissolved from ice, snow, or hail; c. sulphurous or mineral water, water collected from vapor, dew, or flowing in stormy weather from a wall, leaves, etc.; d. muddy water mixed with another substance, provided water is truly and certainly the predominant matter, even if it has been altered as to color, odor, or taste. Nor does it matter whether the water is cold or warm.

Matter certainly invalid is: a. milk, blood, spittle; b. wine, oil, beer, thick broth from fat, etc.; c. mud, ink; d. juice expressed from fruits, e.g., apples, pears, etc.; for all these are neither in fact nor in name water; e. tears, sweat, saliva; for these are indeed water in fact, but not in name nor in the common estimation of men.

Matter doubtful is: a. very thin broth, lye, very thin beer, a drink made from the coffee bean or from tea leaves, water from dissolved salt; b. the fluid flowing from a vine and other plants; c. rose-water or other liquids expressed from plants; d. snow or ice not yet dissolved. For although in this state they are not natural water, nevertheless, since they are dissolved by contact, and thus some washing can be had, they are admitted by some as doubtful matter.

59. The licit remote matter. Having made the distinction between solemn baptism, private baptism, and baptism of necessity (n. 55), let this be by way of rule: in any baptism whatever consecrated water is to be preferred, but it is not prescribed in every baptism; rather, lustral water (blessed water), or even natural water (not blessed), can be used, even if consecrated water is present. Therefore:

1. In solemn baptism the licit matter is only consecrated and clean water without admixture of foreign matter.

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79. Cf. *De praeceptis*^12, n. 7.

80. John 3, 5. Cf. Acts 8, 36.

81. Council of Trent, sess. 7, can. 2, *De bapt.*

2. In private baptism it is suitable that consecrated water be used, if it is present, or at least lustral or blessed water; nevertheless neither a priest nor a layman sins who uses natural water, even if consecrated or blessed water is present, unless this is prescribed by diocesan statute (as in England).

3. In baptism of necessity, i.e., in danger of death, any matter whatever can and ought to be used, provided it is not certainly invalid, under this condition: *if this matter is valid.* But if he who has been baptized with matter of this kind survives, and there is certainly valid matter available, he must again be baptized under this condition: *if he has not been baptized.* Just as for conferring baptism under the first condition a slight probability concerning the validity of the matter suffices, so for rebaptizing under the other condition a slight probability concerning the invalidity of the baptism suffices: for it is a question of a sacrament most necessary.

a. Although a slight admixture of a foreign substance does not render the water of baptism invalid matter, nevertheless that water, whether it is consecrated or not consecrated, must, out of reverence for the sacrament, be clean from foreign substance, unless there is an excusing cause. Therefore, if in a case of necessity infants are to be baptized in the mother's womb, it is permitted to use water mixed with corrosive bichloride of mercury (one part of mercuric chloride with a thousand parts of water) (*Quecksilberchlorid, Sublimat*), when from pure water a true danger of disease in the mother is to be feared; but it is not permitted to use it when there is no danger of disease in the mother.[82]

b. He sins gravely who, outside a case of necessity, uses turbid, muddy, or miry water, even if it is valid matter, because he gravely injures the reverence due to the sacrament.

c. Water simply blessed, not consecrated, although it is valid matter, is nevertheless gravely illicit in solemn baptism outside a case of necessity. If in a case of necessity consecrated water is lacking, blessed water must be used (made according to the shorter formula, if this can be done; otherwise natural water must be used).[83]

d. If the consecrated water itself, which is kept in the baptismal font, appears full of dregs and foul-smelling, in a case of necessity pure unconsecrated water must be taken, or, if it is present, lustral or blessed water, even if the foul water is valid matter. Outside a case of necessity new water must be blessed according to the formula prescribed in the Roman Ritual.[84]

e. If the water of baptism is too cold, it can be warmed by being brought to the fire or furnace, or even a little warmed natural water can be mixed with it, lest the cold water harm the little child. If the parents ask that the infant be baptized with Jordan water which they have procured for themselves, a small quantity of that water can be mixed with the consecrated water.

f. In baptisms which in some regions are held at home against the prescription of the Church, consecrated water must be used; for baptisms of this kind, which are performed by priests outside a case of necessity with all the sacred ceremonies, have the character of solemn baptism.

60. On the consecration of baptismal water. 1. From the prescription of the Church, the water of baptism must be consecrated on the vigil of Easter and on the vigil of Pentecost.[85] This obligation is judged grave, because it is of great importance that in solemn baptism water consecrated by a special blessing for this end, and mixed with the oil of catechumens and sacred chrism, be used.

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82. Holy Office, 21 Aug. 1901.

83. Holy Office, 22 June 1883.

84. Holy Office, 17 Apr. 1839.

85. Roman Ritual, tit. 2, c. 1, n. 4.

Therefore, according to the mind of the Church, it must be judged an abuse to be entirely eliminated if the consecration of the baptismal font is omitted on the Saturday of Pentecost.[86] Missionaries are commanded to consecrate water or to carry consecrated water with them whenever they can do this without grave inconvenience.[87] Lest baptismal water ever be lacking, it can be prepared at any time when necessity demands it, but according to the formula which is found in the Roman Ritual.[88] Even if the water consecrated at the prescribed time seems likely to run short, other unblessed water can be mixed with it, though in a smaller quantity.[89]

2. In the consecration of baptismal water: a. oils blessed by the bishop in the very same year on the Lord's Supper must be used. b. If a priest cannot obtain recent oils for himself, let him bless the font without the infusion of the sacred oils, which afterward, reciting privately the omitted prayers, he is to pour into the blessed water. c. But if, before he can receive the oils, he must baptize someone, in the solemn blessing itself let him pour in the old oils of the preceding year.[90]

61. The proximate matter of baptism is the washing of the body, which must be done by the minister himself in such a way that the baptized person, by the moral judgment of men, is considered truly washed; otherwise the words of the form would not be verified.

1. The washing can be done in three ways: by immersion, sprinkling, and pouring; nevertheless, according to the present practice of the Roman Church, baptism must be conferred by a threefold washing or pouring. And although one pouring suffices for validity, nevertheless a threefold pouring, at least where solemn baptism is concerned, is prescribed under grave obligation in the Roman Ritual.[91]

2. Therefore, in order that the person to be baptized be considered truly washed, and thus that the baptism be certainly valid, it is required:

a. **That the water flow**; hence, if one or another drop of water only is used, which adheres to the skin without flowing, baptism is doubtful and licit only in a case of necessity.

alpha. Therefore he who applies a wet finger or hand, or a wet cloth, to the forehead merely by touching it, does not baptize validly, because he does not wash the infant. If someone baptizes by way of anointing on the forehead with the thumb moistened in baptismal water, the baptism is doubtful, because there is no true washing.[92] But he who successively touches the forehead of the person to be baptized with a wet hand or cloth, according to the common opinion of authors, certainly baptizes validly, because there is true washing.[93]

beta. No determinate quantity of water is required for valid baptism; consequently there does not seem to be a reason for doubting the value of a baptism in which only one or another drop is used, provided the drops truly flow. Nevertheless, since several authors doubt concerning this baptism, it should be repeated under condition.

b. **That it immediately touch the person to be baptized**; hence, if the water touches the garments only, baptism is certainly invalid; and if it touches the hair only, baptism is in some degree doubtful.

alpha. Some used to say that baptism conferred upon the hair is valid, because, since the hair is part of the infant, the infant is washed whose hair is washed; others, on the contrary, affirmed that it was invalid, because

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86. S. C. R., 7 Dec. 1844, n. 2878; 13 Apr. 1874, n. 3331.
87. S. C. de Prop. Fid., 8 Sept. 1869.
88. Roman Ritual, tit. 2, c. 1, n. 6, and c. 7.
89. Ibid., tit. 2, c. 1, n. 5. Cn. 757, 2.
90. S. C. R., 31 Jan. 1896, n. 3879.
91. Roman Ritual, tit. 2, c. 1, n. 4.
92. Holy Office, 14 Dec. 1898.
93. Cf. St. Alphonsus, n. 107.

the hairs are not part of the infant, and therefore the infant is not washed whose hairs are washed. But now it can scarcely be denied that the hairs truly are part of a man, just as nails truly are a part of a man, although they are not informed by the soul. Hairs in a man are situated as wool is in sheep or feathers in birds; but we say that a sheep or a bird is washed when its wool or feathers are washed. Therefore, although the value of this baptism is almost certain, nevertheless, since several and great authors, after considering the internal reasons, doubt concerning its value, it can and must be repeated under condition.[94] But if the head of the infant is covered with hair, the priest, baptizing upon the hair, must, while with the right hand he pours water upon the crown of the head, part the hair with the left hand, or take care that the water flow down over the temples of the head.

beta. Baptism conferred upon the afterbirth is invalid. - Until birth the infant is enveloped in a covering composed of three membranes entirely distinct. The outer membrane, which is called the *decidua*, is formed from the interior part of the uterus, and therefore by no reckoning can it be held as part of the infant. And upon this, indeed, water is poured if the infant is baptized upon the afterbirth. The two inner membranes, of which one is called the *amnion* and the other the *chorion*, but which are commonly called the afterbirth, arise from the egg and therefore in some way can be called part of the infant; but they constitute by no means an integral part of the infant, but his covering to be cast off in birth. Therefore baptism can validly be conferred neither upon the decidua nor upon the afterbirth.[95]

gamma. Baptism conferred upon a head covered with an ulcerous crust is valid; for the crust upon which the water is poured is nothing other than the skin of the infant foully disfigured by disease. Therefore he is said to wash the infant who washes his head covered with a crust; otherwise a man whose whole head is covered with smallpox could neither be washed nor validly baptized.

delta. Baptism conferred on an infant upon a head still covered with filth before washing is valid; for by the fact that water is poured upon the filth, the head of the infant is said to be washed, which indeed is washed precisely in order that it may be cleansed from filth.

c. **That it be poured upon the head**; for in order that the person to be baptized be considered washed, it is not necessary that the whole body be washed, but it suffices and is required that the head be washed. Therefore if water is poured upon a less principal part (hand, foot, arm, etc.), the baptism is more probably invalid; and if it is poured upon a more principal part (breast, neck, shoulders), it is most probably valid, yet always at least somewhat doubtful. Therefore, if it can be done, it must or at least can be repeated under condition.

alpha. There are some who say that baptismal water must be poured upon the crown of the person to be baptized, but this is prescribed nowhere. On the contrary, in order to exclude doubts concerning the value of a baptism which is conferred on the crown of an infant whose head is covered with hair, it is better to baptize on the forehead.

beta. Baptism conferred on a more principal part (neck, breast, shoulders), according to the very common opinion of doctors of great name (Busenbaum, Suarez, Holzmann, Tanner, Lacroix, etc.), is valid; nor does St. Alphonsus seriously doubt concerning its validity, since he does not say that baptism conferred in this way must be repeated, but only that it can licitly be repeated for greater caution (n. 107, q. 4). And indeed, a man washed on such a part is said simply to be washed, just as one wounded there is said simply to be wounded. From this it follows that repetition of baptism conferred on the neck or on the breast can safely be omitted where it cannot be performed without difficulty.

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94. Cf. Lugo, *Responsa moralia*, l. 1, dub. 1.

95. Cf. Capellmann, *Medicina pastoralis*, p. 106.

gamma. If someone pronounces the form while an infant slips into water, the baptism is invalid, because he who baptizes does not himself wash the infant.

delta. If someone places a child under water flowing by nature, e.g., falling rain, he baptizes validly, because he truly washes the person to be baptized, and indeed he does it himself. But if he places the child under water poured out by another man, a distinction must be made: if for baptizing he uses water which another pours out either for another end or only so that by pouring out water he may help the one baptizing, the baptism is valid, because there is one who baptizes; but if he knowingly uses water which another pours out for this end, that he may help the one baptizing by applying the matter, the baptism is invalid, because one applies the matter and another pronounces the form.

epsilon. Whether baptism is valid if someone throws an infant into water and at the same time pronounces the form. - It is valid, and in a case of extreme necessity, namely when otherwise the infant is going to die without baptism, it seems even licit. And it is valid indeed, because there is washing equally as in baptism conferred by immersion, and there is no necessity that emergence follow immersion. But it is licit because there is not a direct killing of the infant, but a direct immersion for conferring baptism, from which by accident the death of the infant follows; for he who submerges an infant, not with the will of killing but of baptizing, is not said directly to kill the infant, even if from the same action, beyond the intention, the death of the infant follows.[96]

eta. Concerning baptism conferred in the mother's womb there are some who doubt whether it is valid, both because he cannot be reborn who has not yet been born, and because an infant in the womb cannot be washed, since, being enveloped in the afterbirth, he cannot be immediately touched by water. Ballerini (ad n. 239) indeed judges such baptism certainly valid, both because an infant existing in the mother's womb is already a man in the wayfaring state and in some sense is already said to be truly born, and because he himself can be touched immediately by means of an instrument more recently invented. Nevertheless the value of this baptism is not so certain that the infant, if he is afterward born, ought not to be rebaptized under condition.[97] But if the infant has put forth the head and danger of death is imminent, he is to be baptized on the head, and afterward, if he has escaped alive, he will not have to be baptized again.[98]

Article Second. On the Form of Baptism

62. The form of baptism is: *I baptize thee in the name of the Father and of the Son and of the Holy Spirit.*

In order that the form be valid, five things must be enunciated: a. the person who baptizes (at least implicitly); b. the person who is baptized; c. the act of baptizing with its essential effect; d. the unity of the divine nature, which is signified by the phrase *in the name*; e. the distinction of the persons, which are to be expressed by their proper names, and this distinction is signified by the particle *and*.

The form by which the Greeks baptize is valid: *The servant of Christ is baptized in the name of the Father and of the Son and of the Holy Spirit*, because the person of the minister is implicitly contained in the word *is baptized*, which, since it assertively pronounces the sacramental action, has the same force as *is baptized by me*.

a. No one can validly baptize himself, because the person baptizing must be entirely distinct from the person to be baptized; for Christ, instituting baptism, manifestly distinguishes between the minister and the subject of baptism (*baptizing them*). Moreover, by saying *I baptize myself* the form would be substantially changed;

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96. Cf. Ballerini-Palmieri IV, n. 720; Lehmkuhl II, 62 (n. 86).

97. S. C. C., 12 July 1794. As recently as 16 Mar. 1897 the same congregation commanded that baptism be repeated in this case.

98. Roman Ritual, tit. 2, c. 1, n. 16.

finally, baptism is spiritual regeneration; therefore, just as no one can generate himself, so also no one can regenerate himself.[99]

b. The word *Amen*, the omission of which St. Alphonsus had thought to be a venial sin, is not to be added to the form.[100]

c. In the form nothing can be omitted without its ceasing to be certainly valid, except the pronoun *I*, if baptism is conferred in a language in which, as in Latin, the verb without the pronoun determines the person of the minister; the particle *and* before the invocation of the Son;[101] and the adjective *Holy*. All the rest is essential; therefore, if any of these were omitted, the form would be substantially changed.

d. Whether the words of the form *in the name* signify *by the authority* or *under invocation* or *under profession* is not certainly clear. From the fact that S. C. C. declared that this form, *I baptize thee with the name of the Father*, etc., used without evil intention, is valid, it seems to follow that *in the name* is the same as *by the authority of the Father*, etc.[102]

e. Whether several can be baptized at once with this form: *I baptize you*, etc. The baptism is indeed valid if the one baptizing himself pours or sprinkles the water at the same time and each one is truly washed; but it is illicit outside a case of necessity, namely where time is not sufficient for baptizing them individually.

63. Diverse forms of baptism. Forms of baptism which differ more or less from that which Christ instituted can be reduced to four classes: valid, invalid, doubtful, and ambiguous.

1. **Valid** are those in which certainly only an accidental change has place. He who uses a form of this kind baptizes validly and afterward must supply nothing; nevertheless he sins, but ordinarily only venially, because the change, as being accidental, is not grave, unless it is notable.

a. Valid are: *I baptize your lordship in the name of the Father*, etc. - *I wash, I cleanse thee in the name*, etc. - *I baptize thee in the name of the Holy Spirit and of the Father and of the Son*, because this transposition of words does not change the substantial sense of the form. - *I baptize thee in the name of the unbegotten Father and of the only-begotten Son and of the Holy Spirit proceeding from both*, because this addition does not corrupt the sense of the form, since of itself it is not apt to express an erroneous or heretical sense. - *I baptize thee into the name* (Greek: *eis to onoma*) *of the Father*, etc., both because this form renders word for word the Greek form of Sacred Scripture, and because it does not pour out an essentially different sense. - *I baptize thee in the name of the Father and of the Son and of the Spirit*: for the omission of the word *Holy* does not change the sense of the form, since also in Sacred Scripture the third person of the most holy Trinity is called simply *Spirit*.[103]

b. The Slavic peoples, who administer solemn baptism in the Slavic rite, use the word *te krstim*, and the English, who baptize in the vernacular language, use the word *I christen*, which words etymologically signify: I Christianize thee or make thee a Christian. Therefore, because these words of the form signify not the sacramental action but the effect of the sacrament, the form could seem invalid. Nevertheless there is no reason to doubt concerning the value of baptism conferred with this form; for from common use those

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99. Cf. c. *Debitum* 4, *De baptismo et eius effectu* (III, 42).

100. S. C. R., 9 June 1853, n. 3014.

101. S. C. C., 12 Sept. 1801, prohibited that baptism conferred with this form, *I baptize thee in the name of the Father, Son, and Holy Spirit*, be repeated, even under condition.

102. Ballerini-Palmieri IV, n. 735.

103. John 7, 39.

words are employed in the conferral of baptism to signify the sacramental action itself, namely the sacred washing, which others express by the word *I baptize*.[104]

2. **Invalid** are forms in which either those things are not contained which must necessarily be expressed, or something false or heretical is contained. Baptism conferred with a form of this kind, as being certainly invalid, must be repeated absolutely.

Invalid are: *I baptize thee in the name of the most holy Trinity - in the name of God one and triune - in the name of Jesus Christ*, because the individual persons of the Trinity are not expressed.[105] - *I baptize thee in the names of the Father and of the Son and of the Holy Spirit*, because the divine essence is multiplied. - *I baptize thee in the Father and in the Son and in the Holy Spirit*, with *in the name* omitted, because this form multiplies the divine essence or at least does not clearly signify its unity. - *I will to minister to thee the sacrament of baptism in the name*, etc., because there is not expressed the present act of baptizing, but the will of baptizing.[106]

3. **Doubtful** are forms concerning which it is not certainly clear either that they exhibit all the things which must necessarily be expressed, or that they contain something false or heretical. Baptism conferred with a form of this kind must be repeated under condition, because its value is doubtful.

Doubtful are: *I baptize thee in the power, in the majesty of the Father*, etc., because it indeed signifies baptism to be conferred by the authority of the Father, etc., but does not signify clearly enough baptism to be conferred under invocation of the Father and of the Son and of the Holy Spirit. - *I baptize thee in the name of the Father and of the Son, the Holy Spirit* (with *and* omitted), because the last words of themselves seem rather to signify a property of the Son than a distinct person, especially if *and* is inserted before the name of the Son. - *I baptize thee in the name of the begetter and of the begotten and of the breathed* (or proceeding), because the persons of the Trinity are indeed exhibited by proper names, but not by those by which they are commonly wont to be signified; yet from the institution of Christ these names probably must be used.[107] - *I baptize thee in the name of our Father and of the Son and of the Holy Spirit*, because the word *Father* in the form of baptism signifies the person of the Father, who is Father with respect to the Son; the added word *our* causes it to signify the creator of all without respect to the Son, and consequently without distinction of persons.[108]

4. **Ambiguous** are forms which necessarily are neither invalid nor doubtful, and which therefore of themselves can be taken both in a fitting sense and also in a false or heretical sense. The value of baptism conferred with a form of this kind depends on the intention of the one baptizing; therefore it is not to be repeated if the one baptizing subjected nothing false or heretical to the words of the form; but it must be repeated absolutely if the one baptizing took the words of the form in a false or heretical sense.

Ambiguous are: *I baptize thee in the name of the Father and in the name of the Son and in the name of the Holy Spirit*, because the repetition of the term *in the name* does not necessarily signify a multiplication of the divine essence, although *in the name*, namely of the most holy Trinity, is repeated twice.[109] - *I baptize thee in the name of God the Father and of God the Son and of God the Holy Spirit*, because this repetition no more signifies a

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104. Cf. Lugo, *Responsa moralia*, l. 1, dub. 3; Pesch, *Praelect. dogm.*, VI, n. 396.

105. Nor should it be said that the apostles baptized *in the name of Jesus Christ*: for where Sacred Scripture speaks of baptism conferred in the name of Jesus Christ (Acts 8, 12; 19, 5), it does not signify the form by which baptism was conferred, but baptism itself of the Holy Spirit instituted by Christ, as it is distinguished from the baptism of penance of St. John. Indeed it is almost certain that the apostles baptized with the same form which Christ instituted, namely in the name of the most holy Trinity. Cf. Scherer, *Uber die Taufe im Namen Jesu* (*Passauer Monatsschrift* XII, 262 ff.).

106. Holy Office, 23 May 1840.

107. St. Thomas III, q. 66, a. 5, ad 7.

108. Cf. nevertheless Genicot, *Casus*, II, p. 143; Holy Office, 27 Jan. 1892.

109. Bonacina holds this form invalid, because through it there is signified not unity, but plurality of the divine essence; St. Alphonsus holds it as doubtful, because it is not clear that through it the divine essence is multiplied; the Holy Office, 13 Jan. 1882, declared it to be valid in itself, because of itself it does not necessarily signify plurality of the divine essence.

multiplication of the divine essence than the repetition of the term *in the name*, especially since the unity of the essence is sufficiently expressed by the term *in the name*.[110] - *I baptize thee by name* or *with the name of the Father and of the Son*, etc.[111]

Note. In order that the sacramental form be valid, it is required that the words of themselves be apt to signify that which Christ instituted, and that the minister intend to signify this very thing. If the minister intends to signify something else, the sacrament is invalid, even if the words are the very same words which Christ instituted. Hence a private error of the minister does not impede the value of the sacrament, provided the words both of themselves and from the intention (at least prevailing) of the minister signify that which Christ intended (n. 15). From these things it is deduced that he baptizes invalidly who uses the legitimate form, yet intends to use it in another sense, if, e.g., by the word *Father* he did not will to signify the eternal Father, but a Father who is not eternal.[112]

Question Third. On the Minister of Baptism

64. The minister of baptism is one thing if ordinary, another if extraordinary; and the extraordinary minister is one thing for solemn baptism, another for private baptism.

1. The extraordinary minister of private baptism is any human being having the use of reason, whether man or woman, whether Catholic or heretic, whether believer or unbeliever, who indeed always baptizes validly, but licitly only in a case of necessity and when the ordinary minister is lacking, as is clear from the doctrine and practice of the Church.

a. Nevertheless it is not licit for the father or mother to baptize their own child, except in danger of death, when no one else is present who may baptize. Cn. 742, 3.

b. A case of necessity is considered to be present if a man not yet baptized is in danger of death; but not if, because of distance, bad weather, or illness, a priest cannot be had except after a long time. Therefore in these circumstances the office of baptizing cannot be committed to a layman, always excepting danger of death.

c. Yet in mission places there is approved the custom by force of which, when a priest is absent, baptism is permitted to be administered immediately by catechists or other approved laymen to recently born infants, even those enjoying good health (although the priest is absent only for a short time), because the life of infants is exposed to continual dangers.[113]

d. If in a case of necessity baptism is conferred privately, there are to be used, if it can be done, two witnesses or at least one, by whom the conferral of baptism can be proved. Cn. 742, 1.

2. The extraordinary minister of solemn baptism is the deacon, who nevertheless can licitly baptize solemnly only by delegation of the Ordinary or of the pastor, which is to be granted from a just cause. A sufficient cause on account of which the office of baptizing can be committed to a deacon is judged to be this: if the pastor is absent or sick, or if he is occupied with holding a sermon or hearing confessions, etc. If necessity presses, the permission is legitimately presumed.

Notes

110. Cf. Bucceroni, *Casus conscientiae*^5, n. 111, 4.

111. S. C. C., several times (lastly 16 Aug. 1828), declared that this form, used without evil intention, is valid.

112. Cf. Lugo, disp. 2, n. 113 ff.

113. S. C. de Prop. Fide, 11 Feb. 1804.

a. Whether a deacon baptizes licitly in a case of lighter necessity, but without the commission of the pastor, is disputed. Suarez holds the affirmative opinion, because when necessity exists a reasonably presumed commission suffices.[114] The reason of St. Alphonsus, who holds the negative opinion (n. 116), is this: because a deacon can solemnly baptize only in place of the priest.

b. It is not licit for a deacon, even if he baptizes solemnly, to bless salt or water.[115]

c. A cleric lower than a deacon who solemnly baptizes incurs irregularity, because he exercises an order which he does not have. But a deacon who solemnly baptizes without commission indeed sins, because he injures the right of the pastor; yet he does not seem to incur irregularity, because he does not exercise an order which he does not have, since by force of ordination he can solemnly baptize.

3. The ordinary minister of solemn baptism is every and only priest, who nevertheless, except in a case of necessity, cannot licitly use his power unless he possesses the ordinary or delegated faculty for this.

a. Therefore a bishop can licitly baptize only those who have domicile or quasi-domicile in his diocese; and a pastor can licitly baptize only those who have domicile or quasi-domicile within the limits of his parish. But he cannot licitly baptize outsiders who do not have quasi-domicile in his parish without the permission of their own pastor, unless they are travelers or vagrants. Outside his parish he cannot licitly baptize his own parishioners without the permission of the pastor of the place.

b. Travelers ought to be baptized by their own pastor in his parish, if this can be done easily and without delay; otherwise they can be baptized by any pastor in his own territory. Therefore an infant whom a woman bears while staying outside her homeland, or whom a woman happens to bear in a place not her own, must be brought to his own pastor, unless he is far distant, or the infant is exposed to danger of life, or baptism for that reason would have to be deferred too long. Cn. 738, 1. Vagrants can be baptized by any pastor whom they themselves have chosen, if they are adults, or whom their parents have chosen, if they are infants.

c. Priests who without just cause baptize infants offered to them from another parish sin gravely, because they injure the right of the infant's own pastor. But when a just cause exists, an outside infant can licitly be baptized with the reasonably presumed permission of the infant's pastor. In the same way parents sin who outside a case of necessity or without the permission of the pastor bring their child to be baptized by other priests, because they violate the right of their own shepherd.

d. The baptism of adults, from the Roman Ritual and from the Code of Canon Law, is to be referred to the bishop, if this can conveniently be done.[116] But in most dioceses it is laid down that no adult is to be baptized outside a case of necessity, not even under condition, without the permission of the Ordinary.

65. The order to be observed among diverse ministers in private baptism is thus described in the Roman Ritual: "If a priest is present, he is to be preferred to a deacon, a deacon to a subdeacon, a cleric to a layman, and a man to a woman, unless for the sake of modesty it is fitting that a woman rather than a man baptize an infant not wholly born, or unless the woman should know better the form and manner of baptizing."[117]

"Nevertheless," says Lehmkuhl (n. 67 [93]), "this rule is understood in such a way that a. any believer existing in union with the Church, whether man or woman, provided he sufficiently knows the manner of baptizing, is altogether to be preferred to any heretic, even a priest; b. an outside woman is to be preferred to the father of the infant, since parents ought not to baptize their own infant except when another is lacking."

Notes

114. Suarez, disp. 23, sect. 2, n. 10.

115. S. C. R., 10 Feb. 1888, n. 3684.

116. Roman Ritual, tit. 2, c. 3, n. 3. Cn. 744.

117. Roman Ritual, tit. 2, c. 1, n. 13. Cn. 742, 2.

A layman who, contrary to this order, baptizes in the presence of a priest sins gravely, since to the priest alone does this faculty belong as proper by force of ordination; nor can a priest yield his own right, which belongs to him from divine institution, except by reason of decency, e.g., for baptizing a fetus in the mother's womb. But in other cases, to invert this order is free from grave fault, to such an extent that a layman baptizing in the presence of a deacon, according to a probable opinion, does not sin gravely.[118]

Question Fourth. On the Subject of Baptism

The subject capable of baptism is every and only wayfaring man not yet baptized. **Every**: because all need regeneration, as being infected with original sin. **Only**: because the sacraments were instituted for wayfaring men alone, and to them alone access into the Church lies open. **Not yet baptized**: for this sacrament can neither licitly nor validly be repeated. - We must treat: a. of infants to be baptized; b. of fetuses to be baptized; c. of adults to be baptized; d. of those to be baptized under condition.

Article First. On Infants to Be Baptized

66. On the infants of Catholics. 1. Infants of Christian parents are to be brought to the church as soon as possible, that they may be baptized.[119]

Not only because of danger of death, which in infants is much greater than in adults, but also because of the universal custom prevailing in the Church, which has already for a long time obtained the force of law, parents are bound to take care that the baptism of their infants is not delayed too much, unless some grave cause excuses.

2. There exists no universal law which more accurately determines the time beyond which the baptism of little children cannot be deferred without sin. But in most places there exists a particular law prescribing that the baptism of infants not be deferred beyond one or two weeks. To defer baptism notably beyond the time prescribed by the bishop without just cause is a grave sin. But where a particular law does not bind, delay of baptism, even notable delay, does not seem to be charged as a grave sin, provided there is a serious will of not neglecting baptism and no danger of death is truly to be feared.[120]

The rigorists hold that a grave sin is committed if baptism is deferred beyond five or six days, indeed even if it is deferred beyond one or two days. Others judge the delay to be grave if baptism is deferred beyond a month without cause.[121]

67. On the infants of heretics. 1. It is certain that the Church has the right of baptizing the children of heretics and of preventing them from being imbued with the errors of their parents, because heretics can be compelled by the Church, whose subjects they are, to observe the divine law. Nevertheless the Church does not use her right, because she cannot prevent the children of heretics from being educated in heresy.

2. Therefore, if they are not in danger of death or in such a crisis of life that they are prudently foreseen to be going to die before the use of reason, it is not licit to baptize the children of heretics unless there is some probable hope that afterward they will be educated in the true faith.[122]

Notes

118. Cf. Suarez, disp. 31, sect. 4, n. 7 ff.

119. Roman Ritual, tit. 2, c. 1, n. 15. Cn. 770 established this obligation and calls it grave.

120. Ballerini-Palmieri IV, 745; Genicot, *Theol. mor. inst.*, II, 146.

121. Cf. St. Alphonsus, n. 118.

122. Holy Office, 26 Aug. 1885. Cn. 750, 751.

a. If heretical or schismatic spouses, lacking their own minister, present their own infant to a pastor or another Catholic priest to be baptized, declaring that by this they do not wish to be bound to educate him in the Catholic religion, the pastor cannot baptize him in order meanwhile to place in safety the eternal salvation of the innocent little infant, prescinding from what could happen in the future when he comes to the age of discretion, unless he is in danger of death.[123] This is not then licit even when he foresees that the infant must be perpetually without baptism.

b. If Catholic parents who now are of no religious confession (*Konfessionslose*), or parents of whom one party is apostate and the other Jewish, ask baptism for their children, the parents are indeed to be warned and exhorted concerning the education of their offspring in the Catholic religion; nevertheless the children can and ought to be baptized, unless an extraordinary and almost certain danger of perversion is foreseen. Since judgment concerning the gravity of the danger is not without serious difficulty, let the pastor not decide the matter without consulting the Ordinary.[124]

c. It is licit for a pastor to baptize a child with one Catholic parent consenting, even if he certainly knows that the other will afterward take care that the infant be baptized by a heretical minister; but the Catholic spouse is bound to inform the heretical spouse that the child has already been legitimately baptized.[125] For this disposition of the Catholic party supplies a sufficiently founded hope of future Catholic education.

68. On the infants of unbelievers. 1. Of itself it is not licit to baptize the children of unbelievers without the knowledge or against the will of the parents; for if the baptized children are taken away from the parents, the natural right of the parents is violated; but if they are left under the power of the parents, injury is done to the sacrament on account of the certain danger of defection.[126] With respect to the children of Hebrews there exists, moreover, a special prohibition of the Church, namely that they not be baptized against the will of the parents.[127]

Where it is a question of baptizing the children of unbelievers, the Church, which does not have power over them, chiefly attends to two things: first, that those who receive Christian baptism also be educated and instructed in the true religion and live in Catholic fashion; then, that the natural rights of the parents not be harmed. For there belongs to parents the natural right and duty of caring for their children until they use reason.

2. Nevertheless, sometimes the infants of unbelievers can, indeed must, be baptized without the knowledge or against the will of the parents: a. if they are in danger of death; b. if they have been placed outside the power of their parents or guardians, so that they can be educated as Catholics.

a. If they are in certain and proximate danger of death, they must be baptized from the precept of charity, if this can be done when occasion is given without stirring up the hatred of unbelievers against the Christian religion. If they are in probable danger of death, they can licitly be baptized, even if death is still rather distant.[128] But the danger of death must be proper to the one who is baptized; therefore, when a plague is raging, it is not licit to baptize infants indiscriminately, even if the greater part of them are foreseen to be going to die.[129]

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123. Holy Office, 26 Aug. 1885.

124. Cf. E. Muller III, tr. 2, section 72; Bucceroni, *Casus consc.*^5, n. 113, 3.

125. S. C. de Prop. Fid., 20 Nov. 1672.

126. Cf. St. Thomas III, q. 68, a. 10; Benedict XIV, constitution *Postremo mense*, 28 Feb. 1747.

127. Constitution of Julius III and S. C. C., 16 July 1639. Cf. Benedict XIV, constitution *Postremo mense* (28 Feb. 1747), who in n. 27 cites the constitution of Julius III and several responses of S. C. C. on this question.

128. Holy Office, 18 July 1894.

129. Cf. Instruction of S. C. de Prop. Fide, 17 Aug. 1777.

b. If baptism, whether for a little child or for an adult, whether in danger of death or outside it, cannot be conferred without stirring up the hatred and persecutions of unbelievers against the Christian religion, baptism can be deferred or entirely omitted, because the common good of the Christian community must be preferred to a private good, however great.

Note. If a non-Catholic child has been baptized without the knowledge or against the will of the parents, whether licitly or illicitly, then a child of unbelievers and of Hebrews must indeed be withdrawn from the parents on account of the proximate danger of perversion; but a child of heretics can be left in the power of the parents if they themselves do not deny faith in Christ. Since the civil power now prevents a child baptized in danger of death from being withdrawn from unbelieving or Hebrew parents if he recovers, that baptism itself must be diligently observed as far as possible, lest perhaps afterward he be baptized again.

69. 3. With unbelieving parents consenting, it is not licit to baptize their children if the danger of future perversion is special and extraordinary; but it is licit if no danger is foreseen except the danger common to all in circumstances of this kind. For in this latter case there is, but in the former there is not, probable hope of perseverance in the faith. But it belongs to the bishop or apostolic prefect to judge whether in a particular case there is a probable hope of Christian education or a certain danger of perversion.

a. In practice there is no difficulty if the unbelieving parents who ask baptism for their child consent to the Catholic education of the child outside the paternal home. Ordinarily, however, the greatest danger of perversion is to be feared when the baptized child must remain under the power of unbelieving parents, both of whom are unbelievers. Nevertheless, even if a child baptized as a Catholic must afterward remain in the paternal home under the power of the parents, a grave danger of perversion is not always immediately to be supposed; but sometimes children of this kind also can be baptized, especially where the future conversion of their parents can reasonably be hoped for, or where at least no special danger of perversion is foreseen.[130]

b. Ordinarily it is licit to baptize an infant who has at least a believing mother, although the father is Jewish, unbelieving, or apostate, because almost always the providence of the mother suffices, so that a probable hope of the Catholic education of the infant may be conceived.[131]

c. It is licit to baptize an infant if one of the parents, with the other unwilling, or the one who uses paternal power in place of the parents (the paternal grandfather, the paternal grandmother), with both parents unwilling, offers the infant to be baptized; because on the one hand those persons participate somewhat in paternal power and their consent in favor of the faith is judged to outweigh the perverse will of the others, and on the other hand this consent supplies some hope of Christian education.[132]

Article Second. On Fetuses to Be Baptized

70. On baptizing an abortive fetus. All abortive fetuses, even the smallest, are to be baptized, unless it is certainly clear that they are lifeless. For since they are probably human individuals placed in proximate danger of death, and baptism is absolutely necessary for them for salvation, the urgent obligation of baptizing them is evident. Cn. 747.

a. As soon as a human fetus is informed by a rational soul, he is a suitable subject of baptism. Although now among philosophers as well as theologians the opinion is almost common that the fetus lives by a rational soul from conception itself, nevertheless this opinion does not exceed probability. Still, the obligation of

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130. Cf. Holy Office, 22 July 1840 and 11 Dec. 1850.

131. Holy Office, 17 Sept. 1671.

132. Cf. letters of Benedict XIV, *Probe te meminisse*, 15 Dec. 1751.

baptizing abortive fetuses is to be urged; for just as it is not licit to kill a probably animated fetus, so it is not licit to cast him away without baptism. For this reason physicians, midwives, and mothers are to be admonished, yet cautiously and prudently, concerning the obligation of baptizing even the smallest abortive fetuses, lest they be thrown away unbaptized.[133]

b. If fetuses are very small, it can be very difficult to discern whether they are still living or have already lost life. For the unskilled there is no certain sign of death except putrefaction itself, which manifests itself by spots and foul odor. Therefore, unless a skilled physician testifies to certain death, even those fetuses which bear before them some sign of death are to be baptized.

c. Abortive fetuses already formed are to be baptized absolutely where they give certain signs of life, and they are to be baptized under condition if the signs of life are doubtful. But abortive fetuses not yet formed are to be baptized at least under condition (*if thou art capable*) and to be buried in a sacred place, whatever may be the form which they present, unless it is clear that they are lifeless.

d. Since fetuses of this kind are expelled enclosed in the afterbirth, they are to be baptized by immersion in a vessel filled with warm water, and in this way: the afterbirth is to be taken hold of with the index finger and thumb of both hands and cautiously opened in the water, so that the matter of the egg (amniotic fluid) may flow out and the water may wash the whole fetus, while the form is said: *If thou livest, I*, etc. For time must not be wasted in seeking signs of life, but if the egg appears fresh and the fetus white, he is to be baptized immediately.[134]

71. On baptizing a fetus not yet born. A fetus not yet born ought not to be baptized except in danger of death. But danger of death is imminent in three different cases: a. when, birth having already begun, some part of the infant has come forth into the light; b. when indeed no part of the infant appears, but, birth having already begun, the uterus has been opened, so that the infant can be washed by hand or by means of an instrument; c. when the pregnant mother is dead.

1. If danger of death is imminent and the infant has put forth the head, he is to be baptized on the head; nor afterward, if he has escaped alive, will he have to be baptized again. But if he has put forth another member which indicates vital motion, he is to be baptized on that member under condition, and then, if once born he lives, he will have to be rebaptized under condition (*if thou hast not been baptized*).[135]

2. If no part of the infant has come forth into the light, in danger of death the infant, if it can be done, is to be baptized under condition in the mother's womb; and if afterward he has been born, he is again to be baptized under condition (60. c. n.). Whether the mother is bound to suffer Caesarean section so that the child can be drawn out from the womb and endowed with the grace of baptism has been said elsewhere.[136]

3. When the pregnant mother is dead, there exists a grave obligation of charity to perform Caesarean section, even against the will of relatives, for procuring the eternal salvation of the infant. But the fetus who is drawn out after the mother's womb has been opened is to be baptized absolutely if he certainly lives.[137]

a. The obligation of performing the incision is derived from the precept of charity, by which all are bound to consult the eternal salvation of the infant; and if the fetus is viable (in the sixth month of pregnancy), there is added another reason, namely that of preserving the temporal life of the infant. This obligation is indeed

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133. Cf. *Koelner Pastoralblatt*: *Die Taufe des Abortivfoetus*, 1902, p. 9 ff.

134. Capellmann, *Medicina past.*, p. 115 note.

135. Roman Ritual, tit. 2, c. 1, n. 16. Cn. 746.

136. Cf. *De praeceptis*^12, n. 344.

137. Roman Ritual, tit. 2, c. 1, n. 17.

greater the greater the hope is of obtaining the effect. But there is no obligation of performing the section if with moral certainty it is clear that the fetus has already died, or if there is scarcely any hope of drawing him out alive. This hope is very slight before the fourth month of pregnancy is completed; but after the fourth month of pregnancy has been completed, this hope increases the greater the fetus has become.

b. Therefore as soon as the death of the mother is clear from the testimony of experts or, where the civil laws require this, from legal testimony, those whom it concerns, relatives and physicians or surgeons, are to be admonished concerning this obligation. And since experience shows that even tender fetuses sometimes live for several hours after the death of the mother, the obligation of performing the incision is still to be urged for a rather long time after the death of the mother. That the life of the infant may be more easily preserved, the uterus of the deceased mother is to be covered with cloths so that it may retain warmth; but to open the mouth of the mother, lest the infant perish from lack of respiration, is of no utility.

c. Those who are skilled in this art are bound before all others to perform the incision: physicians and surgeons. But if these are lacking, others are bound in whom there is such skill in surgical matters that they can perform the section without danger to the infant. Nevertheless a priest is never bound to this, both because of indecency and because of the danger of a greater evil which can arise for religion from the slanders of the malicious; but he must, as far as he can, take care that the incision be performed by others, unless civil authority forbids it to be done by someone other than a physician under penalties.[138]

72. On monsters to be baptized. Physiologists distinguish simple monsters, if one deformed infant is born, and double monsters, if a double one is born, one of whom adheres to the other in a different way. Therefore two things are in question here: a. whether the monster is a man; b. whether it is one or several human individuals.

1. A monster born of a woman is always to be baptized, and absolutely indeed if he certainly lives, whether the head is human and the members animal, or the head animal and the members human; for from man there naturally can be born only man, and he from the intercourse of a man with a woman. But what the ancient theologians add concerning monsters born from the intercourse of a man with a beast is opposed both to philosophy and to physiology.[139]

2. A monster which distinctly bears before itself two heads or two breasts is a double person, and therefore double baptism, each absolute, must be conferred on the same. If it is doubted whether it is a double person, because it has either one head or only one breast, or two heads and two breasts not sufficiently distinct, likewise double baptism must be conferred, one absolute, the other under condition (*if thou hast not been baptized*).[140]

Neither acardiac fetuses, which consist only of belly and feet, nor moles, which are nothing but shapeless flesh in which a fetus prematurely dead has been absorbed or dissolved, are human individuals. In doubt whether it is a fetus or a mole, baptism is to be conferred under condition.

Article Third. On Adults to Be Baptized

73. Assertions. 1. An adult who has known the obligation of baptism is bound to receive it as soon as he conveniently can; for each one is bound by divine law to enter the Church, and baptism is the door of the Church. But one is not to be baptized unless knowing and willing and well instructed.

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138. Holy Office, 15 Feb. 1780 and 13 Dec. 1899; Olfers, *Pastoralmedicin*, p. 25 f.; Capellmann, *Medicina past.*, p. 29.

139. Olfers, *Pastoralmedicin*, p. 30 ff.

140. Cf. Roman Ritual, tit. 2, c. 1, n. 18 s. Cn. 748.

What delay of baptism, not excused by a just cause, is to be held grave cannot be determined. There are some who think that delay of baptism even until danger of death is not of itself a grave sin, unless it is done out of contempt.[141] But it seems incredible that a man could neglect through the whole course of his life the principal obligation of human life, namely that of serving God and tending toward the last end. Moreover, it is the will of Christ that baptism not be deferred through one's whole life without a cause of necessity; for Christ wills the faithful in this life to be gathered into the visible Church, which they must enter through baptism. Therefore the holy Fathers of the Church gravely reprehend the custom of deferring baptism until a more mature, advanced age or until death, and most theologians affirm the grave obligation of receiving baptism without delay, unless moral impossibility excuses. Therefore as soon as a man morally can, he is bound to fulfill this obligation. But it must be conceded that the Church has never determined nor can determine the time for receiving baptism for unbelievers, since they are not subject to the Church.[142]

2. In danger of death, all those who are presumed to have the intention of baptism are to be baptized at least under condition, after instruction has been given, as far as possible, concerning the mysteries which must necessarily be believed by necessity of means.

a. Concerning the existence of the dispositions which are necessary for receiving baptism validly and fruitfully (intention, faith, knowledge, contrition), certainty is not required, but probability suffices, even only slight probability; for since the sacraments are for men, they can be administered to one who is placed in danger of life even with a slight probability concerning their value.

b. Whether a missionary can licitly baptize one whom he finds dying, an unbeliever already deprived of the senses. - Since it is not licit to frustrate a sacrament, and an unbeliever who has no desire of baptism is incapable of it, it is asked how the missionary must be certain concerning the existence of the intention which is required for validly receiving baptism (n. 41, 3): namely, whether a positive sign of intention is required for licitly baptizing an unbeliever, or whether intention can be presumed in the same way in which, in Catholics deprived of the senses, the intention of the sacrament (of absolution, of extreme unction) is presumed. For a sacrament to be licitly administered there is required a probable judgment concerning the intention of the sacrament in the subject. Now in an adult Catholic this judgment is founded on the very religion which he professes; for it is rightly presumed that a Catholic existing in danger of death wishes to be helped by the means instituted by Christ for dying well. Therefore the practice now flourishes in the Church of absolving and anointing with extreme unction all the dying deprived of the senses, unless it is morally clear that they positively reject the sacraments.[143] But in unbelievers that probable judgment, even though only slight, cannot be formed otherwise than from the circumstances of place, person, condition, etc. Therefore it is not licit to baptize indiscriminately all pagans deprived of the senses in danger of death, but only those whom the missionary, having considered all the circumstances, prudently judges to have at least the implicit will of receiving baptism.[144] Hence if the dying man himself is unknown to him, let the missionary, as far as can be done, ask others whether they know anything about his dispositions, whether perhaps he asked for baptism or heard Christian instruction, or at least by living well showed care for his salvation. As to the rest, nothing remains except that he commend them to the divine mercy. Then, if one baptized in this way should return to himself, he would have to be baptized again under condition, unless he testifies that he had a firm purpose of receiving baptism.

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141. Genicot, *Theol. mor. inst.*, II, n. 149.

142. Cf. Laymann, l. 5, tr. 2, c. 6, n. 8; Suarez, disp. 31, sect. 2, n. 3.

143. Lehmkuhl, *Casus consc.*, II, n. 45; Genicot, *Theol. mor. inst.*, II, n. 150.

144. Holy Office, 30 Mar. 1898.

c. Dying unbelievers who are not deprived of the senses are indeed to be questioned about their intention; but licitly, even when asking for the sacrament, they cannot be baptized if they lack the necessary dispositions, namely due knowledge and contrition. Therefore they must be instructed concerning those things necessary by necessity of means, and also concerning the obligation of contrition.[145]

d. In order that insane persons who at some time had the use of reason can validly be baptized, it is required that before insanity they conceived the will of receiving baptism; in order that they may in reality be sanctified, it is further required that they elicited an act of faith and supernatural sorrow for sins. If, after the circumstances have been considered, it is not morally clear that this will was lacking, in practice they are always to be baptized under condition, whether in danger of death or even outside it, where no hope of recovering reason shines forth, because they are at least slightly supposed to have had at least an implicit desire of baptism. But if they have lucid intervals, they are to be baptized if they wish, while they are in possession of their mind.

3. Children of unbelievers who have the use of reason and ask for baptism can and of themselves ought to be baptized even against the will of the parents, provided they have been sufficiently instructed and show a firm will of living as Catholics; for he who has attained the use of reason is, in his moral actions, fully his own master, and cannot be hindered by anyone else in procuring eternal salvation.

Since youths who are baptized against the will of their parents ordinarily cannot be separated from their parents, and, being left under their power, are exposed to various and indeed great dangers of relapsing into their former errors, their constancy must be well tested before they are admitted to baptism. And because from the fact that children are baptized against the will of their parents serious inconveniences sometimes arise for the Catholic cause, great prudence is needed in admitting them to baptism. Where, on account of baptism conferred against the will of the parents, either the defection of the baptized person or another grave evil must rightly and deservedly be feared, ordinarily it will be better to defer baptism until a more mature age.

Note. The Code of Canon Law, cn. 753, gives two admonitions: a. both the priest who is about to baptize adults and the adults themselves, if they are healthy, ought to be fasting; b. baptized adults should immediately assist at the sacrifice of the Mass and receive holy communion, unless grave causes prevent.

Article Fourth. On Those to Be Baptized Under Condition

There are chiefly two cases in which there is question of repeating baptism under condition: a. if some are converted from heresy; b. if little children are baptized privately because of danger of death.

74. On converted heretics. Although baptism conferred by heretics is of itself valid, nevertheless, with the unbelief of non-Catholic ministers increasing day by day at the present time, it is greatly to be feared that non-Catholic ministers baptize invalidly because of defect of an essential condition. Nevertheless the Church has always disapproved the custom of rebaptizing under condition indiscriminately those baptized by heretics, and has prescribed that in individual cases inquiry be made into the validity of the baptism, whatever may be the sect from which the non-Catholics have come, unless the inquiry is morally impossible, or from the circumstances it is clear either that the sect confers no baptism, or that no inquiry can supply certainty concerning the value of the baptism.[146] Now:

a. If, after inquiry has been made, the value of the baptism conferred is certainly clear, they are in no way to be rebaptized.

Notes

145. Holy Office, 1 Apr. 1898.

146. Holy Office, 21 Feb. 1883.

b. But if concerning the value of the baptism there remains a doubt not wholly empty, they are to be rebaptized under condition.

c. But if it is certainly clear that the sacrament was invalid, they are to be rebaptized absolutely.

d. Finally, if either no inquiry can be instituted or nothing can be learned concerning the value of the baptism, today it is rightly presumed to be invalid and therefore to be repeated under condition.[147]

In what circumstances an adult is to be baptized under condition. If the doubt concerns the dispositions of the subject, baptism is to be conferred absolutely; for in this case baptism validly conferred afterward revives when the baptized person obtains the due disposition for himself. But it could not revive, as being invalid, if it had been conferred under condition. Only if the doubt concerns a condition required for validity (intention) is baptism to be conferred under condition (*if thou art capable*), because in this case it cannot revive, since it is either valid or invalid.[148]

75. On infants privately baptized. It is not licit to baptize again without discrimination all infants baptized at home by midwives or other laypersons, since this is opposed to Catholic dogmas. Therefore in individual cases, even with witnesses heard if any were present,[149] it must be diligently investigated whether the baptism conferred at home was valid. But if a doubt not wholly empty concerning its value remains, it is to be repeated under condition; but if it has been established that it was validly conferred, only the ceremonies must be supplied.[150] And indeed, where a midwife or another person who is of good reputation, worthy of faith, circumspect, and instructed in the rite of baptizing asserts that the infant was rightly baptized by her, there is no reason why the value of the baptism should be doubted. But to repeat baptism where no doubt concerning its value exists is certainly gravely illicit.[151]

In order that a judgment concerning the value of the baptism can be formed, it must be asked: a. who baptized and in what circumstances; for if the baptism was conferred by a person who is accustomed to be anxious, disturbed, and perplexed, or if baptism was conferred by a prudent person indeed, but in difficult circumstances, in which because of a sudden event there was confusion or because of danger to the mother and infant all things had to be done hastily and in a disturbed way, there is more easily room for doubting; b. what form he pronounced; c. what and how much water he poured, and where he poured it; d. whether he pronounced the form and washed at the same time; e. what intention he had.

76. Notes. 1. It is not licit before ordination to baptize under condition those who doubt concerning baptism conferred on themselves solely because they have been able to have no positive document or testimony of it, or because they were baptized by catechists or other less instructed Christians. For those who were born from Christian parents and educated by them in Christian fashion are altogether to be presumed to have been baptized. The same must be presumed also in the other case, as long as only negative doubts are brought forward, since it is clear that catechists are carefully chosen and diligently instructed for this office.[152]

Notes

147. Cf. decree of the Holy Office, 30 Nov. 1878, which at the same time ordered corrected the case proposed by Gury (*De baptismo* VIII, 2).

148. S. C. de Prop. Fide, 6 June 1860.

149. Therefore cn. 742, 1 prescribes that in private baptism two witnesses or at least one be used.

150. Roman Ritual, tit. 2, c. 1, n. 53; S. C. C., 27 Mar. 1883.

151. From the prescription of the Roman Ritual (c. 1, n. 13), the pastor must take care that midwives know and observe well the correct rite of baptizing. Hence the pastor is bound diligently to instruct and examine them in those things which are necessary concerning the matter, form, intention, and manner of conferring baptism, especially also on abortive and not-yet-born fetuses. For this end the booklets can be of use: *Unterricht uber die Nottaufe* (Munich, self-published by the archiepiscopal chancery of the Ordinariate); *Unterricht uber die Spendung der Nottaufe* (Freiburg: Herder); *Unterweisung der kath. Hebamme* (Klagenfurt: Vereins-Buchdruckerei); likewise Berardi, *Examen obstetricum circa baptismum* (Faenza: Novelli, 1895).

152. S. C. de Prop. Fid., 30 Sept. 1848.

2. Nor is it licit for a Catholic priest, in a case of mixed marriage before the marriage, to baptize under condition the non-Catholic party because of doubt concerning the value of the baptism, if that party declares that he wills to remain in heresy.[153] For in order to contract marriage, certainty concerning the value of the baptism received is not required.

3. Exposed and found infants are not to be baptized even under condition if they have been found with a note which testifies concerning baptism conferred on them, and the note was written by a known and trustworthy man. But they are to be baptized under condition if they do not have a note testifying concerning baptism conferred, or if they have a note written by an unknown man or one not very worthy of faith. Cn. 749.

Question Fifth. On Sponsors of Baptism

77. From the most ancient times the Church has used sponsors in the conferral of baptism, who would offer the person to be baptized, bear testimony concerning his morals, in default of parents teach him the rudiments of faith, and stand as sureties, as it were, for him that the Christian life was to be led by him. The law concerning sponsors now in force in the Church was laid down by the Council of Trent and modified by the new Code of Canon Law.[154]

The law in force. 1. In solemn baptism, under grave obligation, at least one sponsor must be used, whether man or woman, and more than two cannot licitly be used.

At least one: one suffices, who can indiscriminately be a man or a woman; but if two are used, they must be a man and a woman. Besides, since the office of sponsor can also be exercised through a proxy, and the office of proxy can be performed by a man for a woman and vice versa, in fact it can happen that two men or two women are present as sponsors.

Not more: the Church does not admit more than two sponsors, lest spiritual relationships be multiplied. Therefore if a pastor admitted more sponsors, he would indeed sin gravely, because he would injure a grave precept of the Church.

A man and a woman: St. Alphonsus judges (n. 155) that where two men or two women are admitted, a grave sin is committed if they are of a sex different from the one to be baptized, but a venial sin if they are of the same sex as the one to be baptized, because only in the former case, not in the latter, are spiritual relationships multiplied contrary to the mind of Trent.

2. Also in private baptism a sponsor is to be used, if he can easily be had. If he was not present, he is to be used when the ceremonies of baptism are supplied. But in this case he contracts no spiritual relationship.

3. If baptism is repeated under condition, the same sponsor, as far as can be done, should be used who perhaps was present at the first baptism. Outside this case, in conditional baptism a sponsor is not necessary.[155]

In baptism repeated under condition, spiritual relationship is contracted only if the same sponsor was used in both baptisms; therefore neither the sponsor who was present at the former baptism nor the one who was present at the latter contracts it.[156]

Notes

153. Holy Office, 13 Apr. 1878.

154. Sess. 24, c. 2, *De ref. matr.* Cn. 762-769. Cf. Roman Ritual, tit. 2, c. 1, n. 22-26.

155. Cn. 763, 1.

156. Cn. 763, 2.

78. Conditions required that someone validly be a sponsor:[157]

1. That he have the use of reason and the will of performing the office of sponsor, because one who does not have the mind of undertaking it cannot undertake the obligation.
2. That he be baptized, because he cannot be a father who himself has not yet been born.
3. That he be designated by the one to be baptized himself, or by his parents or guardians, or, in their default, by the minister.

a. The right of designating sponsors indeed belongs to these, but it always belongs to the minister to admit those designated; and he who is not admitted by the minister is not a sponsor.[158]

b. If no one has been designated either by the parents or by the pastor, there is no sponsor, even if someone touched the infant with the intention of performing the office of sponsor.

4. That he belong to no heretical or schismatic sect; nor by condemnatory or declaratory sentence be excommunicated, or infamous by infamy of law, or excluded from legitimate acts; nor be a cleric deposed or degraded.

If a heretic or schismatic already designated by the parents cannot be removed without great offense, he could be admitted as a witness, without being admonished about touching the infant in the act of washing. Indeed, if without grave evil he could not be prevented from touching the infant, for avoiding so great an evil that too could be permitted, since the matter is not intrinsically evil; but no relationship would arise, since he is not a sponsor.

5. That he not be the father or mother or spouse of the one to be baptized, because this would be contrary to the end of this institution, since parents already have the office of educating.

If solemn baptism is to be conferred and no one is present who may hold the person to be baptized except the father (which can happen in mission regions), let him take the place of sponsor, materially holding his child and answering for him to the one baptizing; but he does not contract spiritual relationship or the impediment of asking the debt, since he does not become sponsor.

6. That through himself or at least through a proxy he physically hold or touch the one to be baptized; mere assistance is not sufficient.
7. That the baptism be valid; therefore he does not become sponsor who performs the office of sponsor where only the ceremonies are supplied and where baptism is invalid for any cause whatever.

79. Obligations of the sponsor. a. The office of the sponsor is to exercise spiritual care over his little child and to instruct him in Christian faith and morals. This obligation is grave, since it concerns a grave matter; the office of taking care that the spiritual son show himself such as he had promised he would be extends to his whole life.[159]

b. From the office of sponsor in baptism, both solemn and private, there arises spiritual relationship between the sponsor and the baptized person. But if the office of sponsor is exercised through a proxy, the office of educating and the spiritual relationship are contracted not by the proxy but by the mandator.[160]

Notes

157. Cn. 765.
158. Council of Trent, sess. 24, c. 2, *De reform. matr.*
159. Cn. 769.
160. Cn. 768.

80. Conditions required that someone licitly be a sponsor:[161]

1. That he have reached the fourteenth year of age, unless for a just cause something else seems right to the minister.
2. That he not be unworthy, such as those who, on account of a notorious delict, are excommunicated or excluded from legitimate acts or infamous by infamy of law, although no sentence has intervened; interdicted persons, or otherwise publicly criminal or infamous by infamy of fact.
3. That he know the rudiments of faith.
4. That he not be a novice or professed member in some religious institute, unless necessity urges and the express permission of the superior, at least the local superior, is had.
5. That he not be established in sacred orders, unless the permission of his proper Ordinary is added.

a. By the name of religious institute is understood any religious society approved by the Church, in which public vows are emitted, perpetual or temporary yet to be renewed when the time has elapsed.[162]

b. Nowhere in law is the one baptizing himself prohibited from being sponsor, although it is opposed to the custom prevailing in the Church. In this case the one baptizing would have to perform through a proxy those things which belong to the sponsor in solemn baptism.[163]

Whether it is licit for a Catholic to be sponsor of an infant of heretics when a heretical minister baptizes. - The Holy Office on 10 May 1770 decreed: "it is absolutely not licit either by oneself or through others to perform the office of sponsor in baptisms which are ministered by heretics to the children of heretics."

There are indeed authors who permit this where that action cannot be judged an approval of a non-Catholic rite. These authors thought, namely, that in circumstances of this kind the hope of the future education of the infant in the true faith was a sufficient reason on account of which that communication with heretics could be permitted. But, even apart from forbidden communication in sacred things, it is never licit to ask what another cannot perform without sin; but the sponsor asks for baptism, which the heretical minister cannot confer without sin.[164]

Note. In rejecting the unworthy from the office of sponsor, the pastor must be very prudent and cautious, lest he offend others or create troubles for himself. Hence: a. when baptism is requested, let him ask who the sponsors are; and if he observes that by the prescription of the Church they ought to be rejected, let him admonish them concerning this before the persons to be rejected come to the church. b. Let him carefully abstain from every injurious word and take care not to disclose the cause of rejection, but in a gentle manner say only that according to the prescriptions of the Church he cannot admit him as sponsor. c. If he cannot prevent a heretic from coming to church to act as sponsor, first let him ask that they choose a Catholic man as sponsor, but use the heretic as witness. But if they are unwilling to do this, let him take care, as far as possible, that the heretic not touch the infant in the act of baptism. But if this can in no way be prevented, it is better to admit it than to omit baptism or give occasion for the infant to be baptized by a non-Catholic minister.

Notes

161. Cn. 766.

162. Cn. 488, 1.

163. As to the sacrament of confirmation, S. C. R. expressly declared this on 14 Jan. 1873, n. 3305.

164. Cf. Lehmkuhl, *Theol. mor.*, II, n. 71 (n. 99).

Question Sixth. On the Ceremonies of Baptism

81. On the ceremonies themselves. 1. Outside danger of death, baptism must be conferred solemnly both on little children and on adults.

Nor indeed can the local Ordinary permit baptism to be conferred privately outside danger of death, except for heretics who are baptized under condition in adult age. Cn. 759, 2.

2. In danger of death baptism may be conferred privately, and indeed, if the minister is neither priest nor deacon, only those things are to be placed which are necessary for the validity of the sacrament; but if the minister is a priest or deacon and time is available, the ceremonies which follow baptism are also to be placed. Cn. 759, 1.

3. The ceremonies of baptism are some for little children, others for adults, as can be seen in the Ritual.

a. In the baptism of those who have the use of reason, the ceremonies prescribed for adults must be used, and of itself it is not licit to use the ceremonies prescribed for the baptism of little children. For as regards baptism, those who enjoy the use of reason are considered adults. Cn. 745, 2. Nevertheless the local Ordinary, for a grave and reasonable cause, can indulge that in the baptism of adults the ceremonies prescribed for the baptism of little children be used. Cn. 755, 2.

b. Infants doubtfully baptized in heresy are to be baptized under condition with the ceremonies prescribed in the Roman Ritual, but secretly.[165]

4. The obligation of observing in solemn baptism the ceremonies prescribed in the Roman Ritual is grave; therefore to omit all of them, or some notable one of them, or to change them notably, is a grave sin.

a. Notable ceremonies, the omission of which constitutes a grave sin, are judged to be those which are prescribed for a grave end or produce a special effect, especially the anointing with the oil of catechumens and the anointing with chrism, insufflation, the placing of saliva and salt, the use of consecrated water, the profession of faith, or also several ceremonies of lesser moment taken together.

b. The use of old chrism or oil where new can be had is indeed gravely prohibited; but if freshly consecrated chrism is not yet present, the anointing with chrism or oil must not be omitted, nor for that reason should baptism be deferred to another time. Rather, the oil and chrism of the preceding year must be used, and therefore they are to be preserved until the new have arrived.

c. The questions which, from the Roman Ritual, are to be asked of the sponsors, are of themselves to be asked in the Latin language. Nevertheless it is not forbidden that the priest repeat in the vernacular for the sponsors the questions which he has uttered in Latin from the Roman Ritual, and receive their answers in the same language;[166] this manner of acting is also suggested by diverse provincial councils approved at Rome. Finally, recently it was conceded to some dioceses that the questions simply be made in the vernacular language.[167]

d. There indeed exists no precept of imposing on the one to be baptized the name of some saint; therefore it is not a sin to impose on him a profane or pagan name, unless it is the name of an impious man. But the pastor must as far as he can take care that the names of saints be imposed; if, however, he cannot prevent the name of some impious man from being imposed, baptism is not therefore to be denied or deferred, but the child is to be baptized, with the name of some saint added in a low voice.[168]

Notes

165. Holy Office, 2 Apr. 1879.

166. Holy Office, 23 Aug. 1880.

167. Holy Office, 7 July 1910, declared that in Austria it can be tolerated that the questions of the priest and the responses of the sponsors be made only in the vernacular language.

The right of choosing the baptismal name belongs to the parents, then to the sponsor and other persons who take the place of parents; this holds also concerning illegitimate offspring, to whom in the first place the mother can impose the baptismal name.

Change of the name imposed in baptism is indeed not forbidden by ecclesiastical law, but by civil law (in Austria) it is not permitted (except for religious), and in all public documents the name inscribed in the baptismal book must be used.

82. On the place of baptism. 1. Solemn baptism is to be conferred in a church or in a public oratory, provided it has a baptismal font. Although the sacristy participates in some way in the sanctity of the church, nevertheless it is not licit to administer solemn baptism in the sacristy, "unless there is a reasonable cause to be approved by the bishop,"[169] who in an extraordinary case for a just and reasonable cause can also permit that it be administered in a private house.[170]

a. From this law in the law (cn. 776) there are excepted the children or grandchildren of those who actually hold supreme rule over peoples or have the right of succession to a throne; these can be solemnly baptized in the chapel of the paternal house or in another decent place. Where a legitimate custom flourishes, the custom of solemnly baptizing at home, according to St. Alphonsus (n. 118), can be extended also to other nobles.

b. In some places a custom has prevailed of baptizing at home infants either of nobles and the wealthy or of all women lawfully giving birth. It is not necessary that this custom be abrogated, insofar as it seems reasonable; for Ordinaries can permit that for little children, from a just and reasonable cause, the sacrament of baptism be administered at home.[171]

c. There are diocesan rituals approved by Rome which not only permit that in a time of great cold baptism be conferred in a heated sacristy, but also, where a sacristy of this kind is not had, in a decent place of the parochial buildings.

2. Private baptism in a case of necessity is to be administered at home or in any other place where necessity requires. A case of necessity is had:

a. If the infant is in danger of death.

b. If the infant cannot be brought to the church without danger of grave harm, e.g., of the parents' infamy.

c. If the parents live far from the church, so that the infant cannot be brought to it without great danger or inconvenience.

As some norm in this matter, it should be noted what the Second Council of Baltimore established (n. 337): "But if because of the inclemency of the weather, the difficulty of the journey, the poverty of the parents, or other grave causes, this cannot be done (that infants to be baptized be brought to the church), then we leave it to the prudence and conscience of the missionaries that he baptize them at home with all the ceremonies of the Church."

Note. In some places a custom has prevailed of baptizing illegitimate children, and a fortiori spurious children, without external solemnity, using only the ceremonies prescribed in the Ritual, while legitimate infants, on the contrary, are solemnly baptized with a gathering of the people and with the sound of organ and bells. The

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Notes

168. Roman Ritual, tit. 2, c. 1, n. 54; Holy Office, 13 Jan. 1883. Cn. 761.

169. S. C. R., 14 Mar. 1861, n. 3194.

170. Cn. 776, 2.

171. S. C. de Sacr., 20 Dec. 1912.

Holy See declared this custom just and reasonable,[172] by which the scandal of illicit concubinage is lessened and the reverence due to the sacrament of matrimony is increased.

83. On supplying the ceremonies of baptism. If baptism was conferred privately, the ceremonies must be supplied by precept of the Church.[173] This obligation is grave and urges as soon as possible. In order that it may be known which ceremonies must be supplied in diverse cases, the following are to be noted:

1. If an infant was baptized privately without ceremonies, all the ceremonies, as they are had in the Ritual for little children to be baptized, must be supplied, and this in the church.
2. If the ceremonies must be supplied in an adult Catholic who after birth had indeed been validly but privately baptized, the rite to be used is that which is found in the Ritual for the baptism of little children; for the ceremonies must be supplied which should have been performed in the baptism itself.[174]
3. If the ceremonies of baptism must be supplied in an adult heretic validly baptized who returns to the Church, the rite to be used is that which is found in the Ritual for the baptism of little children; for the ceremonies follow baptism.

Nevertheless the custom has prevailed of not supplying the ceremonies of baptism in those who return from heresy, if it is clear that they were validly baptized.

4. If an infant was indeed solemnly baptized, but invalidly because of an essential defect, and must be baptized again, the ceremonies are omitted and only the essential rite must be repeated.
5. If by error the omission of some notable rite or the interchange of oil occurred, the error must be repaired, unless the circumstances suggest otherwise. There is scarcely any difficulty in repairing the error if the error is discovered before the sponsors depart; but if they have already departed, the difficulty of returning, scandal, or murmuring which could arise from it will excuse from the obligation of repairing the error.

On the notation of baptism.[175] 1. Pastors are to enter the names of the baptized, etc., in the baptismal book without any delay.

2. Where it is a question of illegitimate children, the baptized person is to be inscribed as the child of an unknown father or of unknown parents. Nevertheless the name of the mother must be inserted if her maternity is publicly known, or if she herself freely asks this either in writing or before two witnesses. Likewise the name of the father is to be inserted if he himself freely requests this of the pastor either in writing or before two witnesses, or if he is known from a public and authentic document.
3. If baptism was administered neither by the proper pastor nor in his presence, the minister is to inform the proper pastor of the baptized person as soon as possible concerning the baptism conferred.

Book Third. On Confirmation

[176]

Notes

172. S. C. C., 31 July 1867.

173. Roman Ritual, tit. 2, c. 1, n. 15.

174. S. C. R., 27 Aug. 1836, n. 2743.

175. Cn. 777-778.

176. St. Thomas III, q. 72; St. Alphonsus, l. 6, n. 161-188; Suarez, *De sacramentis*, disp. 32-38; Coninck, *De sacramentis*, q. 72, n. 1-115; Sporer-Kazenberger, *Supplementum theol. sacram.*, c. 2, n. 1-49; Ballerini-Palmieri, *Opus theol. mor.*, IV, n. 785-807; Lehmkuhl, *Theol. mor.*, II, n. 89-104 (n. 120-144); Heimbucher, *Die hl. Firmung* (Augsburg: Huttler, 1889); Dolger, *Das Sakrament der Firmung* (Vienna: Mayer, 1906); Code of Canon Law, 780-800.

Question First. On the Nature of Confirmation

84. Definition. Confirmation is a sacrament by which, through the anointing of chrism and the imposition of the hand under a certain form of words, the Holy Spirit is conferred for strengthening the faith received in baptism.

a. Confirmation is the complement of baptism, by which, through more abundant gifts of the Holy Spirit, the supernatural life infused in baptism is increased and perfected. Therefore in the first centuries of the Church confirmation was conferred together with baptism.

b. Concerning the time of institution, some (Scotus) teach that confirmation was instituted by Christ the Lord after his resurrection, when he conferred on the apostles the fullness of episcopal power by those words: "As the Father has sent me, I also send you … Receive the Holy Spirit."[177] But others think that this sacrament was instituted at the Last Supper, when Christ had a longer discourse to the apostles.[178] For since Christ in this discourse several times promises that he will send the Holy Spirit both to the apostles and to the other faithful, it is not incredible that he at the same time taught in what way the Holy Spirit was to be conferred on individuals. Hence there prevailed and is preserved in the Church the custom of preparing chrism on the Lord's Supper. Nevertheless the patrons of this opinion concede that Christ at the Last Supper only taught the apostles the matter and form of confirmation, but did not give them the power of conferring this sacrament, because the apostles at that time had not yet been instituted bishops, to whom alone it belongs to minister this sacrament.[179] Hence a third opinion arose, which holds that the institution of this sacrament was begun at the Last Supper but completed after the resurrection, when the full power of priestly and episcopal order was conferred on the apostles.[180]

85. The effects of this sacrament are: a. an increase of sanctifying grace, virtues, and gifts of the Holy Spirit; for it is a sacrament of the living, which supposes first grace; b. sacramental grace: a right to special actual graces by which the faith received in baptism can be preserved against internal and external temptations and unconquerably defended; c. the impression of a character, by which a baptized man is constituted a soldier of Christ, the supreme leader, in the fight against the enemies of salvation; hence it is that this sacrament can be repeated neither licitly nor validly.

In the first times of the Church the sacrament of confirmation produced effects altogether extraordinary, namely graces freely given or charisms, especially the charism of tongues.[181] Since these effects chiefly tended to show to unbelievers the Holy Spirit vivifying and governing the Church of Christ, and were necessary only in the beginnings of the Church, afterward they ceased.

Question Second. On the Matter and Form of Confirmation

86. On the remote matter. The valid remote matter of confirmation is chrism made from olive oil and balsam and blessed by a bishop[182] with the special blessing of chrism.

1. Chrism is a mixture composed of oil and balsam. Olive oil is certainly required for the value of the sacrament; for only olive oil is and is called simply oil. Balsam must certainly be mixed in by necessity of precept; that

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Notes

177. John 20, 21-22.

178. John 14-17.

179. Suarez, disp. 32, sect. 2, n. 4; Sporer-Kazenberger, n. 5.

180. Coninck, n. 23.

181. 1 Cor. 12, 4-11.

182. From the decree of Eugenius IV for the Armenians. Cn. 780, 781.

it must also be mixed in by necessity of sacrament cannot be demonstrated. That chrism is the matter of this sacrament is clear from the words of Eugenius IV and from the constant tradition of the Church.

a. Balsam seems to have to be mixed in by necessity of precept, but not by necessity of sacrament. For oil consecrated with the special blessing of confirmation was in the first times called chrism. Moreover, before the fifth century there is found no document from which it is clear that balsam was mixed with the oil of confirmation. Finally, to the question whether confirmation administered with oil without balsam ought to be repeated, Innocent III responded that nothing was to be repeated.[183]

b. It does not matter whether balsam of this or that species or region is mixed in; but it must be mixed in in such a quantity that the oil gives off the odor of balsam, yet it is not necessary that it be mixed with each single part of the oil.

c. In the Greek Church, from ancient usage, several other aromatics are mixed with the chrism; yet for this reason the matter of confirmation does not become invalid or illicit, provided oil and balsam are present, which alone are necessary.[184]

2. That chrism must be consecrated by a bishop is necessary for the value of the sacrament, even if the sacrament is conferred by a presbyter. This is rightly deduced from the fact that this proposition, "the sacrament of extreme unction can be validly ministered with oil not consecrated by episcopal blessing," was condemned as rash and close to error; for the same holds a fortiori concerning confirmation.[185]

To most it seems certain that a simple priest cannot validly consecrate chrism, not even by delegation of the supreme pontiff. For in the decree of Eugenius IV it is said that the matter of confirmation is chrism blessed by a bishop. Moreover, although the power of administering confirmation is sometimes conferred on a simple priest, nevertheless it is always prescribed that he use only chrism blessed by a bishop.[186] But concerning the facts which are brought forward to the contrary, they say that it is not certainly clear.[187] Nevertheless it can scarcely be doubted that Eugenius IV, on 28 Jan. 1444, gave the vicar provincial of the Friars Minor in Bosnia the power of making chrism.[188]

3. In order that it be certainly valid matter, the chrism must have been blessed by the special blessing of chrism, by which it is constituted the matter of this sacrament; other oil blessed by a bishop is doubtful matter of the sacrament of confirmation.[189]

Therefore confirmation administered with the oil of catechumens or of the sick is doubtful, because it has not been consecrated with the blessing which is prescribed for chrism. Since nevertheless the sacrament is not certainly invalid, in the article of death, or if someone otherwise would always lack this sacrament, if chrism is lacking, confirmation could be conferred under condition with another oil; and in the same way, if it can be done, confirmation which was conferred with oil alone is to be repeated under condition.[190]

Notes

183. Cf. Dolger, p. 192 f.

184. Benedict XIV, constitution *Ex quo primum*, 1 Mar. 1756.

185. Holy Office, 13 Jan. 1611; 14 Sept. 1842. Cf. Lehmkuhl, *Theol. m.*, II, n. 93 (n. 126); Ballerini-Palmieri IV, n. 788; cn. 781.

186. Benedict XIV, *De synodo*, l. 7, c. 8, n. 1 s.

187. Cf. Benedict XIV, l. c., l. 7, c. 7; Ballerini-Palmieri IV, n. 789.

188. Cf. *Linz. Quartalschrift*, 1904, p. 805 ff.

189. Threefold oil is blessed by the bishop on the Lord's Supper, each with a special blessing of the Roman Pontifical: oil of the sick (O. I.), oil of catechumens or of salvation (O. S.), and holy chrism (S. Ch. or Ch.). The oil of the sick is used in administering extreme unction and in the consecration of bells for the exterior anointing; the oil of catechumens is used in baptism for the anointing which is made before baptism itself, in the ordination of a presbyter, and in some other consecrations, e.g., in the consecration of kings; chrism is used in confirmation, in baptism after baptism itself has been conferred, in the consecration of a bishop, and in various consecrations, e.g., of a chalice, paten, altar, bell (interiorly), etc.

190. St. Alphonsus, n. 162.

4. For administering confirmation licitly, from the precept of the Church fresh chrism must be used, i.e., chrism consecrated on the Lord's Supper just past. Only where new chrism cannot be had and there is an urgent cause of conferring confirmation is it licit to use old chrism.

87. On the proximate matter. The proximate matter is the anointing of the person to be confirmed on the forehead, in the manner of a cross, applied immediately through the imposition of the hand.

Theologians sometimes signify both of these actions, namely the anointing and the imposition of the hand, by the name chrismation; ordinarily, however, they designate only the anointing by this name.

1. That the anointing with chrism is necessary for the value of the sacrament cannot be doubted. Although a few theologians thought that the imposition of the hand alone sufficed for the value of the sacrament, nevertheless, from the fact that chrism is essential matter, it follows that chrismation also is necessary for value.

2. That the anointing must be made immediately by the minister is certainly of the essence of the sacrament; otherwise the imposition of the hand, which is essential, would be lacking. Therefore confirmation is invalid in which the anointing is made by means of an instrument.[191]

3. That the anointing must be done on the forehead and in the manner of a cross is likewise more probably necessary for the value of the sacrament; for the Church has always regarded the anointing of the forehead as proper to confirmation, and the anointing of the crown of the head as proper to the baptismal anointing. Therefore if the anointing is made on the cheek or on the mouth, confirmation seems to be invalid. That the anointing must be made in the manner of a cross is clear from the form, which otherwise would not be true.

4. Finally, the imposition of the hand also, which the apostles themselves are read to have used for conferring the Holy Spirit,[192] is essential. But that imposition is understood which is made by anointing. Therefore by the very fact that the bishop, anointing with his hand, touches the person to be confirmed, he is judged to impose his hand on him.

There is a twofold imposition of hands in confirmation: one at the beginning of the sacred rite, where the bishop extends his hands over those to be confirmed and recites the prayer *Omnipotens*; the other, which is not distinct from the anointing. This latter, not the first, is essential; for since the Greeks do not have the first imposition of hands, it would have to be said that they do not have the sacrament of confirmation, if that first imposition were affirmed to be necessary.[193] And just as the first imposition of the hand, so also the blessing which is given at the end is required neither by necessity of sacrament nor by precept of the Church; for the words of the Roman Pontifical by which those to be confirmed are admonished not to depart before the blessing are not preceptive. Therefore although those to be confirmed, as far as can be done, ought to be present at the first imposition of hands and not depart before the blessing, nevertheless this is not necessary by force of precept.

88. On the form. The form of confirmation consists in these words: *I sign thee with the sign of the cross and confirm thee with the chrism of salvation in the name of the Father and of the Son and of the Holy Spirit.* In this form: a. *I sign* signifies the sacramental action of signing and at the same time the essential effect of the sacrament, namely that a Christian man becomes a soldier of Christ; b. *I confirm* denotes the sacramental action

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191. Cn. 781, 2.

192. Cf. Acts 19, 6. Cn. 780; 781, 2.

193. Cf. S. C. de Prop. Fide, 6 Aug. 1840.

of anointing and at the same time the likewise essential effect, namely the more abundant strength and grace of the Holy Spirit; c. the word *thee* designates the subject.

The form of the Greeks is this: *Receive*, or *there is given to thee, the seal of the gift of the Holy Spirit.* In this form, which is certainly valid and, by concession of the Roman Pontiff, also licit in the Greek Church, there is contained the principal minister of the sacrament, the Holy Spirit; the sacramental action applied to the person who is confirmed; and the essential effect, namely the communication of the Holy Spirit, who is the strength of the soul for professing the faith generously.

In the form of confirmation, therefore, the following are not essential: a. the word *I sign* or *I confirm*, for either one suffices; b. the words *with the sign of the cross*; c. the words *with the chrism of salvation*; d. the invocation of the most holy Trinity, for these are not found in the form of the Greeks, and the form of the Greeks cannot be called invalid. The consequence must be denied in the argument by which some try to show that the invocation of the most holy Trinity is necessary by necessity of sacrament, namely: confirmation is the complement of baptism; but in baptism the invocation of the most holy Trinity is necessary; therefore also in confirmation. For from the fact that in baptism, which is the beginning of faith, that invocation is necessary, it does not follow that it is also necessary in confirmation. Therefore the invocation of the most holy Trinity is necessary only by necessity of precept. - Besides, considering the diverse forms by which the sacrament of confirmation was administered in different places and times, it seems necessary to say that any words constitute a valid form which exhibit the essential character of the sacrament, namely the confirmation and perfection of faith and the communication of the Holy Spirit.

Question Third. On the Minister of Confirmation

89. The ordinary and extraordinary minister. 1. The ordinary minister of confirmation is the bishop alone, so that a simple priest cannot validly confirm of himself. And indeed, in Sacred Scripture only the apostles are read to have administered the sacrament of confirmation;[194] therefore the Church has always held that only bishops can validly confirm of themselves.[195]

2. The extraordinary minister of confirmation is a simple priest who has been delegated to confirm either by common law or by particular indult of the Holy See. Moreover, only the supreme pontiff confers this delegation validly, whether by law or in fact.[196]

a. By the law itself Cardinals, Prelates or Abbots nullius, Prefects, and Vicars Apostolic have the power of confirming. Nevertheless they cannot validly use it except in their own territory and while their office lasts; but in their own territory they can also confirm subjects of another.[197]

b. Theologians ask what that power is which is conceded to a simple priest by the Supreme Pontiff, by force of which he can validly confirm: whether it is a power of jurisdiction or a power of order. The matter can be explained in this way. The Christian faithful composing the militant Church constitute, as it were, the army of Christ, whose leaders are bishops and priests, the former indeed higher, the latter lower. Through confirmation the faithful are marked out as soldiers of Christ. But not all indiscriminately, nor all leaders, can enroll soldiers, but only higher leaders and princes; therefore only bishops can administer confirmation.

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194. Acts, c. 8 and c. 19.

195. Council of Trent, sess. 7, can. 3, *De reform.* Cn. 782, 1.

196. Cf. *Zeitschrift f. k. Th.*, 1882, p. 567 ff.

197. Cn. 782, 2.

But the supreme leader of the army, from a just cause, can also extraordinarily delegate lower leaders to the office of enrolling soldiers; therefore nothing prevents even simple priests, by delegation of the Supreme Pontiff, from being able extraordinarily to administer the sacrament of confirmation.

The power by which the supreme pontiff delegates priests for confirming is a power of jurisdiction; but the power by which bishops and delegated priests confirm is not a power of jurisdiction, but a power of order; for confirmation is conferred not by way of judgment but by way of consecration.

The power of order is conferred through the sacrament of order, but not yet wholly and fully, because it does not suffice for administering all the sacraments. But through the order of episcopate the whole power is communicated, so that the bishop possesses the full and indelible power of order, which is sufficient for administering all the sacraments which do not require jurisdiction. Now the power of order conferred in ordination can be completed not only through internal consecration, as in bishops, but also through external delegation, at least in part, namely as much as is required for confirming. Therefore the power of confirming, which inheres perpetually in the bishop by force of ordination, is conferred transiently on the priest by force of delegation.[198]

c. There is a grave controversy whether by law and from divine institution only the supreme pontiff, or also a bishop, can validly delegate a simple priest to chrismate. This controversy has no practical moment, because it is certain that the supreme pontiff has in fact reserved this faculty to himself, so that confirmation conferred by a simple priest with only the delegation of a bishop is invalid.[199]

d. In the Eastern Greek Church all priests, from ancient custom, confirm validly, both Catholics and schismatics, as long as the power of confirming has not been expressly revoked.[200] This power has certainly been taken away from Greek priests, both Catholics and schismatics, in Bulgaria, in Albania, in Cyprus, in Italy and the adjacent islands, and among the Lebanese Maronites.[201] - Therefore if any return from schism to Catholic unity, they are to be confirmed again absolutely where they come from a region in which the faculty of confirming has been taken away from schismatic presbyters; but where they come from a region in which this faculty has not been taken away, the norm which the Holy See itself established in these cases is to be followed: "It is not expedient that those confirmed by schismatic presbyters be anointed again by a bishop, unless they are to be promoted to tonsure and orders, or unless they themselves or their parents ask it, and unless, after inquiry has been made concerning the manner of conferring confirmation, it is found that a brush was used; in these cases the sacrament of confirmation is to be conferred secretly and under condition. But if doubt remains concerning the revocation of the faculty in that place or concerning the very fact of confirmation conferred, recourse must be had to the Holy See."[202]

3. a. Both a bishop and also a priest endowed with a local apostolic privilege can in his own territory confirm not only his own subjects, but also outsiders, unless their own bishop has positively contradicted it, from custom and the tacit consent of the proper bishop of the outsiders.

b. In order that a bishop can licitly confirm in another diocese, he needs the permission of the bishop of the place, at least reasonably presumed. It is rarely conceded to priests that they confirm outside their own territory.

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198. Cf. Pesch, *Praelect. dogm.*, VI, n. 554.

199. Cf. Benedict XIV, *De synodo*, l. 7, c. 8, n. 3 ss.

200. Holy Office, 15 Jan. 1766, declares that the power of confirming had not been generally taken away from schismatic priests.

201. Holy Office, 3 July 1853.

202. Holy Office, 14 Jan. 1885; S. C. de Prop. Fide, 5 July 1886.

c. A bishop can confer confirmation privately and without crozier and mitre on his own subjects in another diocese.

d. A bishop has the power of administering confirmation also in exempt places within the boundaries of his diocese.

90. The obligation of confirming. 1. A bishop is bound under grave obligation to offer his subjects sometimes the opportunity of receiving the sacrament of confirmation. A priest endowed with apostolic privilege is bound to the same toward those in whose favor the faculty was conceded.

2. An Ordinary who is legitimately impeded or lacking the power of confirming is bound, if it can be done, to provide at least within any five-year period that this sacrament be administered to his subjects.[203]

3. He is bound under light obligation to confirm those reasonably asking, if he can conveniently do so and cannot defer confirmation to another near time. But according to the common opinion he is not bound to confirm a dying person who asks; for, as Lehmkuhl wisely notes (n. 100, n. 137), "if he does this for one person and denies it to another, there will be reason for scandal; but if he wishes to satisfy all, a grave burden will be imposed on him."

In the year 1884, when the Asiatic disease was raging at Naples, the faculty was conceded to the archbishop of delegating priests who would minister this sacrament to the dying.

Question Fourth. On the Subject of Confirmation

91. Who can receive confirmation. 1. The subject of valid confirmation is every baptized man not yet confirmed, even if lacking the use of reason. For confirmation is the natural complement of the spiritual life which is conferred in baptism, and in the same way as baptism it has been instituted for all.

2. Ordinarily, however, little children before the use of reason are not to be confirmed; but when they have attained the use of reason, they should receive this sacrament as soon as possible.[204] The reason of the first point is that it is not fitting that the complement of spiritual life for fighting for the faith be communicated to a man before he exists as fit for this fight. Therefore the practice of the Latin Church, prevailing almost everywhere, has this: that children are confirmed neither before nor long after the seventh or eighth year of age. The reason of the second point is that through confirmation a man becomes more fit both for grasping the precepts of the Christian life and for directing his life according to them.

a. Nevertheless little children before the use of reason can be confirmed: alpha. if danger of life is imminent; beta. if the bishop can provide the occasion of receiving this sacrament only rarely; gamma. if somewhere (as among the Greeks, in Spain, and in Latin America) there exists the custom of confirming infants.

b. In the first twelve centuries throughout the whole Church, confirmation was conferred on infants immediately after baptism. This custom the Greek Church retained, but the Latin Church changed it, so that ordinarily it does not confer confirmation on infants before the use of reason; and this was established by a wise counsel.[205]

c. Therefore the following can be validly and licitly confirmed: alpha. the perpetually insane, as soon as a suitable occasion of receiving the sacrament has offered itself; beta. the dying, although they have not yet

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203. Cn. 785, 3.

204. Cf. Benedict XIV, constitution *Eo quamvis*, 4 May 1745. Cn. 788: The administration of this sacrament in the Latin Church is suitably deferred to about the seventh year of age.

205. Cf. Roman Catechism, p. 2, c. 3, q. 17.

attained the use of reason, so that in the resurrection they may appear perfect and not be deprived of so great an increase of grace and glory.

d. Neophytes who in the article of death are baptized while entirely uninstructed and cannot be sufficiently instructed so as to elicit the intention of receiving this sacrament are not to be confirmed.[206]

e. As far as can be done, children are to be instructed and led to receiving the sacrament of confirmation when they are admitted to receiving holy communion. Since by the recent law concerning the first communion of children they are to be admitted to the holy table soon after they have attained the use of reason, the sacraments, according to the mind of the Church, are conferred in this order: baptism, eucharist, confirmation.

92. The obligation of receiving confirmation. Of itself there does not exist a grave obligation of receiving confirmation. By these things it is not denied that one who, when the occasion has been offered, refuses to receive confirmation can sin gravely by reason of contempt; but by reason of the sacrament itself there is no grave necessity of receiving it.

a. That a grave obligation does not exist, either of seeking the occasion or of receiving the sacrament when the occasion has been offered, many have taught, especially among the older theologians, with St. Thomas.[207] But more recent theologians, who follow St. Alphonsus (n. 181), for the most part affirm a grave obligation; nevertheless they do not bring forward an argument by which they clearly demonstrate it.

alpha. **Not from the law of nature**: for if this obligation were proved from the nature of the thing, confirmation would be necessary by necessity of means; but a sacrament which supposes the state of grace cannot be necessary by necessity of means. Then they argue in this way: by the law of nature each one is bound to fortify himself with this sacrament for overcoming temptations in the spiritual life which will arise against the faith. - But since several other means instituted for this end are present, by this argument the necessity of the sacrament is not proved. And indeed the sacrament of confirmation confers grace necessary for preserving the faith in dangers, for confessing it externally, and for establishing life according to the faith; nevertheless there are also other means (use of the sacraments, prayer, works of piety, etc.) by which the end of the sacrament can be obtained. Therefore the whole question is reduced to this: whether God denies the necessary graces to those who, when the opportunity has been given, do not receive confirmation, as if in punishment for such negligence. But this cannot be affirmed. For first, the more common opinion of theologians holds that God does not deny the necessary graces on this account, and the Roman Catechism is also of this opinion.[208] Nor are the faithful persuaded that they are held by a precept, either divine or ecclesiastical, to receive this sacrament. But if the holy Fathers and ancient councils sometimes seem to affirm the necessity of receiving this sacrament, it must be noted that formerly confirmation was conferred immediately after baptism, and therefore the Fathers and councils, by reason of baptism, from which confirmation was practically not distinguished, urged the obligation of receiving it. Therefore it seems possible to affirm that a strict obligation is not demonstrated, and therefore is not to be established.[209]

beta. **Not from divine law**: for a divine precept of receiving confirmation does not exist, since the words of Christ, "that they should wait for the promise of the Father,"[210] i.e., the Holy Spirit, concern only the apostles. Nor does this other argument have greater force, namely that by the very institution of the sacrament Christ commanded its use: for by instituting the sacrament he willed that all the faithful attain the perfection of

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206. Holy Office, 10 Apr. 1861.

207. *Summa* III, q. 72, a. 1, ad 3.

208. Cf. Roman Catechism, p. 2, c. 3, q. 15 s.

209. Cf. Dolger, p. 179 ff.

210. Acts 1, 4.

spiritual life which is conferred only by this sacrament. - But Christ indeed willed that all attain essential perfection, which consists in the state of grace; but whether Christ also willed that all the faithful attain accidental perfection, which is conferred through confirmation, is in question, and therefore would have to be proved. But it is not proved from the institution itself, because not all things which Christ instituted are commanded.

gamma. **Not from ecclesiastical law**: for demonstrating this, chiefly two arguments are brought forward. First, certain words from the constitution of Benedict XIV *Etsi pastoralis*: "They [the Italo-Greeks] are to be admonished that they are held guilty of grave sin if, when they can approach confirmation, they refuse and neglect it." - But these words concern entirely particular circumstances, and therefore a universal law cannot be inferred from them.[211] Then they bring forward the instruction which is found in the appendix of the Roman Ritual and which contains these words: "although this sacrament is not of necessity of means for salvation, nevertheless it cannot be rejected and neglected without the guilt of grave sin, when a suitable occasion of receiving it is present"; Clement XIV approved this instruction.[212] - From these things, however, this one thing is inferred: that the fathers of the Congregation de Propaganda Fide, who composed this instruction for missionaries, were of the opinion which they signify by these words; but by no means that they established a universal law, since they lack legislative power. Nor is the approbation of the supreme pontiff an act of legislation.

delta. From the fact that the new Code, when speaking of the obligation of receiving the sacrament of confirmation, uses ambiguous words: "it is licit for no one (under grave? under light?) to neglect it,"[213] it is rightly and deservedly inferred that it deliberately abstained from settling the question disputed among theologians. For this reason, even today the opinion denying a grave obligation holds.

b. The proposed opinion can have practical moment if someone doubts whether he has already been validly confirmed, or if someone already placed in more advanced age is deterred by great shame from seeking confirmation in a place where all the rest are accustomed to be confirmed in childhood or infancy. These are to be admonished and exhorted, but not compelled, to receive the sacrament of confirmation.[214] - From the same opinion it does not follow that parents are not held by a grave obligation to take care that their children be confirmed when the occasion is given; for since they have spiritual care of them, from piety they are bound, if they can, to procure for them that which so greatly promotes spiritual life.

93. Required conditions. For receiving confirmation validly there is required baptism received, and in adults at least habitual intention, which is implicitly contained in the will of living as a Christian. For receiving confirmation licitly and fruitfully there is required the state of grace. Therefore he who before confirmation has fallen into grave sin can indeed procure grace for himself either through confession or through perfect contrition; nevertheless confession is very much to be advised and by custom is everywhere premised.

That the one to be confirmed must be fasting, or, if it is permitted by age, strengthened by the holy eucharist, is nowhere prescribed; nevertheless it is laudably observed where confirmation is conferred on those who have already been admitted to holy communion.

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211. Cf. Gury-Ballerini ad n. 270.

212. The instruction is of the S. Congregation de Propaganda Fide, 4 May 1774; in another instruction of the Holy Office, 20 June 1866, this obligation is denied.

213. Cn. 787.

214. Cf. Genicot, *Theol. mor. inst.*, II, n. 164.

Question Fifth. On the Ceremonies of Confirmation

94. On the rite to be observed. The rite to be observed in confirmation is set forth by the Roman Pontifical; this rite, in matters of greater moment, obliges under grave sin.

1. Confirmation is ordinarily to be conferred in a church; nevertheless, when some cause exists, to be judged by the discretion of the bishop, it can also be conferred outside a church in a becoming place, as if those to be confirmed are the sick or adults who, from a just cause, cannot approach the church.

2. Since confirmation, according to the Pontifical, can be conferred less solemnly on any day, at any hour, and in any place, nothing prevents a bishop, from a reasonable cause, from confirming in any chapel without mitre and crozier, using only rochet and stole; indeed, from a just cause he can do this even privately, using only a stole.[215]

3. The so-called "blow" does not seem to be anything other than a sign of charity and peace. For in antiquity the confirming bishop, saying *The Lord be with you* or *The God of the humble be with you*, kissed the one to be confirmed. In the course of time, in place of the kiss, for the sake of propriety, there succeeded a light touch, which the scholastics called a "blow."[216]

4. According to the Pontifical the forehead of the confirmed person must be bound with a band, both lest the chrism flow down, and so that it may be signified that the grace received must be diligently preserved. This band, which formerly was worn for several days, is now for the most part not used.

5. The one to be confirmed, in confirmation, when the bishop says: *N., I sign thee with the sign of the cross*, can take care that, besides his baptismal name, another name of a Saint be imposed on him.[217]

95. On the sponsors of confirmation.[218] 1. From ancient custom and from the prescription of the canons, in confirmation, just as in baptism, a sponsor is to be used, if one can be had.

2. a. There is to be only one sponsor for each one to be confirmed.

b. A sponsor is to present only one or two; but more only with the permission of the bishop.

It is plainly forbidden that one male sponsor hold all the boys and one female sponsor all the girls, unless an apostolic indult is present.

3. From valid confirmation there arises a spiritual relationship between the confirmed person and the sponsor, and the obligation of having the confirmed person perpetually commended to himself and of caring for his Christian education.[219]

96. On the conditions required for the office of sponsor. 1. In order that someone be validly a sponsor, there is required:

a. That he have the use of reason and the intention of performing this office.

b. That he be confirmed.

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215. Holy Office, 12 Feb. 1851.

216. Cf. Dolger, p. 155.

217. Cn. 797.

218. S. C. R., 20 Sept. 1749, n. 2404.

219. Cn. 793-797.

Since it can sometimes happen that in mission places no one confirmed is present who may act as sponsor, in this case it is permitted that first some be confirmed without a sponsor, who then themselves can be sponsors of others.[220]

c. That he be enrolled in no heretical or schismatic sect, etc., as above n. 78.[221]

d. That he not be the father, mother, or spouse of the one to be confirmed.

e. That he be designated by the one to be confirmed or by his parents or guardians, or, if these are lacking, by the minister or by the pastor.

f. That he physically touch the one to be confirmed in the very act of confirmation, either personally or through a proxy.

Indeed, in antiquity the custom was that the one to be confirmed placed his right foot upon the right foot of the sponsor; now, however, according to approved custom, the sponsor places his right hand upon the right shoulder of the one to be confirmed.

97. In order that someone be licitly a sponsor, there is required:

a. That he be different from the sponsor of baptism, unless the minister from a reasonable cause permits otherwise, or confirmation is conferred immediately after baptism.

b. That he be of the same sex as the one to be confirmed, unless the minister in a particular case from a reasonable cause permits otherwise.

c. That he have reached the fourteenth year of age, unless for a just cause something else seems good to the minister.

d. That he not be unworthy, as above n. 80.[222]

e. That he know the rudiments of faith.

f. That he not be a novice or professed member in any religion, unless necessity urges and the express permission of the Superior, at least local, is had.

g. That he not be constituted in sacred orders, unless the permission of his own ordinary is added.

A priest who by apostolic indult administers the sacrament cannot at the same time act as sponsor.[223] If the confirming bishop wished to be the sponsor of the one to be confirmed, he would have to do this through a proxy.[224]

On the recording of confirmation.[225] 1. The pastor is to enter the names of the minister, of those confirmed, etc., in a special book.

2. If the proper pastor of the confirmed person was not present, the minister, either personally or through another, is to inform him as soon as possible about the confirmation conferred.

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220. S. C. de Prop. Fide, 4 May 1774.

221. The printed text reads "n. 91," evidently in error; the reference required by the matter is n. 78, on the conditions required for valid sponsorship in baptism.

222. The printed text reads "n. 92," evidently in error; the reference required by the matter is n. 80, on the conditions required for licit sponsorship in baptism.

223. S. C. de Prop. Fide, 21 Sept. 1843.

224. S. C. R., 14 June 1873.

225. Cn. 798-799.

Book Fourth. On the Eucharist

98. The Eucharist can be considered in a twofold way: in relation to men, as a sacrament, and in relation to God, as a sacrifice. It has the nature of a sacrament insofar as, by a visible rite, it is effected through consecration, after consecration remains under visible species, and is received in holy communion; for it belongs to the nature of a sacrament that it sanctify man, and the Eucharist sanctifies because it is received. It has the nature of a sacrifice insofar as through consecration it is offered to God; for it belongs to the nature of a sacrifice that it pass into the worship of God and render him, when offended, placated by oblation. But God is worshiped and placated because the Eucharist is offered to him in sacrifice. Nevertheless the nature of sacrament cannot be separated from the nature of sacrifice; for by the consecration itself the sacrament is effected and the sacrifice is offered.[226]

Chapter First. On the Eucharist as Sacrament

Question First. On the Nature and Effects of the Eucharist

Article First. On the Nature of the Eucharist

99. Definition. 1. The Eucharist can be defined: the sacrament by which the body and blood of Christ are contained under the species of bread and wine for the spiritual refreshment of the soul.

By this definition the Eucharist is set forth insofar as it is a permanent sacrament; for its essence is constituted by the species of bread and wine insofar as they contain the body and blood of Christ. Therefore it is a sacrament for as long as the body and blood of Christ remain under the species. Moreover, this sacrament has been instituted by way of a banquet for spiritually refreshing the soul, since Christ says: *My flesh is truly food and my blood is truly drink.*[227]

2. There must be distinguished the sacrament *in becoming*, which consists in the consecration, and the sacrament *in accomplished being*, which consists in the sacrament remaining after consecration. But from the sacrament in becoming and in accomplished being there must be distinguished the use of the sacrament, or the sacrament in use, which consists in reception or eating. Reception, however, is a condition so that the sacrament can produce its effect in the soul. Therefore it is proper to this sacrament that before use it is already a perfect sacrament, and that it does not produce its effect, as the other sacraments do, when it is effected, but when, already effected, it is received.

3. There are three dogmas which have been defined concerning the sacrament of the most holy Eucharist: a. that in the sacrament the whole Christ is truly, really, and substantially present; b. that the whole Christ is present under each species and under any part of the species; c. that Christ becomes present through transubstantiation, by which bread and wine are wonderfully converted into the body and blood of Christ. Dogmatic theologians set forth the explanation and proof of these dogmas.[228]

100. On the grace conferred through reception of both species. The body of Christ under the species of bread and the blood of Christ under the species of wine are indeed materially two physically distinct signs, one of which signifies refreshment by way of food, the other by way of drink. Nevertheless each constitutes a true sacrament, and each signifies the same reality, namely full spiritual refreshment to be conferred by way of a

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226. St. Thomas, III, q. 73-83. St. Alphonsus, l. 6, n. 189-424. Suarez, *De sacramentis eucharistiae et de missae sacrificio*, disp. 46-88. De Lugo, *De sacramento eucharistiae.* Zach. Pasqualigo, *De sacrificio novae legis.* Io. Dicastillo, *De sacramentis.* Sporer-Bierbaum, *Theologia sacrament.*, pr. 2, c. 2-6. Coninck, *De sacramento eucharistiae*, q. 73-83. Pet. Gasparri, *Tractatus canonicus de ss. eucharistia*, 2 vol. (Paris: Delhomme, 1890). *Codex iuris canonici*, Cn. 801-869.

227. John 6, 56.

228. Cf. Pesch, *Prael. dogm.*, VI, 576 ff.; Hurter, *Comp. theol. dogm.*, III.

banquet. Therefore he who receives the Eucharist under the species of bread alone receives the same grace or full refreshment of the soul as he who communicates under both species, because under either species a true and integral sacrament is received, and under either species there is the whole and entire Christ with body and blood; therefore in the food is also contained spiritual drink, and conversely in the drink also spiritual food.

Whether those communicating under one species perceive, *ex opere operato*, the same effect as if they communicated under both species is disputed among theologians. For some think that he who communicates under both species perceives a greater grace, and indeed secondarily and accidentally, but nevertheless qualitatively diverse: for some effect, although only secondary, corresponds to the chalice, which in no way corresponds to the host.[229] Others think that he who communicates under both species receives, of itself and *ex opere operato*, a grace extensively greater, just as one who communicates twice or three times receives a grace specifically the same indeed, but extensively greater, than one who communicates once. Finally others are of this opinion: that the priest in receiving the blood perceives a greater effect only accidentally and *ex opere operantis*, namely if in receiving the second species he is better disposed.[230] - But he who receives several consecrated hosts certainly does not receive a greater grace than he who receives one; for there is one communion and one refreshment, whether one or several particles are received. Bellarmine judges this opinion certain: namely, that he who communicates under both species perceives in no way (neither extensively nor quantitatively) a greater grace than he who communicates only under one species.[231]

101. When grace is conferred on the recipient. The Eucharist confers grace in the very eating, or when the sacramental species are passed from the mouth into the stomach. For in order that the Eucharist produce its effect, from the will of Christ the reception of the sacrament is required as a condition, and indeed the reception which consists in eating, since Christ says: *He who eats me, he also shall live because of me; he who eats this bread shall live forever*;[232] therefore grace is promised and conferred on those who eat. But one is not said to eat who merely takes food into the mouth, but only he who sends food down from the mouth through the throat into the stomach; therefore the grace of the sacrament is not conferred when the sacred species are in the mouth, but when they are received in the stomach.

a. Therefore he who indeed receives the species but then spits them out again without swallowing them; he who holds the species so long in the mouth until they are dissolved; the sick person who dies before the host descends into the stomach: does not receive the effect and grace of the sacrament, because he does not truly and completely eat Christ. But he who swallows the sacramental species, even if afterward he vomits them, perceives the grace of the sacrament, because he truly eats Christ.[233]

b. It is not certain whether the sacrament after reception, for as long as Christ is present in the communicant, confers grace of itself and *ex opere operato*. For although the sacrament confers grace when it is applied, and the Eucharist is applied by reception, nevertheless by many it is affirmed that this sacrament increases grace *ex opere operato* for as long as Christ is present in the one receiving, if meanwhile he disposes himself

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Notes

229. Cf. Lugo, *De euch.*, disp. 12, s. 3, n. 68, who calls this opinion of Vasquez more probable.

230. Cf. Suarez, disp. 63, s. 6, n. 9, who follows St. Thomas and St. Bonaventure.

231. *De euchar.*, l. 4, c. 23.

232. John 6, 58-59.

233. Mazzotta, *De sacram.*, tr. 5, disp. 4, q. 1, c. 1. Although those things which Olfers has (*Pastoralmedizin*^3, p. 47) must be conceded, namely that digestion already begins in the mouth, nevertheless one is not said to eat who receives food into the mouth for beginning digestion, but he who sends food down into the stomach for continuing digestion. For the nature of this action in sacramental matter is determined not from physiological and chemical facts, but from the common judgment of men; but in common speech one is said to eat not who takes food into the mouth, but who swallows the food taken. - When the question was proposed whether holy Viaticum could be administered by introducing the sacred species directly into the stomach of a sick person, for whom a way beneath the breast had been opened by a physician for receiving food and drink, the Holy Office on 27 Jan. 1886 responded: "As it is set forth, it is not expedient." Although from this decision nothing can be gathered for solving the question concerning the condition required so that the effect of the sacrament be perceived, nevertheless it is rightly inferred that holy communion must never be administered in an artificial manner, since the Holy Office did not permit even Viaticum to be administered in this way.

to receiving greater graces. Therefore they judge: alpha. that he who communicated while indisposed, but disposes himself by contrition while the sacred species are incorrupt, perceives the effect of the sacrament; beta. that in him who, during the time in which Christ is present under the sacred species in the stomach, is better disposed, the grace of the sacrament is also increased.[234]

102. On the sacramental presence. 1. Since, when separation has been made, Christ remains present under each part of each species,[235] all particles, even the smallest, which are perceived by the senses, are to be treated as consecrated.

It is certain that even the smallest particles remain consecrated if they can be perceived by the senses in themselves; but it is not certain that those also remain consecrated which are not sensible and nevertheless retain the substance of bread. But if they are consecrated, nevertheless it must be said that Christ the Lord does not require that ministers be solicitous even about these non-sensible particles.

2. Christ remains really present in the Eucharist for as long as the sacred species remain whole, and ceases to be present as soon as the species are corrupted. But how long the sacred species remain whole after reception cannot be determined by a general rule.

It is manifest that this depends on the digestive power of the stomach, which is different in different persons. Therefore it can happen that in a sick person after half an hour the species are not yet corrupted. But even concerning the healthy, who are supposed to have nearly the same digestive power, experts are of diverse opinion: for some think that after a minute the species are already corrupted;[236] others judge that after half an hour they are still whole.[237] It seems that a middle way must be entered upon, and that it must be said that after eight or ten minutes the species ordinarily, even in a priest who receives the larger host and both species, are corrupted.

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103. On the consecration of one species without the other. For the sake of explanation these things must be premised. From the will and institution of Christ the sacrament of the Eucharist cannot be effected except in the eucharistic sacrifice; for Christ willed that consecration should then only take place when the sacrifice is offered, and conversely that the sacrifice should be offered as often as consecration takes place. Therefore the nature of sacrament in the Eucharist, from the will of Christ, cannot be separated from the nature of sacrifice, in precisely the same way in which, from the will of the same Christ the Lord, the nature of sacrament for the faithful cannot be separated from the nature of the matrimonial contract. But whenever the sacrifice is offered, from the will and institution of Christ the consecration of both species is required. For Christ, consecrating both species at the Last Supper, commanded: *Do this in commemoration of me*;[238] therefore he commanded the apostles and their successors in the priestly order to consecrate under both species. Indeed it is hardly not certain that the consecration of both species is required for the very essence of the eucharistic sacrifice, as will be said below, n. 164.

Therefore the very nature of sacrifice, not only the precept of Christ, requires the consecration of both species. But the nature of sacrament in the Eucharist does not of itself demand the consecration of both species; for a sacrament is not a sign which commemorates and represents the sacrifice of the cross, but is a sign which represents and effects the nourishment of the soul. But this is obtained even in one species, as the Lord says:

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234. Cf. Suarez, disp. 63, sect. 7; Lugo, disp. 10, sect. 2, n. 46 s.

235. Council of Trent, sess. 13, can. 3.

236. Olfers, *Pastoralmedizin*^3, p. 48.

237. Capellmann, *Medicina pastoral.*, p. 124.

238. 1 Cor. 11, 24-25. Cf. Cn. 817.

he who eats this bread shall live forever. Besides, the form by which one species is consecrated, independently of the other, signifies and causes its effect; therefore bread is validly consecrated before wine is consecrated. Therefore one species without the other can without doubt be validly consecrated. But if only one species is consecrated, a sacrifice is indeed offered, but one begun and imperfect, to be completed and perfected through the consecration of the second species. Therefore:

1. The consecration of one species without the other is valid, whether the priest through error or deliberately consecrates only one species, provided that he has the due intention. Therefore if someone consecrates either species without the other, he indeed perfects the sacrament, but he does not offer a complete sacrifice.[239]

There are some to whom it does not seem altogether certain that the consecration of one species without the other is valid when the priest intends to consecrate only one species. But the value of this consecration cannot be doubted, whether it is said that for valid consecration it suffices that the minister pronounce the form over the matter with the intention of consecrating, or whether it is said that for valid consecration there is required the intention of offering sacrifice; for he who intends to consecrate as he has consecrated at other times, or as Christ instituted, has the intention of sacrificing as much as he can, i.e., at least of beginning the sacrifice.

2. But by divine and ecclesiastical law[240] it is never licit to consecrate only one species, not even from the gravest cause, e.g., in order to communicate a sick person who otherwise would die without Viaticum. Indeed this divine precept of consecrating both species seems so grave to theologians that they say the Church never dispenses in this matter nor can dispense, because it cannot change the nature of the sacrifice instituted by Christ.

If, after the consecration has been performed, a doubt arises concerning the valid consecration of either species by reason of the matter, other matter is to be taken, which can be consecrated absolutely. Absolutely indeed, so that the priest may know which host he must receive before the sacred blood. Nor should it be said that, if the first species, concerning whose valid consecration doubt exists, was validly consecrated, by this new and absolute consecration a new sacrifice is begun, which contrary to the divine precept remains incomplete. For the new consecration, which coheres by a necessary bond with the prior one, is not to be considered as the beginning of a new sacrifice, but as the complement of the sacrifice already performed.[241]

3. Nevertheless accidentally it sometimes happens that in fact one species is consecrated without the other: a. if danger of death, e.g., from fire or from the sudden ruin of the church, is suddenly imminent; b. if the priest discovers that in the consecration wine was not used, and no other wine is present; c. if the priest had consecrated water in place of wine, and did not notice the defect until after he had already withdrawn from the altar, and could not complete the sacrifice without scandal or without irreverence; d. if, when the host has already been consecrated, the priest fails, and no other is present who may complete the sacrifice.

Article Second. On the Effects of the Eucharist

104. What the effects are. The effects of the Eucharist, insofar as it is a sacrament, are numbered as several; of these, two (the nourishment of the soul and union with Christ) are essential, while the others are accidental.[242]

Notes

239. Cf. *Missale rom.*, *De defectibus*, IV, 5, 8.

240. Cn. 817 has these words: "It is a sacrilege, even when extreme necessity urges, to consecrate one matter without the other, or even both outside the celebration of Mass."

241. Cf. *Missale rom.*, *De defect.*, tit. 3, n. 6, 7; tit. 4, n. 5.

242. M. Heimbucher, *Die Wirkungen der hl. Kommunion* (Regensburg: Manz, 1884). I. Behringer, *Die hl. Kommunion in ihren Wirkungen und ihrer Heilsnotwendigkeit* (Regensburg: Pustet, 1898). Nicolussi, *Die Wirkungen der hl. Eucharistie* (Bozen: Emmanuel, 1918).

1. **The spiritual nourishment of the soul**, which consists in an increase of sanctifying grace, of the virtues, and of the gifts of the Holy Spirit, with a right to special actual graces, which, in view of the Eucharist received, are granted for preserving, increasing, and perfecting the supernatural life through good works: *he who eats me, he also shall live because of me.*[243]

Since this sacrament has the nature of spiritual refreshment, it produces in the soul those effects which material food and drink produce in the body: it repairs, preserves, and increases the powers.

2. **The intimate conjunction of the soul with Christ and with his mystical body** through grace and charity; this union in this sacrament is intended of itself and by reason of itself, and therefore constitutes its essential effect: *He who eats my flesh and drinks my blood remains in me and I in him.*[244]

This union is not only moral, such as consists among friends through love, but is more intimate and more perfect, and can be called natural. It is explained by the holy Fathers with various analogies: as leaven with flour, a branch with the vine, fire with heated iron, so the soul of the communicant is united to and made like Christ the Lord. Among created things there is not a union so perfect as between Christ and the soul of the communicant.

It produces a bond of union and charity not only between the soul and Christ, but also among individual men and among peoples and nations; it is a sign and means of the union of the faithful of the universal Church among themselves. In the sacramental species chosen by Christ, one thing is produced from many: bread from many grains, wine from many grapes, is reduced into one.

Besides the spiritual union of Christ with the soul of the recipient, in this sacrament there is also a physical conjunction of the body of Christ with our body, insofar as the flesh of Christ, through the eucharistic species, is joined by physical contact to our body and sanctifies it in a special way by the influence of his body. This sanctification, proceeding from real contact with the flesh of Christ, constitutes a twofold effect which this sacrament produces in the body of the recipient, as will be said below.

3. **The diminution of the fomes of concupiscence**, or the mitigation of lust; for from this banquet virgins spring forth.

It produces this effect not only because it confers grace for conquering temptations arising from concupiscence, nor only because it increases charity in a special way, which increase of charity, by directing the mind to heavenly things, indirectly diminishes the movements of concupiscence; but also because it directly diminishes and restrains concupiscence, and this both morally and physically. For the sanctification of our body proceeding from intimate union with the glorious flesh of Christ consists first of all in this: that Christ considers our flesh as his own and as joined to himself by a certain affinity, loves and protects it, makes it conformable to himself, and therefore by a special providence diminishes and represses the evil movements of the flesh. There are some, however, who further think that the influence of the body of Christ, by immediate and direct operation in our body, calms and gradually extinguishes the fomes itself, or the ardor of lust.[245]

4. **The glorious resurrection of bodies**; for the conjunction which the body of the communicant has with the vivifying flesh of Christ supplies a title of the future glorious resurrection: *He who eats my flesh and drinks my blood has eternal life, and I will raise him up on the last day.*[246]

Notes

243. John 6, 58.

244. John 6, 57.

245. Cf. Suarez, disp. 64, sect. 1; Lugo, disp. 12, sect. 5.

246. John 6, 55.

The Eucharist produces this effect not only indirectly, because it supplies the means of preserving sanctifying grace until the end of life; for those who depart in the state of grace will come to the glorious resurrection. But it also produces it directly, because it inserts into the body the seed of the future glorious resurrection. For the glorious flesh of Christ, by sanctifying our body, makes it a participant of incorruptibility. Others, who in this life have not been refreshed by the body of Christ, will indeed also themselves be raised, but not by this special title.

5. **The remission of venial sins**, provided that they are retracted at least virtually.

a. The Council of Trent, distinguishing between mortal and venial sins, expressly teaches that this sacrament preserves us from mortal sins and frees us from venial sins.[247] The internal reason is to be taken: alpha. from the nature of this sacrament, which has the nature of spiritual food. For just as natural food restores the powers lost by vital activity, so the Eucharist repairs the spiritual powers which are lost by the struggle against temptations and by venial sins. beta. From the principal effect of this sacrament, which consists in the union of charity and friendship with God; but venial sins impede the perfection of charity and friendship.

b. It is not settled whether the remission of venial sins proceeds immediately from the Eucharist, or mediately, because it itself excites in us acts of devotion and penitence, which acts are then followed by remission of sins. The opinion of those who, with Suarez and Lugo, think that the Eucharist produces this effect immediately is not improbable, provided that a sufficient disposition is present in the recipient.[248]

6. **Spiritual sweetness and delight**; for this sacrament contains the bread having in itself every delight and furnishing delights to kings.

As cheerfulness and pleasantness arise from a bodily banquet, so the spiritual banquet fills the soul with sweetness and delight. This delight consists especially in this: that holy communion confers on man the grace of tolerating the hardships and sorrows of this life not only with an even mind, but also with spiritual gladness. Then the soul is suffused by this sacrament with love toward Christ, whose intimate presence it enjoys; but where there is love, there is delight.

This effect is infallibly produced by the force of holy communion, unless it is impeded by the negligence of the communicant and by distractions and temporal cares; indeed sometimes by redundancy it is perceived in the very senses.

Question Second. On the Matter of the Eucharist

Article First. On the Remote Matter

105. Valid matter. The remote matter of this sacrament is that from which the Eucharist is effected. The valid remote matter of the Eucharist is only wheaten bread and wine of the vine. For from the institution of this sacrament it is established that Christ at the Last Supper first consecrated bread;[249] but only wheaten bread, both from the common usage of the Hebrews and from that of others, is called bread simply. Then at the same supper he consecrated wine;[250] but only wine of the vine is properly and simply called wine. Therefore the Council of Florence explicitly teaches that the matter of this sacrament is wheaten bread and wine of the vine.

Notes

247. Sess. 13, c. 2.

248. Cf. Lugo, *De poenit.*, disp. 9, n. 45 ss.

249. Matt. 26, 26; Cn. 815, 1.

250. Matt. 26, 29; Cn. 815, 2.

106. Wheaten bread. Therefore, in order validly to effect the sacrament of the Eucharist, there is required bread made from wheaten flour and natural water only and baked by fire. For bread is food made from flour and water only and baked by fire.

1. Different species of grain which physically differ from wheat supply invalid matter, but the different species, or rather varieties, of wheat supply valid matter for this sacrament, provided that by the common judgment of men they are held for true wheat.

There are different species of grain concerning whose valid or licit use in effecting this sacrament there can be question, namely: wheat, spelt, rye, barley, and siligo. Moreover, rye (*Roggen, Korn*) and barley (*Gerste*) are species of grain different from wheat; therefore barley indeed constitutes matter certainly invalid, while rye constitutes doubtful matter. For there are those who think that from this grain usual bread is made, and that usual bread is matter suitable for the Eucharist.[251] *Siligo* does not signify the same thing among all: for according to some, *siligo* is the same as rye; according to others, it denotes a species of wheat and indeed the best one. Therefore, according to the diverse signification of *siligo*, siliginous bread will be valid or doubtful matter. The same must be said of spelt, for there are regions in which a species of true wheat is designated by the name of spelt.

But different species of wheat are numbered, or, if you prefer, varieties (*Abarten*): common wheat (*Weizen*), hard wheat (*Bartweizen*), *tr. turgidum* (*englischer Weizen*), Polish wheat (*polnischer Weizen*), spelt or far (*Spelz oder Dinkel*), emmer (*Emmer*), einkorn (*Einkorn*). All these different species of wheat are held by the common judgment and estimation of men for true wheat, and bread made from them is called wheaten by all. Therefore it cannot be doubted that they all constitute valid and licit matter. Generally it must be said: that grain which in a determined region, by the common judgment of men, is and is called wheat constitutes valid matter of the Eucharist. But Turkish wheat (*zea mais = turkischer Weizen, Mais*) has the name of wheat, while in reality it is an entirely different substance; and therefore bread made from this wheat is invalid matter, just as bread made from the flour of potatoes (*solani tuberosi, Kartoffel*), beans (*Bohnen*), oats (*Hafer*), rice (*Reis*), millet (*Hirse*), peas (*Erbsen*), chestnuts (*Kastanien*), etc.[252]

2. Flour cooked in another liquid, e.g., milk, wine, etc., is not called bread. But if artificial water, milk, butter, wine, or another liquid is mixed with the flour in a small quantity, so that the quantity of water is far greater than that of the other liquid, the matter is indeed illicit, but nevertheless valid, because by the common estimation of men it is still held to be true bread. In the same way one must judge if a small amount of flour of another species, e.g., barley or beans, is mixed with wheaten flour. If all these are mixed in a greater quantity, they constitute matter certainly invalid. Salt likewise is not to be added to bread to be consecrated; nevertheless, if it had been mixed in by mistake, that bread could be used to this extent: insofar as, with another host lacking, the celebration would not have to be omitted.

Therefore those red hosts or hosts of another color by which letters are sealed, provided that they have been made from wheaten flour, are valid matter though illicit, if a very small quantity of cinnabar or of another substance has been mixed in. But they are doubtful or even invalid matter if a greater quantity of foreign substance is mixed in.

3. Dough made from flour and water, not yet baked but still raw, is invalid matter, because it is not yet bread. For the same reason, flour cooked in water in the manner of porridge is invalid matter, because it is not bread.

Notes

251. Gobat, *Theol. exper.*, tr. 3, n. 29.

252. Cf. Olfers, *Pastoralmedizin*^3, p. 217.

107. Licit matter. In order licitly to effect the Eucharist, for Latins it is required that the bread be unleavened; for Greeks, that it be leavened;[253] moreover the host to be consecrated must be fresh, clean, whole, incorrupt, and of a larger circular form.

1. Although consecration can validly take place both in unleavened and in leavened bread, because each is true bread made from wheaten flour and natural water, nevertheless Latins are bound under grave obligation to consecrate in unleavened bread and Greeks in leavened bread. From this precept not even the necessity of Viaticum for a dying person excuses, but only the necessity of completing the sacrifice.

a. The Latin Church, in the use of unleavened bread, follows the example of Christ, who instituted the most holy sacrament on the days of unleavened bread. The Greeks, from ancient custom, use leavened bread; the Church in the Council of Florence permitted this use to be preserved by the Greeks, because there does not exist an express precept of Christ to consecrate in unleavened bread. Indeed, in the same council the precept is added of preserving in each Church its proper rite and proper custom. This precept Pius V confirmed and renewed,[254] and afterward Benedict XIV,[255] and recently Cn. 816.

b. A Latin must use unleavened bread and a Greek leavened bread everywhere; for each one is bound everywhere to preserve his own rite, both in Greek regions and in regions of Latins, unless he has obtained a special indult of changing rite (which is sometimes conceded by way of habit, never by way of act). Hence a Greek (the same is to be said of a Latin) who perpetually or for a time dwells in some Latin region where there is no church of his own rite must ask from the Latin bishop permission to celebrate in a Latin church according to the Greek rite. Likewise a priest who is on a journey must go, if one is present, to a church of his own rite; if none is present, he is bound to celebrate in a Latin church according to his own rite.[256]

c. Formerly the faithful of the Latin rite ordinarily had to communicate in unleavened bread, the faithful of the Greek rite in leavened bread. From recent apostolic decrees, and especially from the Constitution *Tradita* of Pope Pius X, these things now hold: alpha. any Catholic can receive communion at will in any Catholic church of any rite; beta. but, excepting the case of necessity, paschal communion is advised, Viaticum is prescribed, that each one receive according to his own rite (Cn. 866, 2, 3); gamma. any priest can distribute holy communion even in a church of another rite, provided that a priest of the respective rite is not present; nevertheless he is to preserve his customary order in distributing, i.e., a Latin priest administering holy communion in a Greek church (in leavened bread) proceeds according to the Roman Ritual, and a Greek priest distributing communion in a Latin church (in unleavened bread) proceeds according to the Greek custom.[257]

d. A priest who, in order to complete the sacrifice, must consecrate again and cannot have another host, can and must receive a fragment of usual wheaten bread, provided that it is matter certainly valid.

2. **Fresh.** Since thin hosts are easily corrupted, especially if they are preserved in a humid place or if the season is winter or rainy, there is danger of consecrating invalid matter unless the hosts are fresh. Therefore rectors of churches must take care that hosts to be consecrated, if they are not entirely fresh, have at least been made within two weeks or at most within a month.

Notes

253. Council of Florence, in the decree of union.

254. Constitution *Providentia romani pontificis* (1566).

255. Constitution *Etsi pastoralis* (1742).

256. Cf. Benedict XIV, *De ritib.*, c. 2, n. 15; Gasparri II, 804 s.; Cn. 816.

257. S. C. de Prop. Fide, 18 Aug. 1893; Constitution *Orientalium dignitas*, 30 Nov. 1894; S. C. R., 16 Dec. 1826, n. 2650; Constitution *Tradita*, 14 Sept. 1912; Cn. 851, 2.

The Sacred Congregation calls the custom of consecrating hosts made three or four months earlier an enormous abuse, entirely to be removed, and adds that priests cannot with a safe conscience use hosts made three months earlier in wintertime or six months earlier in summer. But in order to avoid the danger of irreverence, hosts ought to have been made about two weeks earlier or at most a month earlier, provided that the place and time are not humid; for between the making of the hosts and their reception there ought to intervene only four or at most six weeks.

3. The figure of the host to be consecrated in the Latin Church must be circular, but in the Greek Church it is square. To consecrate a stained or moderately broken host, scandal being excluded, is a venial sin. Nevertheless, if a break or stain in the host is discovered only after the oblation, it can licitly be consecrated, scandal being excluded, because through the oblation it is already in some way dedicated to God. Finally, when the larger host is lacking, it is permitted, even only for the sake of devotion, to celebrate with a small host, not only privately, but, scandal being excluded by a suitable admonition of the people, also publicly,[258] since there is no grave obligation of consecrating a larger host.

As far as small hosts for the communion of laypersons are concerned, care must be taken that they not be too small and too thin (their diameter should be at least three centimeters). For if the hosts are very small and thin, there is danger both that they slip away between the fingers of the priest distributing and that the communicants be deprived of holy communion, because they are entirely dissolved before swallowing.

4. The consecration is not invalid, although because of irreverence it is gravely illicit, if the bread is not yet substantially corrupted but only shows some beginning of corruption. From this principle authors infer that moldy bread remains valid matter, but is gravely illicit. This indeed can be admitted when the bread from mold begins to be corrupted, but not when it is already moldy; for bread plainly moldy is already wholly corrupted.[259]

Note. Hosts, which in antiquity were baked by priests or at least by clerics, according to present practice are usually prepared by laypersons. But in a matter of such importance a grave obligation lies upon priests of watching that the matter of the sacrifice be certainly valid. Therefore they must take care that those who prepare hosts take only wheaten flour, and that pure and fresh, but never artificial flour (*Kunstmehl*), concerning whose quality there must always be doubt. Moreover let them take care that the bakers of hosts be commended by diligence, fidelity, and piety.[260]

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108. Wine of the vine. For valid consecration only and every wine of the vine can be used which is substantially incorrupt. But wine is understood as liquor pressed from ripe grapes of the vine.

a. Therefore invalid matter includes all other liquids which by their nature are not wine, such as beer, juice pressed from fruits (apples, pears, etc.); also juice pressed from unripe grapes (*agresta*), which does not yet have the nature of wine; then wine which they call second wine, i.e., pressed again from grapes already pressed, with water poured on them (*Jora*), of which the greater part is water; vinegar, which is corrupted wine; distilled wine, which is a substance other than wine; and finally wine made by art, which is not wine of the vine. For although by art it may be composed from the same elements which are found in natural wine, nevertheless it is not valid matter unless it has its origin from the vine.[261]

Notes

258. St. Alphonsus, n. 205.

259. Olfers, *Pastoralmedicin*^3, p. 219 f.

260. Olfers, *Pastoralmedicin*^3, p. 218 f.

261. *Missale rom.*, *De defectibus*, IV, 1.

b. Valid matter is juice pressed from dried grapes, provided that it is so prepared that from its odor, color, and taste it is recognized to be wine.[262]

c. **Pressed**: for liquor not yet pressed, but still existing in the grapes, cannot be consecrated, both because the matter to be consecrated must be present in the state of drink (Suarez), and because the words of consecration, *this is my blood*, would not designate the liquor, but the whole mass of the grape (Lugo).

d. **Incorrupt**: for corrupted wine is no longer wine. Therefore the rubric of the Missal has: "If the wine has become entirely vinegar, or has been pressed from sour or unripe grapes, or so much water has been mixed with it that the wine is corrupted, the sacrament is not effected."[263]

e. Wine in which alcohol is not contained (*alkoholfreier Wein*) is not valid matter, because it is not wine, since a greater or lesser quantity of alcohol is an essential element of wine. For wines which naturally contain only five percent alcohol contain the minimum quantity of alcohol, while those which contain twenty percent alcohol contain the maximum quantity; but all have some.[264]

Note. Every wine, whether white or red or mixed from both, whether strong or weak, of whatever region and origin, is valid matter of consecration, because in all there is the true nature of wine. And although stronger wine is more fitting to the dignity of so great a sacrament, nevertheless because today ordinary wine is more easily established to be genuine, it is to be preferred to better wine, unless it is certain that this latter is pure and unmixed.

109. Licit matter. In order licitly to consecrate, there must be used wine which, after fermentation has been completed, is perfect, pure, and incorrupt.

a. **Must**, or juice recently pressed from ripe grapes, is valid matter, but gravely illicit matter of consecration: valid indeed, because the Church holds it as valid, since it is wine, although not yet perfect;[265] but illicit both because it has mixed with it parts which are not consecrable, and because it is not perfect wine.

b. If aromatics or other liquids are mixed with wine, and indeed in a small quantity, so that it retains the substance of wine and is simply held as wine, the matter will be illicit, but not yet invalid. Indeed it can even be licit matter if a small amount is added for preserving the wine.[266] But a notable quantity of aromatics or of another liquid added to wine constitutes this as invalid or at least doubtful matter.

Wine preserved in casks gradually diminishes somewhat by evaporation (*durch Verdunstung*). The empty space arising in the cask from this must be filled so that the wine may be preserved. It is indeed better that the cask in which wine for the sacrifice of the Mass is contained be filled up with natural wine; nevertheless, for this end water also can be used without the wine ceasing to be valid and licit matter of consecration. For a foreign substance can licitly be mixed with wine in a small quantity when it is necessary for preserving the wine.

Notes

262. Holy Office, 22 July 1706; and to the question "whether it is licit to celebrate with wine made from dried grapes" (*Rosinen*) it responded on 10 Apr. 1889: "It is licit, provided that the liquor is recognized from color and taste to be true wine." The manner in which this wine is made can be found in Lehmkuhl, n. 162.

263. *Missale rom.*, *De defectibus*, IV, 1.

264. The Holy Office on 1 June 1910 declared that wine from which all spirit of wine (alcohol) is removed by art is neither licit nor valid matter of consecration.

265. *Missale rom.*, tit. 4, n. 2.

266. On this matter the decree of the Holy Office of 31 July 1890 must be noted, which permits that, for preserving weak wine longer, there be mixed with it a certain quantity of spirit of wine (alcohol), provided that the spirit has been extracted from the fruit of the vine, and the alcoholic quantity added together with that which the wine in question naturally contains does not exceed the proportion of twelve percent, and that the mixture be made when the wine is very fresh. Indeed, for preserving strong and extraordinarily sweet wines the same Holy Office on 5 Aug. 1896, in a special case, permitted the addition of an alcoholic quantity which did not exceed the proportion of seventeen or eighteen percent, provided that the mixture was made when the tumultuous fermentation had begun to subside.

c. Wine becoming sour, which is somewhat acid and begins to be corrupted, remains valid matter and, when other wine is lacking, can licitly be used, because it preserves the nature of wine and is not substantially changed. But wine notably becoming sour, which is not yet vinegar, although perhaps it is valid matter because it is not wholly corrupted, is certainly gravely illicit.

d. Whether frozen wine is valid matter is disputed; but all concede that it is not licit to consecrate frozen wine, because this is contrary to the usage received in the Church. Therefore it must be liquefied before consecration.

Those who affirm that it is valid matter bring forward the reason that wine is not corrupted by freezing but only accidentally changed, and that consecrated wine, if it is frozen, retains consecration. But those who deny that it is valid matter bring forward much stronger reasons: for they say that the matter is not in the state of drink; besides, the words of consecration designate a liquor, not a solid mass. Moreover, nothing follows from the fact that consecrated wine, if it is frozen, retains consecration; for if consecrated wine is absorbed by some solid substance, it remains consecrated, but wine absorbed by a solid substance cannot be consecrated, just as neither can wine from grapes not yet pressed.

110. To the wine to be consecrated a small amount of water must be mixed, not from the necessity of the sacrament, but from the precept of the Church by reason of the end, obliging under grave sin.[267]

a. The reasons on account of which water is to be mixed with the wine to be consecrated are: alpha. the example of Christ, who is believed to have consecrated in wine mixed with water; beta. that the water and blood which flowed from the side of Christ may be signified; gamma. that through the wine and water the twofold nature of Christ may be signified; delta. that through the mixture of water and wine the union of the Church with Christ the head and the union among the faithful may be signified, which union is the effect of this sacrament.

b. This precept seems so grave to theologians that they admit no case in which it is licit to celebrate if the lack of water is foreseen. And if someone had forgotten to pour in water at the proper time, he must supply the defect, if he notices it before the consecration of the chalice, even immediately before the consecration of the wine, but not afterward, because nothing may be mixed with consecrated wine which is not consecrated.

c. One or another little drop of water suffices, and the quantity of water added to the wine ought not to exceed eight or ten drops, although water can be poured in up to an eighth, indeed up to a fifth, part of the wine without the matter becoming doubtful. But the quantity of water added which exceeds a third part of the wine renders the matter doubtful, and, if the wine is not strong, even invalid. Therefore, if by chance too much water had been added, some wine must again be added.

d. It is permitted to use acid, gaseous, or alkaline water (*Mineralwasser*), provided that it is natural and drinkable.[268]

e. Finally, water must be mixed with the wine at the altar in the chalice itself. A mixture made before Mass in the cruet would not suffice, even if it had been made by the priest himself, because the mixture belongs to the sacred rite according to which, by the precept of the Church, the sacrifice of the Mass must be offered.

Notes

267. Council of Trent, sess. 22, c. 7, *De sacrif. miss.*; Cn. 814.

268. Holy Office, 11 Aug. 1904.

Article Second. On the Proximate Matter

Proximate matter is called by some the use of remote matter, or of bread and wine in consecration; by others, consecrated remote matter, or the species insofar as they contain the body and blood of Christ.

111. For valid consecration two conditions are required: a. that the matter to be consecrated be physically present; b. that it be determined.

1. First, it is required that the matter be physically present to the priest consecrating. This is clear from the institution of Christ: for Christ gave the apostles the power of doing only that which he himself had done at the Last Supper; but Christ consecrated present matter. The obvious sense of the words of consecration demands the same thing, for the pronoun *this* and *this* do not demonstrate anything except present matter.

In order that this physical presence be had, it is indeed required that the matter in some way be before the priest and not be too far distant; nevertheless it is not required that it be perceived by the one consecrating by some sense, but it suffices that by the prudent judgment of men it can sufficiently be demonstrated by the pronouns *this* and *this*.

a. Hence all hosts which are found piled in the chalice are validly consecrated, although the lower ones cannot be seen. Likewise, as regards presence, particles in a closed ciborium or covered with a pall, wine in an uncovered chalice, indeed even wine in a vessel or bread in a closed basket, are consecrated. For by reason of the vessel in which the matter is contained and which is destined to contain it, it is physically sufficiently present so that it can be demonstrated by the words *this* and *this*. For common usage has this, that the container and the thing contained are demonstrated as one by the pronoun *this*, as when concerning money existing in a purse we say, *this is gold*, and concerning liquid in a closed cup, *this is wine*. And these indeed are certain; therefore the consecration is not to be repeated if, e.g., a pyx had remained closed during the consecration through forgetfulness.

b. But the consecration would not be valid if the matter, even with the priest knowing, were behind the altar or behind the tablet which is called the canon, or at the back of the one consecrating, because it is not so present that it can be demonstrated by the pronoun *this* and *this*. For the body which is interposed prevents it from being able to be so demonstrated. For the same reason, namely from defect of presence, matter which is more than ten (others say twenty) paces distant cannot be validly consecrated. If a host were hidden under the corporal or in the missal, or if it lay hidden under the altar cloth or under a cushion or under the foot of the chalice, the consecration would be doubtful, because the host lying hidden there can scarcely be sufficiently demonstrated by the pronoun *this*. And although a host existing in an open tabernacle is validly consecrated, the consecration would be at least doubtful if the tabernacle were closed.

112. 2. Next it is required that the matter to be consecrated be determined in the individual by the actual or virtual intention of the one consecrating. For any action must have a determinate term about which it is exercised; moreover, by the pronoun *this* and *this* nothing can be designated except determinate matter. Therefore, just as for consecrating there is required the intention of consecrating, so for consecrating determinate matter there is required the intention of consecrating that matter determinately.

a. Therefore what has in no way, either explicitly or implicitly, been determined by the intention of the priest as the object of consecration is not consecrated. But what in some way, at least implicitly (e.g., what I hold in my hands, what is on the corporal), has been determined by intention as the object of consecration is judged to be consecrated.

b. Hence if the priest after consecration notices that more hosts are present, whether placed by himself or by another, than he had thought, there is no doubt that all have been consecrated, because he had the actual or virtual intention of consecrating the present matter. But the error of the one consecrating concerning the quantity of matter does not impede a determinate intention.

c. But if from an entire pile of hosts he wished to consecrate only five or only half, none would be consecrated. Likewise, hosts which, without the priest's knowledge, have been placed on the altar or even on the corporal are not consecrated if he himself did not have the intention of consecrating whatever consecrable matter is on the corporal or altar.

113. For licit consecration it is required that the matter be: a. on the altar; b. upon the corporal; c. on the consecrated stone; d. either immediately on the corporal, or in the hands of the one consecrating, or in a sacred vessel and that open.

Therefore if, while the priest is celebrating on a portable altar, small hosts are not bare on the corporal but are in a ciborium, this during the consecration must be so placed that at least some part of the foot stands on the consecrated stone. Nevertheless scruples are not to be injected concerning this matter, provided that the ciborium is on the corporal. - Hence a priest would sin gravely who knowingly consecrated matter which is outside the altar or outside the corporal or in a non-sacred vessel; and he would sin venially who voluntarily did not open the sacred vessel.

114. Questions concerning consecration. 1. In order that a way may be prepared for solving several questions concerning this matter, let these things be noted. Given suitable presence of the matter to be consecrated, the whole matter essentially depends on the intention of the one consecrating, by which the matter to be consecrated is determined in the individual. Moreover, any priest about to celebrate first of all has the intention of celebrating, which by its nature is the intention of consecrating as Christ instituted and the Church intends. Now it is asked what the force and efficacy of this intention is.

a. This intention is, and must be, absolute, nor can it licitly be restricted by any condition unless there is doubt concerning the validity of the consecration.

There are some who think that the intention of the one consecrating, and universally of the one effecting a sacrament, is always conditioned, since it is to be presumed that the one consecrating and generally he who effects a sacrament does not wish to consecrate or effect the sacrament unless this can be done without (material) sin. But this principle cannot be admitted without many and grave inconveniences following in practice, which must altogether be avoided. For if we imagine a priest through inadvertence using a chalice not consecrated, or baptizing in notably turbid water, there is no consecration and likewise no baptism, although the priest or the faithful know nothing about the nullity of the sacrament. These are certainly gravely illicit inconveniences. And this is the reason on account of which the intention of consecrating must be absolute, unless there is doubt concerning the validity of the consecration.[269]

b. By force of this intention only the host which is in the hands of the priest and the wine which is found in the chalice are consecrated. But by force of this intention there is not also consecrated a particle which, whether while the celebrant is unaware or while he notices but does not think about its consecration, has been placed on the corporal.

c. By force of this intention there probably is consecrated only matter which presents to the senses one continuous whole. For it cannot be supposed that this is the mind of the Church, that even that be consecrated which cannot be consecrated without manifest danger of dispersion and therefore of irreverence.

2. Besides this general intention of celebrating, the priest can expressly form the intention of consecrating, besides, other matter, e.g., particles which have been placed on the corporal or are contained in a ciborium. This intention also is, and must be, absolute, and not restricted by any condition unless there is doubt concerning the validity of the consecration. Moreover, by force of this intention, whether expressly elicited

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269. Cf. Ballerini-Palmieri, IV, n. 856 ss.

before Mass or during Mass, any matter to which that intention refers is validly consecrated, even if the priest in the act of consecration does not notice it, provided that it is physically present on the altar. For the twofold condition which is required for valid consecration is without doubt present in this case, since the matter to be consecrated, by supposition, is present, and the explicitly formed intention of consecrating it virtually continues in the act of consecration. But any priest is judged to elicit expressly the intention of consecrating who either himself carries particles to the altar so that he may afterward consecrate them, or who, during Mass, noticing that a ciborium to be consecrated is placed on the altar, proposes to consecrate it, or who before Mass is admonished about a ciborium to be consecrated in the Mass and assents, even if afterward he does not notice it. For by the very fact that, having been admonished about the consecration, he assents, he elicits the intention of consecrating the particles to be placed on the altar.

115. Corollaries from the preceding declarations. 1. Little drops of wine adhering interiorly to the chalice, if the priest does not elicit a particular intention concerning them, do not seem to be consecrated. For the general intention of celebrating and therefore of consecrating is restricted to the matter which by way of one continuous whole is in the chalice at the time of consecration.

Little drops of wine adhering exteriorly to the chalice certainly are not consecrated, both from the same reason just brought forward, and because the intention of celebrating certainly does not extend to consecrating matter of this kind, which because of manifest danger of irreverence is not becomingly consecrable.

Since it is not plainly certain whether drops of wine adhering interiorly to the chalice are or are not consecrated, unless the priest had a particular intention concerning them, after consecration those little drops are in no way to be wiped away, but are to be received either with the most precious blood or with the purification. But if they are detected before consecration, they are either to be joined with the matter to be consecrated or wiped away, if this can be done conveniently.

2. Crumbs of bread which, having been torn from the host, adhere to the host at the time of consecration likewise do not seem to be consecrated, because the intention of the priest seems to be restricted to matter which presents one continuous whole. Crumbs which, separated from the host, exist either on the corporal or in the ciborium are not consecrated if the priest expressly intends nothing concerning them. For the intention of consecrating present matter is not extended to separated crumbs because of danger of irreverence.

3. A ciborium placed on the corporal, which through inadvertence remained closed during the time of consecration, is consecrated if in the one consecrating there was sufficient intention of consecrating it. But if concerning it he intended nothing either explicitly or implicitly, it is not judged to have been consecrated, because by the general intention of celebrating the ciborium is not determined as the object of consecration.

4. A ciborium which through forgetfulness remained outside the corporal at the time of consecration must be judged consecrated from the virtually continuing intention, provided that the priest previously had an explicit or implicit intention of consecrating it.

There are some who doubt whether a ciborium of this kind is consecrated. For they judge that in this case the one consecrating does not have the intention of consecrating, although previously he elicited it, because the consecration is objectively gravely illicit. This opinion is founded on this principle, that the intention of the celebrant is not absolute but conditioned, namely that it is presumed that the one consecrating does not wish to consecrate unless this can be done without sin; but this must not be admitted (n. 113).

Note. In order to forestall doubts concerning consecration, some authors rightly counsel new priests that they once for all elicit these intentions: a. of consecrating all hosts placed on the corporal; b. of consecrating drops of wine adhering interiorly to the chalice, lest non-consecrated drops be mixed with the sacred blood; c. of not consecrating crumbs adhering to the host; d. of not consecrating crumbs separated from the host, whether

they are on the corporal or in the ciborium. Once these intentions have been elicited, it is certain that, by force of the intention of celebrating, nothing is consecrated besides the hosts placed on the corporal except that which exists by way of one continuous whole in the host or in the chalice, and drops adhering interiorly to the chalice.

116. On particles to be consecrated being placed on the altar. Hosts to be consecrated during Mass are to be placed on the altar at the beginning of Mass, or at least, unless a just cause excuses, they ought to be present at the offertory, so that together with the matter of the sacrifice, with which they are consecrated, they may also be offered at the same time. From a reasonable cause, hosts which are brought after the offertory can licitly be consecrated, provided that they are present before the preface and their mental oblation is made. From a grave cause (if, e.g., otherwise one or several would remain without communion or would have to wait too long), hosts brought after the preface but before the canon has been begun can also be consecrated. And from a most grave cause (e.g., to communicate a sick person, or if otherwise a great multitude of the faithful would not without offense be deprived of communion or would have to wait too long), hosts brought even after the canon has already been begun, before the consecration of the bread, can be licitly consecrated. Nevertheless, if otherwise only one person would have to be dismissed without communion, once the canon has already begun a host should no longer be consecrated for him, but rather a particle taken from the priest's host should be given to him.

The reason of this prescription is taken from the order of the Mass, which after the preparatory rites contains two parts, the oblation and the consecration with communion. Now the liturgical act of oblation begins from the offertory and ends with the secret prayers; but the liturgical act of consecration begins from the preface. Hence the order of the Mass is disturbed if, after the oblation has begun, matter to be consecrated and still to be offered is brought to the altar, and this disturbance of order is the greater the later the matter is brought. From this it is that before the preface the matter to be consecrated is still admitted from a reasonable cause, because the liturgical act of consecration has not yet begun. But after the preface has begun it is admitted only from a grave cause, because the liturgical act of consecration has indeed already begun, though only through the introductory preface into the very act of consecration. But once the canon has begun, some in no way admit other matter to be consecrated, others only from a most grave cause, because the canon already pertains to the very liturgical act of consecration.

117. The quantity to be consecrated. Just as any quantity of bread or wine, even very great, is validly consecrated, provided that it can sufficiently be demonstrated by the pronoun *this*, so also any quantity, however small (a crumb of bread or a little drop of wine), is validly consecrated, provided that it can be perceived by human sense. But matter so very minute that it is not perceived by human sense cannot be validly consecrated, both because such matter cannot be demonstrated by the pronoun *this*, and because a sacrament generally is a sensible sign, which therefore of its own nature demands sensible matter. But for licit consecration there is required that quantity of bread or wine which befits the end, use, and reverence of so great a sacrament.

118. Notes. 1. If particles are doubtfully consecrated, in another Mass they are again to be consecrated under condition, or to be received by the priest before purification, or finally, enclosed in a distinct vessel, to be placed in the tabernacle until they are corrupted. But they can in no way be distributed to those who have already received communion, because of the danger of material idolatry. It is also licit after the consecration either of the larger host or of the chalice to pronounce the words of consecration over them conditionally, because in this way a new sacrifice is not begun (n. 103, 2).

2. If non-consecrated particles are mixed with consecrated particles, the whole pile is to be carried to the altar and consecrated either with the intention of consecrating the non-consecrated particles or with the intention of consecrating the whole pile under condition, if they are not consecrated.[270] - Likewise, if non-consecrated wine is mixed with consecrated wine, the whole quantity which is contained in the chalice is

to be consecrated with the intention of consecrating what in the chalice is not consecrated, or what in the chalice is consecrable.

De Lugo, however, judges that the former manner does not suffice, because the hosts to be consecrated are not sufficiently determined by the intention of the one consecrating so that they can be demonstrated by the pronoun *this*. But just as nothing prevents their being consecrated under condition together with the others, because all are present by way of one whole and can be demonstrated, so nothing prevents consecrating whatever is not consecrated in the ciborium, because this very thing can sufficiently be designated by the pronoun *this*. For although the man himself does not know this matter and therefore cannot designate it, nevertheless it is present in fact and can be designated objectively.

Question Third. On the Form of the Eucharist

119. The form of consecrating the bread is constituted by the words by which Christ the Lord at the Last Supper consecrated and instituted this sacrament: *This is (for) my body*. All these words (excepting the particle *for*) and these alone are essential in the consecration of bread, because these alone completely signify what is effected in the consecration, namely the presence of the body of Christ, and likewise all are required for signifying this. Therefore if someone omitted even one of these words, e.g., *is* or *my*, or substantially changed it, he would not validly consecrate. But other words besides these, whether preceding or following, are not essentially and necessarily required for consecration.

Scotus had thought that those words, *Who on the day before*, etc., indeed are not essentially required for the consecration itself, but nevertheless must necessarily be premised, so that the words of the form may be understood to be uttered in the person of Christ and thus it may be established that the priest wishes to signify not his own body but the body of Christ. But in truth, that the priest speaks in the person of Christ is established not from those words but from his intention. For by the very fact that the priest intends to celebrate, he has an intention fitting the words of consecration and speaks in the person of Christ.[271]

120. The form of consecrating the wine likewise is constituted by the words of Christ: *This is (for) the chalice of my blood*, or *This is my blood*. And these alone indeed are essential in the consecration of the chalice, because these alone already perfectly signify and effect the sacrament, namely the presence of the blood under the species of wine. Hence the words which follow, *of the new and eternal testament, the mystery of faith, which for you and for many shall be poured out unto the remission of sins*, are not of the essence of consecration, and in reality in other liturgies, especially Eastern ones, either most or all are absent, nor are they reported by St. Paul, who without doubt wrote down a valid form.[272] Nevertheless they must necessarily be added from the precept of the Church, so that their voluntary omission or notable change is a grave sin.

a. He who in the consecration uttered only the first essential words does not necessarily have to repeat the whole form, because the consecration is certainly valid; nor does the contrary opinion of authors, which seems to lack every foundation, render the consecration truly doubtful. Nevertheless, since several authors doubt concerning the consecration if either all the words after the essentials are omitted, or only these words: *which … shall be poured out*, etc., it is permitted to repeat the consecration, although it is not necessary.[273]

Notes

270. St. Alphonsus, n. 216; Lugo, *De euchar.*, disp. 4, n. 133 ss.

271. Cf. Lugo, *De eucharistia*, disp. 11, n. 39.

272. Cf. 1 Cor. 11, 25.

273. Cf. Lehmkuhl, *Theol. mor.*, II, n. 129 (n. 172).

b. The words which are used in the consecration of the bread are taken from the Gospel of St. Matthew (26, 26), and the particle *for*, by which they are connected with the preceding words, has been inserted from the usage of the Roman Church. The words which are used in the consecration of wine are taken from diverse places of Sacred Scripture, except the words *eternal* and *mystery of faith*, which came from the Lord through the apostles to the Church.

121. The words of consecration must be uttered:

1. **Recitatively** or materially, i.e., by narrating historically what Christ the Lord did and said. For from the context of the canon it is established that the priest pronounces those words as having been uttered by another, namely by Christ himself.
2. **Significatively** or formally, i.e., in such a way that the priest himself affirms that this is the body of Christ. For if he uttered the words only materially, the presence of the body and blood of Christ would not be required for their truth.
3. **Practically**, not only speculatively, i.e., with the intention of effecting by the words of consecration that the body and blood of Christ be really present there.

Moreover, it is not necessary that the celebrant expressly intend all these senses, just as it is not necessary that he determinately intend to consecrate either by the essential words alone or by all the words of the form; but it suffices that he conform himself to the mind of the Church. Indeed, in order to forestall errors and scruples, it is to be counseled that the celebrant in all things intend what the Church wills and intends. But by the name of the Church is understood the moral body of the faithful, whose head is Christ himself, the institutor of the sacraments, who therefore knows best what words effect the consecration and what matter they convert into his body and blood.

122. The words of consecration must be uttered without change, both substantial and accidental; for substantial change would render the consecration invalid, but accidental change illicit.

In the form, *this* and *this* first of all signifies demonstratively a present thing, and as regards the object demonstrated it signifies the thing, the substance, which is contained under these species. Therefore *this* in the second form does not signify adverbially *here* - in this place. *Is* signifies that this present thing is the body and blood of Christ; therefore it signifies conversion, and that a permanent one, while on the contrary *becomes*, *is made*, signifies only the very action of conversion. *Body* and *blood* signify that which becomes present in the Eucharist by force of the words, the body itself and the blood, but not likewise the soul and divinity, which are not constituted present under the species by force of the words.

a. Forms are invalid because of substantial change: alpha. *Here* (adverbially, i.e., this place, in place of: the substance contained under these species) *is my body and my blood*; beta. *this is my substance*, for the substance of Christ also signifies the soul, which by force of the words does not become present under the species; gamma. *this body is mine, this blood is mine*, for these words do not signify transubstantiation but: this body belongs to me, unless by the intention of the speaker *body* is taken as predicate; delta. *this may be, becomes, may become my body, my blood*; epsilon. *this is the body of Christ, this is the chalice of divine blood.*

Doubtful forms are: alpha. *that is my body; that is my blood*, because it is not sufficiently established whether the pronoun *that* signifies a thing present to the speaker; but *that* signifies not a present thing but a remote one, and therefore this latter form seems to be invalid; beta. *this is my flesh*, for flesh of itself does not signify the whole of that which body signifies, unless the speaker by the term *flesh* wishes to signify the same thing.

Valid forms are: alpha. *This is my body, this my body is*; beta. *this food is my body; this drink is my blood*; gamma.

this chalice is the new testament in my blood, as Luke 22, 20 has it;[274] delta. *this is indeed the chalice of my blood*, because this form has the same sense.

b. A slight or accidental change does not indeed render the form invalid, but nevertheless for the most part renders it gravely illicit; for in this so great sacrament almost every voluntary change of the form must be avoided under grave sin. Nevertheless to omit the word *for* would be venial. Likewise, as Lehmkuhl notes (n. 128), from negligent pronunciation, not from a defect of a stammering tongue, to corrupt *is* into *'s*, *body* into *b'dy*, *my* into *m'*, *chalice* into *chalis*, *blood* into *blud*, cannot be excused from venial sin.

c. But nevertheless he must repeat nothing who, either inculpably because of a slip or defect of tongue, or culpably because of negligence in pronunciation, has changed the form of consecration only slightly; for the consecration is certainly valid.

Note. Finally for practice it must be noted what the rubric has: "If the celebrant does not remember that he said the things which are commonly said in the consecration, he must not be disturbed on that account."[275] Therefore if, because of distraction occurring during the time of consecration, a doubt arises concerning the validity of the consecration, to repeat the form is for the most part neither necessary nor licit. Nevertheless, if sometime the words of consecration must be repeated because of certain or very probable error, and the error is detected some time after the consecration, one must begin from those words: *Who on the day before*, etc.; but if the error is detected in the consecration itself, only the form is repeated.

Question Fourth. On the Minister of the Eucharist

Article First. On the Power of Ministering the Eucharist

123. A twofold minister of the Eucharist is distinguished: the minister of consecration and the minister of distribution. In the minister of consecration, for valid consecration the power of order is required; but in the minister of distribution, for licitly distributing the Eucharist a twofold power is required: the power of order and of jurisdiction. That this twofold power in the minister of distribution is required only for licitly administering the Eucharist is clear; for validly it can be distributed by anyone.

124. On the minister of consecration. Priests alone are the ministers of consecrating the Eucharist; for to priests alone was conceded the power of consecrating by these words: *Do this in commemoration of me*,[276] which words were spoken to the apostles and their successors in the priesthood. And the Fourth Lateran Council defines: "This sacrament indeed no one can effect except a priest who has been duly ordained."[277] But this power, as cohering with the priestly character, belongs to every priest, even a heretic, schismatic, excommunicated person, suspended person, or one bound by another canonical impediment.

If several consecrate the same matter at the same time, which happens in the ordination of new priests, they should take care to finish the form at the same time. For if one finishes the form before the others and has the intention of consecrating independently of the others, he alone consecrates. Therefore it is customary to say to those being ordained new priests that they must take care either to finish the form together with the bishop, or to have the intention of not consecrating if they finish the form before the bishop.[278] But this warning is superfluous. For since they are concelebrants, from the nature of the thing they have the intention

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Notes

274. Cf. also 1 Cor. 11, 25.

275. *Missale rom.*, *De defectib.*, V, 2.

276. Luke 22, 19. Cf. Council of Trent, sess. 22, c. 1 and can. 2, *De sacrif. miss.*; Code of Canon Law, Cn. 802.

277. C. *Firmiter* 1, *De summa Trinitate* (I, 1).

278. Cf. Lugo, *De eucharist.*, disp. 11, sect. 8.

of consecrating with the bishop, i.e., indeed of consecrating, but only with the bishop. They have this intention by the very fact that they wish to receive the order according to the rite of the holy Roman Church, and they need no other intention; indeed, so that anxieties and scruples may be kept away, another intention ought not to be advised to them.

125. On the minister of distribution. The minister of distributing the Eucharist is one kind ordinary, another extraordinary.

1. The ordinary minister of distributing the Eucharist is the priest alone. For by the same words by which the power of consecrating was given, the power of distributing was also granted, since Christ consecrating and distributing said: *Do this in commemoration of me*. Hence the Council of Trent affirms that it descends from apostolic tradition "that laypersons receive communion from priests, while priests celebrating communicate themselves."[279]

2. The extraordinary minister of distributing the Eucharist, by delegation of the priest in a case of necessity, is the deacon. For deacons by force of ordination have the power of distributing holy communion; therefore already in the primitive Church, from the commission of bishops and presbyters, they distributed the Eucharist.

a. It seems to belong to the deacon from ordination that he can minister the Eucharist; for he is ordained to this, that he be the immediate minister of the priest in those things which pertain to the most holy Eucharist, and the chief of these is its distribution. Nevertheless, from the present practice of the Church, in order that a deacon may licitly minister it, the permission of the Ordinary of the place or of the pastor, to be granted from a grave cause, is required; this permission in a case of necessity is legitimately presumed.[280]

b. The cause need not be most grave, as if the sick person would otherwise die without Viaticum, but it suffices that it be grave or fitting, or that no priest be present who can conveniently distribute the Eucharist, as when the pastor is impeded by hearing confessions, giving a sermon, or other ecclesiastical functions which cannot conveniently be deferred. But in most grave necessity, namely when otherwise a dying person would die without Viaticum, the deacon can and must minister the sacrament even without express delegation.[281]

c. If the deacon distributes the Eucharist, he performs all things by the same rite and with the same words as the priest, except that he has the stole transverse and at the end does not bless the people. Therefore he can sign the communicant or himself with the sign of the cross at the *Indulgentiam*; he can bless the sick person and the people with the pyx (but not with the hand without the sacrament). For the minister of eucharistic benediction is the priest alone, nor can a deacon impart it except in the case in which he has carried Viaticum to the sick person.[282]

3. Indeed, in the gravest necessity of a dying person, when priest and deacon are absent, even a subdeacon or cleric, and, if it can be done without scandal, even a layperson, could carry and minister Viaticum to the dying person. Several authors probably permit this, and rightly indeed, since the divine precept of receiving the Eucharist at death prevails over the human precept which forbids that the most holy sacrament be touched or carried by a layperson. And this is to be conceded all the more easily because it is established that formerly laypersons took the most holy Eucharist into their hands and afterward carried it home with them to be received.[283]

Notes

279. Sess. 13, c. 8.

280. Cn. 845, 2.

281. Cf. Bucceroni, *Casus consc.*, n. 117.

282. S. C. R., 14 Aug. 1858, n. 3074; Cn. 1274, 2.

283. Cf. St. Alphonsus, n. 237; Burghaber, *Casuum consc. centuriae tres*, Centur. III, cas. 69.

a. It is known that in the Parisian persecution the Eucharist was carried by women to priests detained in prisons.

b. Where in communicating the sick person particular dexterity is required, the priest can commit to a woman, for instance to a sister of charity ministering to the sick person, that she offer Viaticum with a spoon.

4. One who is not a priest cannot licitly communicate himself except in a case of necessity; nor can a priest do so, with another priest present, except in Mass.

a. Both priest and deacon, when another priest is absent, can minister this sacrament to himself not only from necessity but also for the sake of devotion. For a priest and deacon are prohibited from communicating themselves only if another priest or deacon is present.

b. A layperson can in a case of necessity, namely if in danger of death no priest or deacon is present, minister Viaticum to himself. For the divine precept of communicating urges; therefore the ecclesiastical law, if any stands in the way, ceases in these circumstances.

126. On the power of jurisdiction. For licitly administering the Eucharist there is required, besides, jurisdiction, either ordinary or delegated; for feeding the flock of Christ is the proper right and office of pastors, and it is fed chiefly by the administration of the sacraments. Therefore he who without any faculty or jurisdiction distributes the Eucharist sins gravely, because he violates the right of the pastor in a grave matter; and clerics below the diaconate who without any faculty at all distribute the Eucharist contract, besides, irregularity because of abuse of sacred order.

Ordinary jurisdiction of distributing the Eucharist belongs: a. to bishops in their diocese; b. to pastors in their parish; c. to regular prelates with respect to their subjects, of whom they themselves are quasi-pastors.

1. **The power of a priest.** a. Within Mass any priest, and if he celebrates privately even immediately before and after Mass, can distribute holy communion both in a church or public oratory and in a private oratory, unless the Ordinary has prohibited distribution in a private oratory.[284]

b. Even outside Mass any priest has this faculty, with the at least presumed permission of the rector of the church, if he is a stranger.[285]

This faculty is not to be presumed where there is question of communion to be received from obligation: concerning paschal communion or concerning holy Viaticum, nor if there is question of the first communion of children.

2. **The right of the pastor.** a. To carry holy communion publicly to the sick, even to non-parishioners, within his territory belongs to the pastor. Therefore other priests can do this only in a case of necessity or with the at least presumed permission of the pastor or Ordinary.[286]

b. To carry Viaticum, whether publicly or privately, to the sick belongs to the pastor.

Nevertheless, if a sick person had to be refreshed with Viaticum and the pastor, being absent, could not administer it, or, being present, unjustly refused to administer it, any priest, whether secular or regular, and in their absence even a deacon, could licitly carry Viaticum to the dying person from the reasonably presumed power of the pastor, or of the bishop, or of the Church. The canons minister the sacraments to a bishop lying ill.[287]

Notes

284. Cn. 846, 869.

285. Cn. 846.

286. Cn. 848.

287. Cn. 397, 3.

127. On the power delegated to regulars. 1. Regulars, by force of the privilege of the supreme pontiffs, can in their churches or oratories, both by themselves and through other priests, distribute the Eucharist to any of the faithful, even on the day of Easter; for the old law by which the administration of holy communion in their churches was prohibited to regulars on this day[288] has now been abrogated.[289]

a. On that day there had been prohibited not only the distribution of the Eucharist by which the faithful would satisfy the precept of annual communion, but also that which they received for the sake of devotion. The prohibition remains of receiving prescribed holy communion in churches of regulars, whether on Easter day or on any other day, unless by contrary custom the prohibition has been removed. But it is permitted to receive holy communion for the sake of devotion in non-parochial churches, especially those of regulars, on any day whatever, even on Easter day.

b. Religious can provide prescribed holy communion, both on Easter day and on other days, to all the faithful in those regions where the precept of receiving paschal holy communion in one's own parish has been derogated by contrary custom. Moreover, they can provide it to all those who participate in the privilege of exemption, such as, besides novices, familiars, i.e., those laypersons "who are of the family of the regulars and their continuous table-companions," among whom resident students are to be numbered.

2. a. "In every clerical religion the right and office belongs to superiors of ministering Viaticum and extreme unction to sick professed members, novices, and others staying day and night in the religious house by reason of service, or education, or hospitality, or ill health."

b. In houses of nuns the ordinary confessor, or the one who takes his place, has the same right and office.

c. In a lay religion this right and office belongs to the pastor of the place or to the chaplain whom the Ordinary has substituted for the pastor.[290]

Although it is not licit for regulars publicly to carry holy communion to the sick, because publicly carrying the Eucharist through the streets is a proper parochial right, nevertheless they can licitly give holy communion to them privately, as it is licit for priests (n. 132).

128. Renewal of the species. Consecrated hosts are to be renewed frequently,[291] i.e., every fifteen days or at least every month, unless the circumstances of place and time require more frequent renewal. Therefore on each occasion no more particles should be consecrated than will be consumed within the space of fifteen days or at most of one month. As regards renewal, the same holds also concerning the larger host exposed in the monstrance.

a. Considering the letter of the law, the particles are to be renewed every week;[292] nevertheless provincial councils have been approved at Rome which do not require anything except that renewal ordinarily be done every other week, and nowhere be delayed beyond a month. Namely, the species are to be renewed as often as is necessary according to the condition of places, so that every danger of corruption may be avoided. But with this rule observed the danger of corruption is sufficiently avoided, provided the hosts are not found in a humid or warm place. But if the place in which the hosts are reserved is very warm or humid, more frequent renewal, at least every week, is necessary, because it is established that in places of this kind the species already after a few days begin to become moldy.[293]

Notes

288. S. C. C., 31 Jan. 1682.

289. S. C. C., 28 Nov. 1912.

290. Cn. 514.

291. *Rituale rom.*, tit. 4, c. 1, n. 7.

292. S. C. R., 12 Sept. 1894, n. 3621.

b. These statutes suppose that the hosts which are consecrated are fresh. Therefore he sins gravely who delays renewal for a long time (to two months, and, if the place is humid, to a month). Likewise, he sins gravely who consecrates hosts which are no longer fresh and delays their renewal beyond a month for a long time.

Article Second. On the Manner of Ministering the Eucharist

By the prescription of the Church the Eucharist must be administered: a. at the due time; b. in a fitting place; and c. according to the customary rite of the Church.

129. The due time. 1. It is licit for no one to receive the most holy Eucharist several times on the same day, except the case of Viaticum for one who on the same day has already received holy communion from devotion[294] (n. 138).

2. The Eucharist can be distributed on all days except Friday of Holy Week, and in part also Holy Saturday,[295] and the night of the Nativity of the Lord,[296] unless a privilege is present.

To religious institutes, pious places, and seminaries of clerics where the most holy Eucharist is habitually reserved, the privilege has been granted of distributing the Eucharist to those asking even on the night of the Nativity, together with the celebration of Masses.[297]

3. It is not licit to carry the Eucharist by night unless necessity urges.[298]

It is licit, if there is need, to carry the most holy sacrament by night to a sick person lying within the domestic walls of a monastery or seminary, etc., who cannot remain fasting longer without grave inconvenience; for the prohibition of the Ritual refers only to public carrying through the streets of the place.

The bishop, if there is need, can permit by dispensing that the Eucharist be carried by night through the streets to a sick person who has not communicated for a long time and cannot remain fasting longer. Indeed, unless a special prohibition stands in the way, the pastor himself can do this by his own authority; for there is a sufficient cause excusing from this prohibition, lest the faithful be deprived of holy communion for a long time.

If there is need: because now, from the privilege of the Church, holy communion can for the most part be ministered to the sick even when not fasting.

4. On Friday of Holy Week it is licit to carry only holy Viaticum to the sick, which can be administered on any day and at any hour, whether of day or of night.

5. On Holy Saturday holy communion cannot be administered to the faithful except during the solemnities of Masses or immediately after they have been completed.[299]

By these things there does not seem to have been removed the permission of receiving holy communion granted to those (for the most part workers) who perform spiritual exercises during Holy Week and bring them to an end on the morning of Holy Saturday itself.[300]

Notes

293. Cf. Olfers, *Pastoralmedizin*^3, p. 219.

294. Cn. 857.

295. Cn. 867.

296. S. C. R., 7 Dec. 1641, n. 78.

297. Holy Office, 1 Aug. 1907 and 26 Nov. 1908; Cn. 821, 3.

298. *Rituale rom.*, tit. 4, c. 4, n. 10; Cn. 867, 4.

299. Cn. 867, 3.

300. Gury-Ferreres, II, n. 297.

6. Holy communion is to be distributed only at those hours at which Masses can be celebrated, unless a reasonable cause suggests otherwise.

Therefore on days of great concourse, of plenary indulgence, of jubilee, of missions, and similar days, it is licit to minister holy communion to those fasting even one or another hour after noon; indeed, scandal being excluded, even in the evening.

7. That the Eucharist be distributed to communicants within Mass is very fitting both to the nature of the matter and to the will of the Church. But from custom, which has already long prevailed everywhere, it is licitly distributed also outside Mass and immediately before or after Mass.

130. A fitting place. The Eucharist can be distributed in a church and in all oratories in which the sacrifice of Mass can be offered, even in private oratories.[301]

131. On the prescribed rite. The Roman Ritual accurately describes the rite to be observed in distributing holy communion;[302] here it must be noted what sin is committed by one who departs from the liturgical prescriptions.

1. To distribute the Eucharist without any sacred vestment, unless necessity excuses, is a grave sin. To carry the Eucharist to another altar without a sacred vestment, to omit either the stole alone or the surplice alone, to administer it without a light, or to omit the prayers, either preceding or following, is venial.

When necessity urges it is licit to minister the Eucharist without a light and without a sacred vestment. For it is better that the external apparatus with which the most holy sacrament ought to be administered be omitted than that a dying person depart without Viaticum, all the more because scandal of the faithful ceases when the cause is known.

2. As regards the prayers which are contained in the Ritual after the distribution of holy communion, it must be noted that there is an obligation of saying the antiphon *O sacred banquet* with the verse and prayer, since the Ritual corrected and augmented by Pius X has: *the priest, having returned to the altar, says.*

3. To touch the host with the last fingers without cause is venial. Nevertheless, he who has the index finger and thumb of the right hand impeded can, from a grave cause (lest the faithful be deprived of communion or the dying of Viaticum), use other fingers in distributing communion; for although only the first fingers are anointed, nevertheless the whole hand is consecrated.[303]

4. The long-disputed cause concerning giving communion in black vestments the Holy See finally defined in this way: that from a reasonable cause it can be distributed both before and after a Mass of Requiem; and a reasonable cause is always judged to be present when holy communion is asked.[304]

But if holy communion is distributed in black vestments, the blessing at the end is to be omitted, and in paschal time the *Alleluia* is to be omitted; but the prayer fitting paschal time is to be said.[305]

5. It is not licit to give the faithful either the larger host, such as the priest receives in Mass, or several small hosts.[306] But it is licit, if there is need, to divide hosts, but only into two or three parts. It is also licit, if necessary, for Viaticum or for communicating one or another person who cannot wait longer, to take a part

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Notes

301. S. C. R., 8 May 1907; Cn. 869.

302. *Rituale rom.*, tit. 4, c. 2.

303. Cf. Lacroix, l. 6, pr. 1, n. 490; Ballerini-Palmieri, IV, n. 896.

304. S. C. R., 27 June 1868, n. 3177.

305. S. C. R., 26 Nov. 1878, n. 3465.

306. Decree of Innocent XI *Cum ad aures*, 12 Feb. 1679; Holy Office, 17 May 1636.

from the priest's host. But the host which was used for exposition of the most holy sacrament ought not to be given divided into parts to communicants except in a case of necessity.

The famous Innocentian decree, in general words indeed, prohibits that several particles be handed to anyone. Nevertheless, from the circumstances which gave occasion to that decree, it is licit to infer that this is prohibited only to the extent that it would be done for fostering false devotion.[307] Therefore nothing prevents several being handed to one from a reasonable cause, as if the priest celebrating could not consume all the particles which remain.[308]

6. If there is lacking someone to serve the priest, the one about to communicate himself, if he is a man, can recite the *Confiteor* and respond to the priest, or the priest himself can respond to himself to all things. If no man is present, the priest himself should say all things rather than that a woman (unless she is a nun within the cloister), even standing at a distance, answer anything in the church.

7. Concerning the order to be observed in distributing holy communion among those to be communicated, whether the distribution takes place within or outside Mass, it is established that the ministers of the altar or of the sacrifice, by reason of ministry, are to be preferred to others, although more worthy. This is to be understood of any minister, whether cleric or layman; nevertheless, clerics are to be preferred to a layman serving, and clerics constituted in major orders to clerics in minor orders.[309]

132. On communion of the sick. 1. Holy communion is to be carried to the sick publicly and honorifically, i.e., with the solemnities used which the Church prescribes.[310]

The reverence due to the most holy sacrament and at the same time the statutes of the Church demand that the Eucharist be carried to the sick with uncovered head.

The Church is difficult in conceding a dispensation concerning this matter; nevertheless, if sometimes because of inclemency of the air danger to health is truly to be feared, the Holy See has permitted that the bishop according to his prudence concede the carrying of a small hat both in fields and in towns.[311] And if somewhere the dispensation of the bishop could not be obtained, the priest, rightly fearing danger to health either from the heat of the sun or from cold, could by epikeia take for himself that permission which was conceded to the priests of Cologne "of walking, especially in winter weather, with the head covered with a woolen small hat, which, if necessity requires, can be of such amplitude that it also covers the ears,"[312] or that which the bishops of Birmingham and Moulins can indulge, that pastors in circumstances of this kind may be able to carry Viaticum with the head covered by a hat (*Hut, Mutze*).[313]

It is licit from a grave cause to carry the Eucharist on horseback or sitting in a carriage, just as also from grave necessity (e.g., in time of plague or if the sick person otherwise cannot swallow the host) it is licit to offer it by means of some instrument, for instance with a spoon together with wine or water.

2. From a just and reasonable cause it is licit for any priest to carry the Eucharist privately or secretly to the sick. But reverence and decency due to so great a sacrament should be consulted, the norms prescribed by the Apostolic See being observed.[314]

Notes

307. Cf. Benedict XIV, *De sacrif. miss.*, l. 3, c. 20, n. 1.

308. Cf. Genicot, *Theol. mor. inst.*, II, n. 189.

309. *Rituale rom.*, tit. 4, c. 2; S. C. R., 13 July 1658, n. 1074; S. C. R., 30 Jan. 1915.

310. Cn. 847; *Rituale rom.*, tit. 4, c. 4, n. 6. This requires at least that, if it is carried manifestly, it be carried with at least one cleric or sacristan accompanying with a lighted lamp.

311. S. C. R., 22 Apr. 1871, n. 3246.

312. S. C. R., 13 Nov. 1862. Cf. Lehmkuhl, *Theol. mor.*, II, n. 140; D'Annibale, III, n. 407.

313. S. C. R., 23 May 1846, n. 2909; 12 Sept. 1857, n. 3057.

a. By common law this is now conceded, which formerly Ordinaries could permit. A cause for secretly carrying the most holy sacrament is certainly present both in places of heretics, where it cannot be carried without danger of irreverence, and in places of Catholics, if it cannot be carried without great inconvenience. In other circumstances it is committed to the prudence and conscience of the priest to judge concerning a sufficient cause.

b. The manner of carrying the most holy Sacrament is different in various regions, according to different external circumstances. Since not so long ago the Holy See conceded to Ordinaries the faculty of permitting that holy communion be carried secretly to sick persons who ask it from devotion, especially if in some parish several ask or someone asks frequently, the rite prescribed by Benedict XIV is to be observed,[315] the same which the Roman Ritual also has (Appendix, p. 19). The priest is always to have a stole covered by his own garments; he is to place the pyx in a little sack or burse, which, suspended from the neck by cords, he is to place in his breast, and he is never to proceed alone, but is to be accompanied by at least one of the faithful in default of a cleric.[316]

c. But when the faculty was conceded to bishops in America of permitting priests to carry the most holy sacrament secretly to the sick, the Holy See wished that the bishops establish in their dioceses a common norm of carrying, in which these three things must be altogether observed: alpha. that priests carrying the most holy sacrament avoid useless conversations; beta. that they carry the consecrated host upon the breast; gamma. that the carrying take place only in a case of necessity and in the actual exercise of priestly ministry.[317]

3. If a sick person vomits the host received, so that the sacred species appear, these are carefully to be gathered in a clean vessel, carried to the church, and kept in a becoming place until they are wholly corrupted, so that they can be cast into the sacrarium without irreverence. But if the sacred species, entirely mixed with filth, cannot be discerned, whatever has been ejected is to be gathered with tow, and when these have been burned the ashes are to be cast into the sacrarium.

Question Fifth. On the Subject of the Eucharist

Article First. On the Subject Itself of the Eucharist

133. Who can receive the Eucharist. 1. Every baptized man, by divine law, is a subject capable of the Eucharist to be sacramentally received, even an infant and one perpetually insane. This is established both from the fact that this sacrament, in order to produce an effect *ex opere operato*, requires no acts of the recipient, and from the ancient discipline of the Church, by which the Eucharist was given even to infants.

Theologians distinguish several modes of receiving the Eucharist.[318] It is received really if the most holy sacrament is in reality received; it is received spiritually if the most holy sacrament is received only by vow and desire. Real reception is either material, if the Eucharist is received by one who is not capable of this sacrament, or sacramental, if it is received by one who is capable of the effects of this sacrament. Sacramental reception is either sacramental only, if it takes place without due disposition and therefore without fruit, or sacramental-spiritual, if it takes place with due disposition and therefore with the effect of sanctifying grace. Sacramental

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Notes

314. Cn. 849.

315. *Inter omnigenas*, 2 Feb. 1744.

316. S. C. de Sacram., 20 Dec. 1912.

317. S. C. de Prop. Fide, 25 Feb. 1859. Cf. Sabetti, *Compend. theol. mor.*, n. 691.

318. Cf. Council of Trent, sess. 13, c. 8.

reception only can take place sacrilegiously or neutrally, or without sacrilege and without fruit, according as the recipient is conscious of the defect of disposition or does not notice that defect.

134. 2. From the present discipline of the Church, introduced for just causes, it is not licit to give the Eucharist except to those who have already arrived at the use of reason, as is established from universal custom and from the Roman Ritual.[319]

a. Therefore it is not licit to concede the Eucharist to infants and those perpetually insane.

The reason on account of which the Eucharist is now not conceded to infants, otherwise than was done in antiquity, is both reverence toward this most worthy sacrament, and because it is not necessary for infants. For it has the nature of spiritual food, which restores the weakened powers of the soul; but little children do not need spiritual restoration, since their powers are weakened by neither internal nor external temptations.[320]

b. The deaf and mute from birth who have never received any instruction are ordinarily equated with infants; therefore neither absolution nor holy communion is conceded to them. This is to be said *a fortiori* of those deaf-mute and at the same time blind from birth.

For although the deaf and mute are not without the use of reason, nevertheless, since because of the defect of hearing intellectual knowledge cannot be explained and developed, from the testimony of experts confirmed by manifold experience they lack discretion between good and evil and knowledge of those truths which are necessary to be known by necessity of means. Nor can these truths be explained to them by natural signs, since because of a defect of notions they do not understand the signs themselves. But those things which the deaf and mute perform externally, if, e.g., they sign themselves with the sign of the cross, bend the knees, raise the hands in the manner of those praying, desire to approach holy communion, etc., they do merely in imitation of others, without in any way understanding the signification of the things which they outwardly imitate. Therefore, as regards knowledge of religious truths, they are to be equated with infants and the perpetually insane, to whom the sacraments are not administered. Perhaps at most it could be conceded that in death even the deaf and mute who could not be instructed be excited, as far as can be done, to sorrow by the sign of the cross, striking of the breast, and signs of this kind, and then be absolved under condition and anointed with extreme unction.

135. 3. Holy communion is not to be conceded except to those who are going to receive it without danger of irreverence. Nevertheless, since the sacraments are for men, it is not necessary that every danger, even slight, of irreverence be excluded so that holy communion can be given, especially to the sick.

a. Those who suffer from cough can receive the Eucharist, and in death even must, provided that they have enough quiet to be able to receive the sacred host; for danger of irreverence is present only if they are affected by an attack of coughing while they receive the sacred host. But once the host has been received, that danger is for the most part absent, because phlegm is cast forth by one way and food from the stomach by another.

b. Those who suffer from continual vomiting can receive the Eucharist, and in death must, if for one or another hour they have not vomited, and a test has been made by means of a non-consecrated particle. For in these circumstances there is the hope, which is required as probable, that a little after communion vomiting will not follow. If it can be done, a physician is to be consulted; when the cause of the vomiting is known, he will be able to judge whether the danger has already ceased. But in doubt whether the sick person is going to vomit the sacred host, it is not to be given to him.[321]

Notes

319. Tit. 4, c. 1, n. 11; Cn. 854.

320. Council of Trent, sess. 21, c. 4, can. 4.

c. The Eucharist can be given in death to the delirious if they have lucid intervals and irreverence is not to be feared. Therefore, as far as is enough, a test should first be made once or again whether they receive and swallow a non-consecrated particle decently.

d. Those destitute of their senses (*Bewusstlose*), e.g., because of apoplexy, fever, or agony, indeed are not bound to receive Viaticum, because they are not capable of obligation; but it is asked whether the pastor can or even must administer holy communion to them. In order that holy communion can be administered to them, two things are required: the first is that they have the intention of receiving it, which is supposed in all who have lived as Christians; the other is that it be sufficiently established that no danger of irreverence is present, because they conduct themselves indecently or repel or spit out the sacred host. But holy communion ought not to be given to them, and although it can absolutely be given to them, nevertheless usage rarely has it that the Eucharist be given to those destitute of their senses. This usage perhaps has prevailed because in sick persons of this kind danger of irreverence is rarely absent, and because they can be sufficiently helped by other sacraments (absolution and extreme unction). But it is in no way given to those who are deprived of their senses in the act of sin, although because of the slight probability of conversion conditional absolution and extreme unction are given to them.

e. To the insane (*Irrsinnige*) who after the use of reason have fallen into insanity, in death (and only in death) the Eucharist can be given, provided that their intention is reasonably presumed, they are in the prudently presumed state of grace, and they can communicate without irreverence. Whether an insane person is going to communicate decently can be known by experiment, namely by first offering one or another non-consecrated host and afterward, if he swallows it, a consecrated one. Ordinarily, however, as usage bears, holy communion is not given to them.

alpha. One who in the state of mortal sin, for which he was attrite, falls into insanity can attain eternal salvation much better and more securely through extreme unction than through holy communion (n. 7). Moreover, usage does not have it that holy communion be given to them, both because they cannot receive it with devotion and because danger of irreverence and scandal of the faithful is rarely absent.

beta. Intention and the state of grace are presumed from the fact that before insanity someone lived piously and as a Christian, made confession, etc.

In this matter, as the doctrine of ascetics, so the practice of pastors is diverse. By divine law no one doubts that the Eucharist can be given to the insane under the conditions listed, but the question is whether the Church has prohibited this. But the words of the Ritual, "It is not licit to communicate the insane,"[322] some understand absolutely of any communion; others, however, of any other communion except Viaticum. Having regard to this disagreement of authors, it is said above that communion can be given to them.

f. To the half-witted (*Halbblodsinnige, Geistesschwache*) and to old men becoming children again, who have the use of reason to this extent, that they can discern between spiritual and profane food, the Eucharist is to be given, but more rarely than to others, i.e., at least when it is prescribed: in the article of death and at Easter; indeed also sometimes during the year, according to the greater or lesser degree of discretion which they use. Nor is one to proceed scrupulously in this matter, since holy communion will certainly profit them and danger of irreverence does not exist.[323]

Notes

321. Cf. Capellmann, *Medicina past.*, p. 121.

322. Tit. 4, c. 1, n. 10.

323. Cf. Genicot, *Theol. mor. inst.*, II, n. 190.

Article Second. On the Necessity of the Eucharist

136. Who ought to receive the Eucharist. 1. Reception of the Eucharist is not necessary for salvation by necessity of means, neither in reality nor in vow. Certainly the Eucharist would be necessary by necessity of means if sanctifying grace could be acquired or preserved only through this sacrament; but the Eucharist is not the only means either for acquiring or for preserving sanctifying grace. Not the first, because it itself already supposes sanctifying grace; not the second, because, speaking absolutely, other means are at hand for preserving it: prayers, pious works, and other sacraments.

Therefore the constant doctrine of the Church, defined in the Council of Trent, is that little children attain eternal life even if they depart before they have received the Eucharist.[324] The same must be affirmed concerning adults who are inculpably impeded from receiving the Eucharist.

2. Reception of the Eucharist is necessary for adults by necessity of divine precept. And indeed the words of Christ, *unless you eat the flesh of the Son of man and drink his blood, you shall not have life in you*,[325] do not signify necessity of means; therefore they contain at least a precept of receiving the most holy Eucharist.

3. It is also necessary by ecclesiastical precept, by which the faithful who have reached the years of discretion are obliged to receive the Eucharist every year at Easter.[326]

4. Reception of the Eucharist for adults is also a morally necessary means for preserving spiritual life. Although other means of preserving sanctifying grace are also at hand, nevertheless with great difficulty only will they overcome temptations and preserve themselves from sin for a long time who neglect to procure for themselves the more abundant aids of grace which, according to the will and institution of Christ, are given through holy communion (John 6, 54, 58).

137. On the obligation of the divine precept. The divine precept of receiving holy communion obliges of itself and can oblige accidentally.

1. Of itself it urges: a. at the time of death, as is established both from the perpetual practice of the Church, which established that the Eucharist is to be administered to the dying, so that the ancient law be observed, namely that the dying not be deprived of the final and necessary Viaticum;[327] and from the unanimous doctrine of theologians, whose reason is this: the divine precept of receiving the Eucharist, existing certainly but without determination of time, then obliges when the Eucharist is most necessary. But there is no greater necessity of this sacrament than in death, where the faithful must wage the last struggle against the enemies of salvation, on the happy outcome of which blessed eternity depends.[328]

b. Sometimes in life, as is gathered from the fact that this sacrament has been instituted by way of spiritual food. Moreover, just as the life of the body cannot long be preserved without material food, so neither can the life of the soul long subsist without this food. Here, however, the difference between natural and spiritual food must be noted: for the former is the only means for preserving natural life; but spiritual life can also be preserved by other means (prayers, good works, other sacraments). Therefore of the former an absolute necessity is affirmed, but of the latter only a moral necessity and a necessity of precept.

How often this sacrament is to be received Christ himself did not determine, but left to the Church to determine, so that she herself, according to the diverse demand of times and devotion, might prescribe the frequency of

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324. Sess. 21, can. 4.

325. John 6, 54.

326. Fourth Lateran Council, c. *Omnis utriusque*; Council of Trent, sess. 13, can. 9; Cn. 859. Cf. *De praeceptis*^12, n. 694 ss.

327. First General Council of Nicaea, can. 13.

328. Cf. Lugo, disp. 16, n. 35.

reception. In the first centuries of the Church, charity and devotion then being fervent, the faithful frequently approached holy communion, so that there was no need of a positive precept of the Church. But because afterward, charity and devotion growing cold, the faithful began to neglect holy communion, the Church commanded that every year they receive it three times on the principal feasts: Nativity, Resurrection, and Pentecost. And when gradually the faithful did not even observe this, Innocent III in the Fourth Lateran Council commanded holy communion to be received at least once in the year. It can scarcely be affirmed that annual communion is the extreme limit beyond which the reception of this sacrament cannot be deferred without violation of the divine precept.[329]

2. Accidentally there exists an obligation of receiving the Eucharist if someone suffers so grave and lasting a temptation that holy communion is necessary for overcoming it. This, however, will scarcely ever happen, since other means are at hand which suffice for this end, e.g., prayers, penances, flight of occasions, etc. And this indeed is true theoretically; but practically, especially in a man who labors under an evil habit, holy communion, and indeed more frequent communion, must be called morally necessary. For the other means by which he could free himself from vice are more difficult than that there be hope they will be used; therefore, if he does not flee to communion to be received frequently, he will never free himself from vice.

138. On the obligation of receiving Viaticum.[330] In danger of death, from whatever cause it comes, whether internal or external, the faithful are held by the precept of receiving holy communion. The precept of Viaticum begins to oblige not only in the article of death, namely when death is near at hand and morally already certain, but also in danger of death, namely when it is probable that death will follow, because in circumstances of this kind it is frequently accustomed to happen, whether the danger to life then arises from an internal cause (illness) or from an external one.[331]

Therefore not only in grave illness, but also before a dangerous voyage or battle, when a contagious disease is raging, before a surgical operation joined with danger of life, before childbirth, especially if it is the first time or if the woman has been accustomed to give birth with danger, the obligation of receiving this sacrament urges. Communion is also to be given to those condemned to death, provided that they are rightly disposed, and the Church disapproved the contrary practice of some; for they are in the article of death, where the precept of receiving the Eucharist obliges. It is to be advised that the guilty person communicate on the very day of punishment, provided that it be at least one hour before capital punishment is inflicted.[332]

2. Even if they had received holy communion on the same day, nevertheless it is very much to be advised that, when the danger of death comes on, they communicate again.[333]

Not only the question disputed among theologians, whether one falling into danger of death is bound to receive Viaticum if on the same day he received holy communion from devotion, but also the other question, whether one who a few days before received holy communion from devotion is bound to receive Viaticum, is solved by these things. The first indeed, because in the case of Viaticum it is licit to communicate twice on the same day, and because the sick are not obliged to receive it. But the other, because the precept of Viaticum does not

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329. Cf. Behringer-Hilgers, l.c., p. 148 s.

330. Cn. 864.

331. The article and danger of death are usually taken in the same sense. But those who distinguish between these two define with Suarez that the article is present "when death is near at hand and is morally certain and almost inevitable," but danger is present "when it is probable, doubtful, and frequently customary that in such a case death happen." Therefore danger of death is judged present in any dangerous illness, namely one which of itself can have a lethal outcome.

332. S. C. de Prop. Fide, 5 July 1841, decreed that to those condemned to death holy communion is not only to be given, but also to be given by way of Viaticum.

333. Cn. 864, 2.

urge at the end of life, or a little before death, where danger to life is not yet present, but in the very danger of death.

3. While the danger of death continues, Viaticum, according to the prudent counsel of the confessor, can and fittingly should be administered several times on distinct days.[334]

4. He who received Viaticum sacrilegiously has not satisfied the precept; therefore he is bound to receive it again if this can be done without danger of infamy. He who in danger of death did not communicate is not bound afterward to supply it; likewise he who after receiving Viaticum sinned mortally is not bound to communicate again.

A prudent confessor will have to judge whether a dying person who received Viaticum sacrilegiously and afterward confesses the sacrilege is to be admonished about the obligation of receiving it again. For if the admonition is foreseen as perhaps not going to be profitable, it will be more advisable to abstain from it. But if the dying person does not refuse to communicate again, Viaticum is to be carried the following day, using communion from devotion as a pretext so that his reputation may be consulted. But if from any cause whatever this could not be done, there is sufficient reason for carrying holy communion secretly, which even a regular confessor could do.

Article Third. On the Disposition of the Soul

139. The required disposition. 1. For receiving the Eucharist with fruit there is required the state of grace, because the Eucharist is a sacrament of the living. Therefore the Apostle admonishes: *But let a man prove himself, and so let him eat of that bread and drink of the chalice*;[335] and from the declaration of the Council of Trent this proving consists in this, that he who approaches holy communion be conscious to himself of no mortal sin.[336]

a. A twofold disposition as regards the soul can be distinguished: substantial, which consists in immunity from mortal sin, and accidental, which consists in immunity from actual venial sin and in actual devotion with which the sacrament is received. On the former depends the very effect of this sacrament; on the latter depends the degree of the effects which holy communion can produce. The former is required under grave sin, the latter under venial sin; for he sins against the reverence due to so great a sacrament who approaches with actual venial sin or without any devotion and preparation.

Therefore for perceiving the effect of this sacrament no disposition besides the state of grace is required. Therefore he who approaches without actual devotion or with venial sins not yet remitted, indeed even he who in receiving the Eucharist commits a venial sin, does not lack the substantial fruit of this sacrament. For the sacraments confer grace *ex opere operato* on those not placing an obstacle; but the obstacle of this sacrament is nothing except grave sin. But the better the disposition is, the greater also is the fruit which is perceived from the sacrament.

b. Since there is an obligation of procuring actual devotion for oneself before holy communion, he commits a venial sin of irreverence not only who communicates with actual light sin, but also who communicates without actual devotion. Nevertheless the same measure of devotion is not required in all, but one fitting the condition and state of the communicant: greater, namely, in those who communicate more often and strive after perfection than in those who rarely communicate and are involved in secular business. Hence

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334. Cn. 864, 3.

335. 1 Cor. 11, 28.

336. Cf. Council of Trent, sess. 13, c. 7.

it can happen that the defect of particular devotion which in a layman is no sin is a venial sin in a priest or religious.[337]

140. 2. It does not suffice to repair, before communion, the state of grace lost through sin by perfect contrition; but by the prescription of the Church: a. he who is in the state of mortal sin, before communion, is bound under grave sin to premise sacramental confession, unless there is lacking the supply of a confessor and at the same time there urges the necessity of celebrating or communicating; nevertheless they should first elicit an act of perfect contrition; b. a priest who, necessity urging, has celebrated without previous confession is bound to confess as soon as possible.[338]

alpha. There are some who say that the precept of confessing before communion is divine: for by the precept of the Apostle, which he himself received from Christ the Lord, proving is to be premised before communion; but this proving, from the declaration of the Church, is sacramental confession. But this opinion, as lacking solid reason, is rejected by others.[339]

beta. If someone, after a confession made in good faith, remembers a mortal sin which he forgot to confess, confession before communion can be advised, but he cannot be obliged to it. For the Council commands confession to him who is conscious to himself of mortal sin not yet destroyed through confession; but in our case the communicant is not conscious to himself of sin not yet destroyed through confession, for the sin omitted in confession has already been indirectly remitted. Therefore neither is an act of contrition strictly required before communion in this case. Although, therefore, according to the most common opinion of the ancients, a sin omitted through forgetfulness must be declared in confession before communion, nevertheless, for the reason stated, the contrary opinion, which denies this obligation, has prevailed.

gamma. He who doubts concerning a grave sin committed, even if the doubt is truly probable, likewise cannot be obliged to confession before Mass or communion; for only he is conscious to himself of mortal sin who knows certainly that he has committed it. Nevertheless confession is to be advised, and even enjoined on him who does not know how to form his conscience, unless it is a question of a scrupulous person. But the communicant in this case must try to elicit perfect contrition before communion, lest he expose himself to the danger of frustrating the effect of the sacrament.[340]

delta. He who has applied a serious effort to eliciting perfect contrition can safely approach holy communion, even if he doubts whether in reality he has happened to elicit an act of it; for a doubt can scarcely exist unless negative and to be spurned.

epsilon. Practically, in a case of doubt concerning a grave sin committed, the penitent is to be directed from the presumption taken from those things which ordinarily happen to him in temptations of this kind. For if in temptations of this kind he is not accustomed to consent, it is to be presumed with moral certitude that consent was not present, and therefore holy communion is to be permitted without confession and contrition; but if he ordinarily consents, it is to be presumed that consent was also present this time, and therefore confession is to be urged.

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337. Cf. Lugo, disp. 14, sect. 1; Suarez, disp. 66, sect. 1.

338. Council of Trent, sess. 13, c. 7; Cn. 856, 807.

339. 1 Cor. 11, 23 ss. Cf. Lugo, disp. 14, n. 69 ss.

340. There are not lacking authors who think that no obligation exists in this case of premising an act of perfect contrition, because this obligation is not certainly established. But since the obligation of forestalling the frustration of the effect of the sacrament is certain, the obligation is also certain of using the means necessary for this end, namely either perfect contrition or confession with attrition. For it is not asked whether it is licit or not to approach holy communion without contrition, but whether frustration of the effect of the sacrament is absolutely to be forestalled. Cf. Lehmkuhl, II, n. 150 (n. 208).

141. Declaration of this precept. A twofold condition is required so that it be licit to celebrate or communicate without confession having been premised: a. that the supply of a confessor be lacking; b. that the necessity of celebrating or communicating urge.

1. **The supply of a confessor** is lacking if no confessor is present, and one absent, with regard to the circumstances of the person (illness, necessary business) or of the journey (a distance of one hour), cannot be approached without great difficulty. But it is not said to be lacking if only one's own confessor is lacking, or if there is present only a familiar confessor, to whom you could confess only with great shame.

a. It is clear that there is no obligation of confessing if an approved confessor is indeed present, to whom, nevertheless, the penitent cannot confess without certain and grave harm to another, as if he cannot declare the sin without the confessor knowing the accomplice; or if the penitent has only a sin reserved to the bishop, and no confessor is present who has power over reserved cases.

b. It is certain that a cause external to confession and sufficiently grave excuses from this precept. All admit that danger of grave scandal and infamy constitutes a cause of this kind; it must be affirmed that shame alone arising from the fact that afterward you must converse or live with the confessor is not a cause of this kind. Nevertheless the opinion does not seem improbable that extraordinarily great and invincible shame, as if an uncle had to confess a shameful matter to his nephew, excuses from this precept.[341] This excuse, however, is not to be extended to the case in which a pastor would have to manifest a grave and shameful sin to a young vicar, unless the repugnance in the particular case is extraordinarily great.

2. **The necessity of celebrating or communicating** must be grave so that the priest can say Mass with only contrition premised and a layperson can receive communion; otherwise they must omit Mass or communion. Hence rarely will there be present a necessity of communicating in a layperson, more frequently in a priest a necessity of celebrating.

This necessity is judged present in a priest: alpha. if he is bound to celebrate by office, so that the faithful may hear Mass as prescribed, or so that funerals or nuptials may be had;[342] beta. if he cannot omit Mass without grave infamy or scandal of the people; gamma. if the priest, already clothed in vestments or with Mass already begun, commits mortal sin, or only then finally remembers a sin previously committed, and cannot confess without mark of infamy; delta. if a particle is to be consecrated so that Viaticum can be administered to a dying person. But the necessity of celebrating is not judged present if the priest was going to celebrate only from devotion, or for gaining an indulgence, or from the obligation of a benefice.

142. Concerning the precept imposed on priests alone of confessing as soon as possible if, urgent necessity requiring, they have celebrated without previous confession, these things must be noted:

a. It is a true precept[343] obliging under grave sin those who, urgent necessity requiring, have celebrated without confession, even sacrilegiously, provided that they have the supply of a confessor.

b. It does not oblige priests who, without necessity, celebrate in mortal sin without confession having been premised, because the Council speaks expressly of the priest who celebrates without confession when necessity urges.

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341. Berardi proposes this opinion (*Prax. conf.*^3, III, n. 338), to which Genicot assents, *Theol. mor. inst.*, II, n. 193, and *Casus consc.*, II, p. 214.

342. To celebration due from office can also be numbered the case in which, because of a particular devotion, a frequent people comes together to hear Mass, even if not prescribed. Cf. Genicot, *Casus consc.*, II, p. 213.

343. Cf. proposition 38 of Alexander VII: "The mandate of Trent made to a priest sacrificing from necessity with mortal sin, of confessing as soon as possible, is a counsel, not a precept."

Authors, who with almost common consent interpret the law in this way, note that the Council wished by this law to take care lest priests defer confession under pretext of the necessity of celebrating, but did not directly wish to take care against sacrilegious celebrations; for the law would have profited little for obtaining this end. And indeed a priest who knowingly dares to celebrate sacrilegiously will scarcely care for this ecclesiastical precept. Therefore those who have celebrated without necessity are not affected by this law.

c. The obligation of confessing *as soon as possible* is to be understood in such a way that confession be made at least within three days, since the term *as soon as possible*, as in other human laws, is rightly understood morally, i.e., of the space of three days. This obligation urges even if the priest after three days will not celebrate, but only after one or another week. Nevertheless on the second or third day of this three-day period he cannot celebrate without confession, unless again and again the necessity of celebrating and the lack of a confessor continue.

d. Accidentally, however, it can happen that the priest is obliged to confession even on the same day, namely if on that day there is an occasion of confessing and he himself wishes or ought to celebrate on the following day, or if he foresees that in the following days there will be no occasion of confessing.

Article Fourth. On the Disposition of the Body

The disposition of the body also is twofold: one essential, which consists in the natural fast; the other accidental, which consists in external reverence and must appear in decency of dress and cleanliness of body. The essential disposition is required under grave sin, the accidental under light sin.

This twofold disposition of body is taken from the Roman Missal, which, looking not only to the celebrant but also to communicants, treats in chapter IX *De defectibus* of the disposition of body and brings forward the following: defect of the natural fast and defect of cleanliness arising from pollution, even if the stain of the soul has been destroyed by confession; for it says: "unless something else seems good to the confessor."

143. With decent dress. The reverence due to this most worthy sacrament demands that communicants approach the sacred table reverently and devoutly in decent and clean dress. Hence:

a. The negligence and carelessness by which someone approaches holy communion in disordered, dirty, or torn garments is certainly venially sinful.

b. If the immodesty and indecency by which women sometimes approach the sacred table, with the breast not sufficiently covered and surrounded with vain ornament, should proceed so far that, having regard to the custom of regions, they offend chaste eyes and are a scandal to others, they would even sin gravely and would have to be kept from communion.

c. It is fitting that soldiers approach the sacred table after laying aside arms, but they are bound to this by no law.

d. Priests and deacons, by prescription of the Church, must approach holy communion clothed with a stole, if they communicate publicly.

144. With a clean body. Reverence toward the most holy sacrament also demands this: that communicants approach the sacred table with a clean body, i.e., without an external and removable stain and without filth. For although a stain of the body, whether external or hidden, does not of itself impede holy communion, since purity of the soul is not diminished by defilement of the body, nevertheless decency requires this cleanliness too.

a. If an external stain is present which is hoped to be removed shortly, it is fitting that holy communion be deferred for a short time. But if the stain is lasting, there is no reason that someone be deprived of holy

communion on that account. Nevertheless a priest infected by a disease which excites horror can indeed celebrate, but privately, not publicly.

b. Women at the time of menstrual flow and of purification after childbirth, since these things happen without fault and do not outwardly appear, are not prohibited from receiving holy communion.

c. Involuntary pollution does not prohibit from Mass or from communion. Therefore of itself it is not necessary on that account to omit Mass or communion, especially if there is present a particular reason on that day of celebrating, e.g., in those who are accustomed to celebrate daily, or of communicating, e.g., in communities where on stated days all approach communion, or if an indulgence is to be gained, etc.[344]

d. The marriage debt rendered on the preceding night with due end and manner in no way impedes holy communion. Indeed, if the debt is exercised for pleasure alone and therefore sinfully, it is not necessary that the married abstain from the sacred table, especially since in them there is ordinarily a reasonable cause either of approaching holy communion or of performing the conjugal act.

145. On the natural fast. 1. By the precept of the Church, obliging under grave sin, it is required that the one about to communicate observe the natural fast, i.e., abstinence from every food and drink, however minimal, from the preceding midnight. The foundation of this precept is decency and reverence toward the most holy sacrament; for it is plainly fitting that the Eucharist be received before every other food.

a. The natural fast before communion, which is also called sacramental, introduced at first through particular statutes and through custom, has been sanctioned by ecclesiastical law.[345]

b. The sacramental fast requires that no other food or drink be received on that day, i.e., after midnight, before holy communion. But it does not require that the Eucharist be received into a stomach entirely empty or fasting, nor that the Eucharist be the first substance, but only that it be the first food (or drink) which on that day is received into the stomach.

c. That one who celebrates soon after midnight must abstain for some time from taking food or drink is prescribed by no law. Therefore, although of itself he can still eat or drink a little before midnight, nevertheless, apart from unforeseen cases, decency demands that he abstain from food and drink for several hours, about four, before Mass, lest sacred food be mixed with profane food taken a little before.[346]

d. He who positively doubts whether he has taken something of food or drink, and in like manner he who positively doubts whether what he took he took before or after midnight, can approach holy communion; for unless it is certainly established that the fast has been broken, he is not bound to abstain from holy communion.

e. The law of the sacramental fast, although it is an ecclesiastical law, nevertheless does not admit smallness of matter. Since the law was established from a motive of religion because of reverence toward Christ the Lord present in the Eucharist, he who violates it commits a sin of sacrilege.

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344. Cf. Lugo, *De euchar.*, disp. 15, sect. 1.

345. The Code of Canon Law contains an explicit precept concerning this matter. For the faithful, Cn. 858, 1: "He who has not observed the natural fast from midnight cannot be admitted to the holy Eucharist, unless danger of death urges, or necessity of preventing irreverence toward the sacrament." For priests celebrating, Cn. 808: "It is not licit for a priest to celebrate unless the natural fast from midnight has been observed." Indeed Cn. 2321 wills that the Ordinary suspend from sacred functions priests who have presumed to celebrate not fasting or twice on the same day. Since the law is ecclesiastical, it can be taken away by dispensation of the Supreme Pontiff; but dispensation, which formerly is read as scarcely ever granted, today is more easily granted, but only to the sick who are not gravely bedridden, who cannot remain fasting, for communicating, not however to priests for celebrating.

346. When the Supreme Pontiff Leo XIII (26 Feb. 1885) granted the privilege of celebrating Masses in the church at Lourdes immediately after midnight, he added this condition, that the priests celebrating abstain from food and drink four hours before Mass.

f. The precept by which formerly the faithful after holy communion were bound to keep the fast until evening no longer is in force. Nevertheless natural decency demands that one abstain from food and drink for as long as the sacred species in the stomach are not yet corrupted. Therefore he who immediately after holy communion eats or drinks without a reasonable cause sins venially against the reverence of the most holy sacrament. But he is free from all fault who soon after communion spits, provided that no fragment of the host remains in the mouth or throat. For there is no danger of irreverence, since the way by which spittle flows into the mouth is not the way of food and drink.

146. 2. Midnight, from which the communicant must be fasting, begins from the first stroke of the clock indicating the twelfth hour. Therefore for one about to communicate, who while drinking hears the hour strike, it is not licit to finish the draught; nevertheless he is not bound to spit out what, while drinking, he still has in his mouth.

Some assign this reason for the matter: because the Church is not judged to wish to oblige to such rusticity; others perhaps more rightly: because in that place there will not be lacking approved clocks which have not yet indicated twelve.

The twelfth hour can be estimated from all the public clocks of the region ordinarily well directed, even if they mark a time diverse from the true time, namely either local mean time or legal mean time. Therefore it is licit to follow the latest clock, provided the error is not established and that clock does not ordinarily err.[347]

The Church has permitted this because it does not require that the faithful in observing ecclesiastical precepts use a computation of time different from that which publicly directs the other affairs of men in individual places.[348] Therefore it is always licit to follow true time, but it is also licit to follow mean time, whether local or legal, according as the clocks of the region indicate the one or the other.

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147. On the breaking of the fast. The natural fast is broken by eating or drinking, i.e., by the taking of any food or drink which is taken in the manner of food or drink.

a. For the notion of eating or drinking it makes no difference of itself whether something is taken deliberately or by accident and beyond intention; therefore he who in sleep drinks water, or who inadvertently swallows a leaf which he was rolling about in his mouth, is no longer fasting.

b. Therefore three things are required for the breaking of the fast: one of them pertains to the thing which is taken, namely that it be food or drink; the other two pertain to the manner in which the thing is taken, namely that it be taken by the mouth from outside, and that it be taken by eating or drinking and descend into the stomach by swallowing.

148. 1. In order that the fast be broken, it is required that that which is taken have the nature of food or drink. Now by the name of food is designated only and everything which, received into the stomach, can in some manner, even if not fully, be digested and converted into the substance of man; for what can in no way be altered in the stomach is not said to be eaten. But by the name of drink is signified every liquid (which does not at the same time nourish).

a. What can be digested, and what cannot, must be determined chiefly from the common estimation of men. Hence he who swallows iron, glass, wood, nails, hair, scraped-off fruit stones, threads of silk or wool, and

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347. Cn. 33.

348. S. Poenitentiaria, 18 June 1873; 29 Nov. 1882. Cf. *Acta S. Sedis*, VII, p. 399.

similar things, does not break the fast; but he breaks it who swallows straw, wax, paper, medicinal powder, etc.

b. But if from the doctrine of chemists it should be established that some thing commonly considered digestible, as chalk, can in no way be altered in the stomach, that thing would not have the nature of food and drink, and therefore would not break the fast. Nevertheless a thing which in common estimation is not considered digestible must not on that account be reckoned among foods because chemists say that it is altered a little in the stomach.

149. 2. In order that that which is taken be taken by the mouth from outside and be swallowed: for the fast is broken by eating; but what is not taken by the mouth from outside, even if it is swallowed voluntarily, and likewise what is only put into the mouth, without being swallowed, is not said to be eaten.

a. Therefore he who swallows a humor flowing inwardly from the head, or blood flowing from the tongue, gums, or teeth, or tobacco powder drawn in by the nostrils, or a drop of water descending through the ears, does not injure the fast; but he injures it who sucks blood from the wound of a finger, who licks tears flowing from the eyes, blood from the exterior lips, etc., unless some small amount beyond intention descends into the stomach in the manner of saliva, etc.

b. He who, for washing out the stomach by means of some instrument, draws in water and again rejects it, remains fasting, even if a small part of the water remains in the stomach, because nothing is taken by swallowing in the manner of drink. Indeed also, as it seems, it is licit to put down into the stomach the tube of the instrument smeared with oil, without the fast being broken.[349]

150. 3. In order that that which is taken be taken by eating or drinking, or in the manner of food or drink, not in the manner of saliva or respiration: for what is taken in the manner of saliva or respiration, by the common judgment of men, is not eaten.

That is taken in the manner of saliva which is inseparably mixed with saliva and, with it, beyond intention (even if advertently), is passed into the stomach; that is taken by respiration which, flying through the air, is drawn in by breathing and beyond intention (even if advertently) descends into the stomach. But what is sent down with saliva in greater quantity, or what is deliberately taken with saliva, or drawn from the air and swallowed, breaks the fast. For although it makes no difference to the notion of eating whether a thing is taken by accident or deliberately, nevertheless, if something is taken purposely with saliva or by breathing, the intention causes the taking to be voluntary swallowing and to have the character of eating or drinking.

a. Therefore he who rinses his mouth and by accident swallows a little water mixed with saliva; he who keeps some aromatic thing in his mouth, deliberately swallowing nothing, even if something descends with the saliva; he who holds a tobacco leaf in his mouth and rubs it with his teeth, but deliberately does not swallow the juice, but spits it out, does not break the fast. Yet chewing of this sort, unless there is present a reasonable cause, e.g., of health or of purifying the breath, is not becoming before communion. In the same way, he who by breathing draws in vapors from food or drink present; he who draws tobacco smoke through the mouth; he who passes down a fly, dust, snow, rainwater drawn from the air, does not break the fast: for these things either do not have the nature of food, or are taken in the manner of respiration or saliva.

b. But he who voluntarily swallows even the smallest thing, with whatever intention this is done, who, for example, takes in the manner of medicine a single little drop or a single grain, ceases to be fasting and is excluded from communion; in like manner, he who, lying down in the evening, takes into his mouth a piece

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349. Cf. *Monitore eccles.* (Roma, Direzione del Mon. eccl.), t. 9, p. 184.

of sugar to soften hoarseness, if the whole has not been liquefied and swallowed before midnight, does not remain fasting.[350]

c. Remnants of food which cling between the teeth do not break the fast, whether they are taken involuntarily or even voluntarily. This indeed is certain from the rubric of the Missal;[351] but in assigning the reason why those remnants do not hinder the fast, authors do not agree: according to some, because they are not taken from outside; and according to others, because they are taken in the manner of saliva. Perhaps better you would say with Lehmkuhl that this comes from the definition of the Church, which, in order to forestall anxieties and doubts in these matters which occur rather often and can with difficulty be guarded against, has itself interpreted the law more broadly.

d. That which is taken together with the sacred species does not break the fast, which the Church commands to be observed in a human manner. Therefore if someone in the first Mass on the day of the Nativity should have taken a fly or a small particle of wax which had fallen into the chalice, or drops of wine clinging inside the chalice, even though they were not consecrated, he can still celebrate another Mass. To the sick (even those not gravely bedridden) the sacred species can be offered with wine or water, just as the priest himself on Good Friday takes the particle of the consecrated host with wine, even if perhaps the water or wine descends into the stomach before the sacred species.

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151. Causes excusing from the natural fast. The precept of the sacramental fast belongs to the gravest precepts of the Church; therefore, from the custom of the Church, which the Council of Constance reports, it ceases only in a case of infirmity or of another necessity granted or admitted by law or by the Church.[352] Moreover five cases of this sort are enumerated, four of which are indeed admitted by all, but concerning the fifth authors dispute.

When the individual cases in which the law of the sacramental fast ceases are considered, it will be clear that not just any grave inconvenience excuses from this law, but only the necessity of fulfilling a higher law, which cannot be fulfilled while the fast is observed.

Therefore the Eucharist can be received by one not fasting:

1. **For completing the sacrifice:** for the obligation of the divine precept concerning the completion of the sacrifice is greater than that of the ecclesiastical precept concerning the fast to be observed before communion. Therefore:

a. If a priest in the sacred action itself, after the consecration of one or both species, remembers that he is not fasting, he can and must communicate, not fasting, in order to complete the sacrifice; but if he remembers before consecration, he must withdraw from the altar, where this can be done without infamy and scandal.

b. If a priest performing the sacred action, after the consecration of one or both species, being overtaken by a sudden illness, cannot complete the sacrifice, then, in default of a fasting priest, it must be completed by another priest who is not fasting.

c. If a priest has poured water instead of wine into the chalice, and does not notice it until after the reception either of all or of part of the water, he must, in order to complete the sacrifice, consecrate again and receive the consecrated species.

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350. Cf. Sporer-Bierbaum III, pars 2, n. 467 ss.

351. *Missale rom., De defectibus* IX, 3.

352. Sess. 13.

d. If a priest, after the ablution has already been taken, finds a whole consecrated host or remnants of hosts, he can and must receive them, if another Mass is not to be said that day and if they cannot be placed in the ciborium or be kept decently in another way, because that reception is as it were the complement of the sacrifice and of the banquet performed.[353]

152. 2. For avoiding irreverence toward the most holy sacrament: for the natural law of reverence due to the sacrament is to be preferred to the ecclesiastical law of the fast before communion.

Therefore, if there is imminent danger from fire, from the attack of enemies, from infidels or heretics by whom this sacrament would be treated injuriously, the consecrated hosts can and must be received by a priest who is not fasting and, if he is absent, even by a layman with his own hands; or a priest can offer them to laypersons who are not fasting. Cf. cn. 858.

153. 3. For avoiding public scandal: for the obligation of the natural law concerning the avoiding of scandal is greater than this precept of the Church.

a. Therefore, if a priest before consecration remembers that he is not fasting and cannot withdraw from the altar without infamy and scandal of the people, he can communicate though not fasting. The same also is to be conceded to a layman who, about to communicate, is already present at the altar and remembers that he is not fasting, namely where he cannot withdraw without disgrace and scandal.

b. If a pastor on a Sunday, whether by accident or by fault no longer fasting, cannot omit the sacred action without grave scandal and offense of the people or without his own grave infamy, he certainly could perform the sacred action even though not fasting. But this cause alone, namely lest the people on a feast of precept have to be deprived of Mass, does not excuse from the law of the fast, which is graver than the precept of hearing Mass.[354] In a case of this sort, however, other excusing causes often concur, especially scandal of the people, danger of infamy, and finally the danger that many, although an opportune occasion exists and although they could and ought to go elsewhere to hear Mass, will gravely neglect to do so. Besides, a priest who is not ill spoken of among the faithful will easily remove the danger of scandal and infamy by candidly declaring the cause for which he cannot celebrate. But if the faithful cannot go to a nearby church to hear Mass, it is helpful to institute another sacred function in place of the Mass.

c. Many authors concede that a newly ordained priest who has inadvertently broken the fast can celebrate his first Mass, if circumstances concur in which it cannot be deferred without very grave inconveniences, as if many relatives have come from elsewhere, if it is publicly known that the first Mass is to be celebrated today, but the breaking of the fast has remained hidden: for ordinarily the reason of scandal will excuse; but if no scandal is to be feared, it is licit in this case to use epikeia.[355]

154. 4. For receiving viaticum in danger of death: for the Council of Constance declares that the sick laboring under a grave illness joined with danger of death are exempt from the law of the fast to be observed before communion,[356] and the Roman Ritual has: Viaticum can be given to those shortly about to die when they are not fasting.[357] Therefore these, as exempt, are not bound to observe the fast, even though they could observe it without grave inconvenience.

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353. *Missale rom.*, *De defectibus* VII, 2.

354. S. Officium, 2 Dec. 1874.

355. Cf. Gobat, *Experient.*, tr. 3, n. 411; Lacroix, l. 6, pr. 1, n. 583; Genicot, *Theol. mor. instit.*, II, n. 202.

356. Cf. sess. 13.

357. *Rituale rom.*, tit. 4, c. 4, n. 4; cf. cn. 858, from which the same is inferred.

a. This exemption, however, does not apply to those who are brought into danger of death not from illness but because of an external cause: for then both the Council and the Ritual speak only of the sick. Therefore those who are not sick, as soldiers before battle, persons condemned to death, etc., must observe the fast before viaticum. But if they cannot observe it without great inconvenience, viaticum can be given even to those not fasting.[358]

b. If it is doubtful whether the sick person is in probable danger of death or not, whether the disease is truly lethal or not, nevertheless viaticum can be administered to him though not fasting, both because the obligation of the fast is not certain, and because the Church is rightly presumed to wish in this case to favor the sick person, lest he be exposed to the danger of dying without viaticum. This holds especially when the sick person is far from the church, or the priest can no longer return to him; for then the danger is greater of dying without viaticum.

155. 5. For administering viaticum. There are those who add this fifth case to the preceding: namely, if there is no consecrated host for viaticum, a priest who is not fasting can celebrate, even if he has already celebrated on that day. And this indeed is certain, if there is question of administering viaticum to himself; for he who is exempt from the fast so that he can communicate, is also exempt so that he can celebrate. But if there is question of administering viaticum to another, many authors concede it either absolutely or at least probably,[359] and not without reason: for the divine law, which commands the reception of viaticum, is to be preferred to the ecclesiastical law commanding the fast before celebration, especially since from this no relaxation of the law of the fast to be observed before communion is to be feared. Besides, St. Alphonsus, whose probable opinions the Church permits in practice, says that this opinion is probable.

156. How often holy communion can be ministered to a gravely sick person who is not fasting. Holy communion can be given more often to the sick dangerously bedridden, even when they are not fasting, not only if a new danger recurs, but also in the same danger; indeed nothing prevents it from being offered to them as often as they desire it for the consolation and help of the soul and the circumstances of persons and places permit, even if this were done daily.[360]

a. For the Council of Constance declares the sick dangerously bedridden simply exempt from the law of the natural fast. And certainly the reason for exempting them is not only the obligation of receiving viaticum, but also the necessity of the soul, by which the sick especially at the time of death need the help and consolation of this sacrament. Therefore, if the sick person can remain fasting without inconvenience, he should be advised, out of reverence toward the most holy sacrament, to receive holy communion fasting; but he is not bound to this.

b. Therefore the Roman Ritual admonishes:[361] "But if the sick person, having received viaticum, lives some days . . . and wishes to communicate, the pastor will not be lacking to his pious desire." These words are to be understood of the reception of the most holy sacrament by one not fasting. Therefore all the provincial synods held in recent times exhort pastors to bring the Eucharist more often to the gravely sick, even if they cannot observe the natural fast.[362] With these agrees cn. 864, 3 cited above (n. 138).

c. If holy communion is administered to the gravely bedridden sick, whether they have already been refreshed by viaticum or not yet, the ordinary form is used: The Body of our Lord, etc.

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358. S. C. de prop. fid., 21 July 1841.

359. Cf. St. Alphonsus, n. 286.

360. Cf. *Zeitschrift f. k. Th.*, 1880, p. 717 ff.

361. *Rituale rom.*, tit. 4, c. 4, n. 3.

362. Cf. *Collectio lacens.*, under the word *Viaticum.*

157. Whether it is licit to give communion to one who is not dangerously bedridden, but because of long-lasting illness cannot observe the fast, when he is not fasting. The Holy See has resolved this question, disputed up to now, in such a way that it is now established which sick persons, and how often, can receive holy communion when they are not fasting.[363] Namely, the sick who have already been bedridden for a month without certain hope of soon recovering can receive holy communion once or twice in the week, even if they have previously taken some medicine or something in the manner of drink,[364] but with the counsel of the confessor employed in this matter.

a. The privilege conceded by this decree must be extended also to those who, because of the quality of the disease, cannot lie in bed, but are forced to remain outside the bed; likewise to those whom the disease permits to remain outside the bed during the day for a time.[365]

b. Besides these sick persons there are others who properly are not called sick, since they habitually remain outside bed, go out from the house, indeed come to church, and yet cannot observe the fast. To these the privilege conceded to the sick cannot be extended, lest under the pretext of infirmity the precept of the fast gradually be relaxed. In order that these also may be able to receive holy communion, either holy communion must be administered to them so early that up to that time they can observe the fast, or a dispensation from the sacramental fast must be sought, which in our time is more easily granted.[366]

c. If, however, in a sick person of this sort there is question not of communion from devotion, but of Easter communion to be received by precept, already some more recent theologians think it probable that in that case the law of the fast ceases: for the divine-ecclesiastical precept of communicating at Easter prevails over the merely ecclesiastical precept of observing the fast before communion. Nevertheless the scandal of the faithful must be guarded against.[367]

d. If someone bedridden from a non-grave illness cannot observe the natural fast and desires to receive holy communion more often in the week, the privilege cannot be extended beyond communion twice; but nothing prevents him from communicating twice in the week not fasting, and on other days fasting, if he observes the fast, although with difficulty.[368]

e. Priests can indeed use this privilege conceded to those not dangerously bedridden, when the required conditions are supposed, for communicating in the manner of laypeople, but not likewise for celebrating.

Article Fifth. On Frequent Communion

[369]

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363. S. C. C., 7 Dec. 1906. The resolution of the Sacred Congregation was somewhat modified by cn. 858, 2.

364. The Holy Office, 7 Sept. 1897, declared: the words *in the manner of drink* are to be understood so that it is licit to take broth, coffee, and other liquid foods with which some substance has been mixed, e.g., flour (*semolino, emoule*), grated bread (*pangrattato, pain rape*), etc., provided the mixture does not lose the nature of liquid food.

365. S. C. C., 6 March 1907.

366. Formula for petitioning from the Sacred Congregation of the Sacraments a dispensation from the sacramental fast: Most Blessed Father, Stephen N. of the diocese N., although he does not lie in bed because of infirmity, nevertheless suffers from such weakness of stomach that it is morally impossible for him to observe the natural fast prescribed before holy communion. Therefore, humbly prostrate at the feet of Your Holiness, he suppliantly asks the faculty of taking something in the manner of drink before he approaches to receive holy communion.

367. Of this opinion are Berardi, *Examen conf.*, I, n. 764; D'Annibale, III, n. 411; Gasparri, *De euchar.*, II, n. 1129; Genicot, *Theol. mor. inst.*, II, n. 202; Lehmkuhl, *Casus consc.*, n. 176; Gennari, *Consultazioni*, I, cons. 50, n. 6.

368. Cf. *Monitore eccles.*, 1907, p. 472.

369. Cf. Lugo, *De eucharistia*, disp. 17; Dalgairns, *Die heilige Kommunion; ihre Philosophie, Theologie und Praxis* (Mainz, Kirchheim, 1862); Segur, *Die wochentliche Kommunion* (Mainz, Kirchheim, 1880); Bastien, *De frequenti quotidianaque communione* (Rome, Desclee, 1907).

158. On frequent communion itself. 1. By the name frequent communion there is properly designated only communion which is received several times in the week or even daily. Therefore weekly communion is not properly and strictly called frequent.

The use of frequent communion took hold especially after the Council of Trent, and today it flourishes and is strong widely in the Church. Its most bitter enemies were the Jansenists, who, under a false pretext of religion, kept the faithful away from receiving sacred communion more frequently: for they demanded such purity and holiness of soul in the recipient that everyone had to consider himself unworthy of frequent communion.

2. **According to the mind of the Church, frequent communion must be earnestly recommended to the faithful.** Concerning the use of sacred communion the Church has established two things: first, that communion is to be received only once in the day (n. 129), then, that it is to be received at least once in the year. Within these limits she indeed commands nothing, but nevertheless she shows in every way that she greatly desires the faithful to approach sacred communion frequently, indeed even daily.

a. The Council of Trent desires "that in individual Masses the faithful present communicate not only by spiritual affection, but also by sacramental reception of the Eucharist";[370] and the Roman Catechism, edited by order of the Council of Trent, admonishes pastors to exhort the faithful often to receiving holy communion frequently.[371] Hence it happened that the acts of the provincial council of Rouen, which decreed that in the future holy communion would be distributed only twice in the week, were reprobated at Rome, with this admonition added: it is opposed by the Council of Trent.

b. The very celebrated decree of Innocent XI, *Cum ad aures* (12 Feb. 1679), exhibits the Church's manner of thinking and speaking concerning this matter, so that Benedict XIV declared: if in a synod speech is instituted concerning the frequent or even daily use of the holy Eucharist, one must not depart from the path of this decree. Now this decree contains especially three things: alpha. it reprobates the prohibition of frequent communion made in some dioceses because of abuses which had crept in from daily communion; beta. it decrees that neither the state of merchants nor the conjugal state impedes frequent communion, which depends solely on the disposition of the soul; gamma. it establishes that judgment concerning the interior disposition, and therefore concerning the frequency of communion in a particular case, is to be left to the confessor.

c. Most clearly the Church opened her mind concerning frequent communion by the solemn decree *Sacra tridentina synodus*, issued by Pius X (20 Dec. 1905), by which not only frequent and daily communion is earnestly commended, but also easier conditions for receiving it are determined.

d. The Church draws this manner of thinking and acting from the words of Christ, who not obscurely manifests the desire that the faithful often eat the eucharistic bread,[372] and from the end and effects of the Eucharist, concerning which St. Thomas argues thus: this sacrament is spiritual food; hence, as bodily food is taken daily, so it is laudable to receive this sacrament daily.[373]

Note. Therefore there act against the mind of the Church not only priests who indiscriminately deny frequent communion to all the faithful for this reason alone, that it is frequent, and pastors who neither distribute holy communion nor permit it to be distributed except on Sundays and feasts; but also confessors who, in the Jansenist manner, require for frequent communion such great purity of soul that they judge scarcely any

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370. Sess. 22, c. 6; sess. 13, c. 8. Cn. 863 agrees.

371. Pars II, c. 4, q. 58.

372. John 6:59.

373. *Summa* III, q. 80, a. 10, ad 1.

penitent worthy of frequent communion. These are led by a false principle, namely that holy communion is the prize and reward of acquired virtue, whereas rather it is the means of acquiring virtue.

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159. Required dispositions. 1. As to the required dispositions, all demand the state of grace; but concerning further disposition theologians disputed. Some demanded a greater purity of soul and actual devotion; others, on the contrary, thought that the state of grace suffices, while immunity from venial sins and actual devotion are indeed greatly to be desired, but are not required as necessary conditions.

2. The former opinion, which de Lugo especially defends,[374] and to which St. Alphonsus also adheres,[375] up to now had by far the greater part of theologians as patrons; few defended the second. Therefore also the practice which up to now was observed in the Church concerning frequent and daily communion was directed according to the norm of the former opinion.

a. They taught that a twofold disposition is required for frequent communion: that affection toward deliberate venial sins be removed, so that therefore they are at least not ordinarily committed; that a serious effort be employed for advancing in virtues and perfection; and that the greater the frequency of communion was, the more perfect this disposition ought to be. Wherefore, in order that someone be worthy of daily communion, they demanded that deliberate venial sin happen rarely, or that depraved inclinations for the most part already be overcome, and that there be present a serious effort of advancing in the way of perfection. From these points they inferred that daily communion must be denied to many and conceded to few.

b. This is their chief reason. The reverence due to Christ the Lord demands that those who communicate frequently do this only with great purity of soul and actual devotion, although from this many must lack the spiritual benefit received from frequent communion; just as, because of the same reverence of the sacrament, holy communion is not given to infants, although grace would be increased in them *ex opere operato*.

160. 3. Now, however, the Holy See declares: for frequent, indeed even daily, communion no other disposition is required except that someone be in the state of grace and approach the sacred table with a right mind. Hence it is not only not licit to keep away from frequent and daily communion anyone who is endowed with this disposition, but the faithful are rather to be exhorted to it; especially in religious institutes of whatever kind, frequent and daily communion is to be promoted, with this disposition supposed.[376]

a. The state of grace, according to the mind of the decree, is not required as habitual, which excludes relapses into mortal sin, but actual suffices, which consists in the simple existence of sanctifying grace, yet with a firm purpose of not committing mortal sin and a serious will of avoiding occasions and dangers. Therefore nothing prevents a penitent who is now first converted from a looser life from being admitted to frequent communion, provided a true and serious will of amending himself appears. Although, according to the mind of the Church, the state of grace suffices for frequent communion, nevertheless the cited decree admonishes and exhorts that, for receiving greater fruits, greater dispositions also be placed beforehand according to each one's strength and condition.

b. A right mind consists in this: that he who approaches the sacred table does not indulge habit or vanity or human reasons, but wishes to satisfy the good pleasure of God, to be joined to Him more closely by charity, and by that divine medicine to meet his infirmities and defects. He who follows the practice of others only because others do it, or pursues a practice long ago undertaken by himself without due reverence, acts

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374. *De euchar.*, disp. 17.

375. *Praxis confessarii*, n. 152.

376. S. C. C., *Sacra tridentina synodus*, 20 Dec. 1905.

badly; but he who follows the good example of others in this matter, or with due intention and reverence pursues a practice long ago begun by himself, does not act badly. If the pursuit of vain glory is the sole motive for approaching, the approach is morally bad; but if it is a partial motive, the approach is partly good and partly bad. The same is to be said of human reasons.

c. The faithful who are about to receive holy communion frequently or even daily should seek the counsel of a confessor. In order that his counsel be prudent, he, who must follow the norms of the cited decree in all things, should advert: alpha. that what before was designated as the necessary disposition of frequent communion is now rather the end to be intended and the fruit to be gathered from daily communion. "Although it is most expedient" - these are the words of the cited decree - "that those using frequent and daily communion be free from venial sins, at least fully deliberate ones, and from affection toward them, nevertheless it suffices that they be free from mortal faults, with the purpose of never sinning in the future; with which sincere purpose of soul it cannot happen that those communicating daily are not gradually freed from venial sins also and from affection toward them." beta. In order that this effect be obtained, "care must be taken" - again these are the words of the decree - "that careful preparation for holy communion precede, and suitable thanksgiving follow thereafter, according to each one's strength, condition, and duties."

d. The reasons for this doctrine and practice are taken: alpha. From the ancient practice of the Church: for it can scarcely be denied that in the first times of the Church the faithful indiscriminately received holy communion frequently, indeed even daily, and yet in general they were not better and more perfect than the faithful of our time. beta. From the spiritual good of the faithful: as often as a man in the state of grace approaches holy communion, he at least partially receives its fruit *ex opere operato*, although he commits venial sins; and indeed a fruit of supreme value, namely an increase of sanctifying grace and charity; but a frequent and daily increase of grace and charity causes venial sins and imperfections gradually to be amended. gamma. From the principle: the sacraments are for the sake of men: for from this it must be inferred that Christ the Lord prefers the greater spiritual utility of the faithful to a more perfect disposition, and therefore for daily communion requires nothing else except that the communicant be in the state of grace and approach with a right mind. This opinion, which was that of the holy Fathers, the Church confirms by a recent decree.

e. Therefore frequent communion is not to be denied to those who sometimes fall into mortal sin, provided they detest it and seriously propose to amend; nor is it to be denied to those who have affection toward deliberate venial sins. But it must be denied to those who have affection toward mortal sins and therefore frequently fall into mortal sins; nevertheless those are to be excepted who fall from internal fragility or from vehement and extraordinary temptation and show a serious will of fighting against sin: for from frequent communion these draw greater strength for resisting temptations.[377]

4. In order that the use of daily communion might be propagated more day by day, to those who have the custom of communicating daily there has been conceded the privilege of gaining, without weekly confession, all indulgences for the gaining of which confession would be necessary.

To those who are accustomed to confess at least twice in the month, unless they are legitimately impeded, there has been conceded the privilege of gaining all occurring indulgences, for the gaining of which confession is prescribed (except the indulgences of the ordinary and extraordinary jubilee); the same privilege is conceded to those who have the practice of daily or quasi-daily communion without the obligation of confessing every

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377. Cf. Frassinetti, *Compendio della teolog. morale*, 9th ed. (Genova, Fassicomo, 1898), Dissertation X; M. C. Gennari, *Sulla communione frequente*, 2nd ed. (Napoli, Tipogr. degli artigian., 1900).

week. Therefore they do not lose this privilege who abstain from communion once or twice during the week.[378]

5. Boys and girls are not to be kept away from frequent communion; indeed daily communion should be recommended to them already after they have received first communion, especially to those who are educated in boys' seminaries and other boarding schools, so that they may be imbued with Christ and His grace before passions arise in their hearts and begin to dominate.[379]

Nevertheless care must be taken: a. lest superiors, unless cautiously, tell someone in particular to approach holy communion more frequently, lest they foster hypocrisy and give occasion to sacrileges; b. lest boys and girls approach from mere habit, distracted and dissipated: for, given the lightness of childish age, there is danger lest the sacred food become cheap to them from daily use.[380]

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161. For practice. 1. Pastors and confessors should esteem frequent communion greatly, as a practice praised and commended by the Church, and should earnestly exhort the faithful to it. For the Church commands this, because frequent and even daily communion is strongly commended to the Christian faithful by the Lord Himself because of its excellent fruits.[381]

2. Although great zeal in commending frequent and daily communion is rightly to be praised, nevertheless let them remember that one must never depart from the norm of prudence and truth. Hence:

a. In extolling the frequency of communion, let them not speak in such a way that they confuse counsel with precept. Annual communion is prescribed to all; more frequent communion to some (the young, habitual sinners), but daily communion, indeed frequent communion generally, is only commended.

b. At the same time let them inculcate the necessity of due preparation and thanksgiving, which also before and after daily communion must certainly be arranged according to the strength, opportunity, duties, and state of the communicants. For the rest, it is not necessary that the whole preparation and thanksgiving take place in the church itself, just as it is not necessary that the faithful, e.g., workers and students, use different clothing for communicating than they use on weekdays.

c. Let confessors see whether frequent and daily communion can be received by penitents without detriment to the obligations of state in servants, maidservants, mothers of families, etc., or without the loss of greater goods, such as peace and tranquility in families for wives, etc.

d. Where up to now not even monthly, bimonthly, or quarterly communion was in use, the pastor should first of all devote every effort to this, that the people approach the sacred table every month, without however being silent about more frequent, indeed daily, communion. For in every parish there are found faithful inclined to true piety and to a more frequent use of the sacraments. These, if they are suitably directed by a zealous and prudent confessor, can induce others to more frequent communion.

3. Unless duties of state or greater goods to be preserved stand in the way, the pastor and confessor must admit to frequent and daily communion all who are in the state of grace and intend to acquire for themselves the fruits of communion, whether they are women or men, unmarried or joined in matrimony, adults or children. Nor is he immune from sin who, when the required conditions are supposed, withdraws anyone from frequent communion or denies it to him.

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378. Cn. 931, 3; S. C. Indl., 14 Feb. 1906.

379. S. C. C., 15 Sept. 1906.

380. Cf. S. C. C., 10 Dec. 1905.

381. Cf. S. C. C., 10 Dec. 1905.

4. If there is question of children whose parents are displeased by frequent communion in their children, the priest should exhort them to ask from their parents permission to communicate frequently and, if there is need, to obtain it for themselves by obedience, good morals, diligence, kindness, etc. Let the confessor continually exhort and instruct the same children to approach devoutly and to make preparation and thanksgiving well. Similarly, let wives see to it that, with their husbands consenting, they can communicate frequently.

5. Although weekly confession ordinarily seems to be recommended for those communicating frequently, nevertheless not rarely circumstances will be present which suggest less frequent confession. Such are, for example, lack of time either on the part of the confessor or on the part of the penitent; the danger lest access to confession be made more difficult for those who most need it. Hence it can licitly happen that those communicating frequently or daily confess only every month. For pastors of souls should remember that a greater spiritual good is received from holy communion than from sacramental confession. Therefore, where both cannot be joined, it is better to omit confession rather than communion.

Chapter Second. On the Eucharist as Sacrifice

[382]

Question First. On the Nature of the Eucharistic Sacrifice

The eucharistic sacrifice is also customarily called the sacrifice of the Mass, by which name is signified the sacred rite according to which the eucharistic sacrifice must be offered by precept of the Church. Concerning the nature of the eucharistic sacrifice, in this place only those points of doctrine from dogmatic institutions are indicated which are necessary to know for solving moral questions.

162. Declarations. 1. Sacrifice in general can be defined: The offering of a sensible thing, legitimately instituted and made to God, by which through the alteration of that same thing we profess that God is the supreme Lord of all things and of our life and death.

a. Sacrifice in an improper sense is taken for any offering made to God, or for any internal or external act by which God is worshiped; thus it is said: a sacrifice to God is a contrite spirit,[383] and: offer to God the sacrifice of praise.[384] Properly it is taken for a special offering or for a special act of religion, by which some external thing under a certain rite is offered to God and altered in attestation of His supreme dominion over the life and death of all.

b. Sacrifice by its own nature is a sign by which we signify that God, the absolute Lord of life and death, is worthy that our life should be destroyed in His honor; but we signify this by the destruction of that thing which is offered to God in sacrifice. This thing must be sensible, because sacrifice was instituted for exhibiting external worship to God. Public sacrifice must be instituted either by God or by public authority, because it is a common sign, which can be instituted only by legitimate and public authority. Through alteration: for the thing offered to God by an external rite must be altered either wholly or in part (by shedding, breaking, consumption), so that by this alteration the supreme dominion of God over our life may be signified.

Notes

382. Benedict XIV, *De sacrosancto sacrificio missae*; N. Gihr, *Das heilige Messopfer*, 7th ed. (Freiburg, Herder, 1902).

383. Ps. 50:19.

384. Ps. 49:14.

2. **In the Mass there is offered to God a true and properly so called sacrifice, which is called eucharistic:** If anyone should say that in the Mass a true and proper sacrifice is not offered to God . . . let him be anathema.[385] Besides, in the sacrifice of the Mass all the conditions concur which are required for a true and properly so called sacrifice, as the dogmatic theologians show at length.[386]

The sacrifice of the Mass, by reason of the thing offered, does not differ from the bloody sacrifice which Christ offered on the cross: for in both the same body and blood of Christ is offered; but by reason of the manner of offering, the two differ. In the sacrifice of the Mass Christ is offered through consecration, i.e., the sacrificial action by which Christ is offered is consecration. But whether consecration is a sacrificial action for this reason, that through it the body and blood of Christ are placed separately under the species of bread and wine, or for this reason, that through it Christ is placed in the state of food and drink, dogmatic theologians dispute.[387]

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163. The essence of the eucharistic sacrifice. Theologians ask in what action the essence of the eucharistic sacrifice consists, namely whether its essence is had in consecration alone, or in consecration and reception together. Many were of this opinion, that not only consecration but also communion pertains to the essence of this sacrifice; yet today the opinion is almost common among theologians which teaches that consecration alone pertains to the essence, but communion to the integrity and perfection, of the eucharistic sacrifice. The reasons of the first are:

a. In consecration alone all things are already perfectly had which, from the definition of sacrifice, are required for the essence of the eucharistic sacrifice: for in consecration a sensible thing is offered to God by its proper minister according to legitimate institution through the alteration of the victim for acknowledging the supreme dominion of God.

b. The sacrifice of the Mass must be offered in the person of Christ, who is the principal offerer; but consecration alone is performed in the person of Christ, whereas reception is exercised by the priest in his own name, not in the person of Christ.[388] Yet communion pertains to integrity, because Christ under the eucharistic species is placed in the manner of food and drink; therefore communion is commanded by divine law: for after Christ in the Last Supper had said: take and eat, He added: do this in commemoration of Me,[389] by which words the reception of the Eucharist also is commanded. Therefore communion can never be omitted without grave sin.

c. The solution of this question has practical importance insofar as from it one must determine how long someone must assist at Mass in order to be said to have been present at it as to its substance. Namely, he who was present at the consecration was present at the sacrifice of the Mass as to its substance and becomes participant in the fruits of the sacrifice; nevertheless he does not satisfy the precept of the Church of hearing Mass, because the whole Mass is commanded. Besides, from this same solution is solved the question whether he who on a feast day comes to church after the consecration has been completed must assist at the remaining part of the Mass. Finally, the question is solved whether the application of the Mass made after consecration still avails.

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385. Council of Trent, sess. 22, c. 1 and can. 1.

386. Cf. Pesch, VI, n. 852 ss.

387. Cf. Pesch, VI, n. 902 ss.

388. The chief reason of those who think that communion is necessary for the essence of the eucharistic sacrifice is this: because otherwise in the sacrifice of the Mass that destruction would not be found which is required for every sacrifice. It is clear that this reason has no weight. Cf. Pesch, VI, n. 897 ss.

389. 1 Cor. 11:24.

beta. Since, therefore, not only consecration but also, by the precept of Christ, at least as an integral part, communion pertains to the eucharistic sacrifice, the celebrant must always communicate from his own sacrifice; nor is it licit for him to receive a host consecrated in another Mass or by another, and, for example, to place in the monstrance the host consecrated by himself. The same also must be said concerning the liturgical fraction of the host, which is a preparation for eating, namely that the same host which was consecrated together with the sacred chalice must be broken in the due manner and received by the celebrant, so that the integrity of the sacrifice may be perfect. Universally, all the ceremonies of the Mass ought of themselves to be performed with one and the same host, which the perfect integrity of the sacrifice demands and the rubrics of the Missal manifestly suppose. Therefore of itself the host just consecrated, not another consecrated beforehand, must be elevated to be adored.

gamma. Without a most grave cause it is not licit to take from the altar before communion the particles consecrated in the Mass, in order that they may be distributed to those about to communicate, both because they ought to remain on the altar until communion, and because from the same sacrifice first the celebrating priest and then the faithful ought to communicate. If, however, there were question of administering viaticum, when preconsecrated particles are lacking, it is licit to carry to the sick person before communion a particle consecrated in the sacred action itself.[390] Likewise particles consecrated in the Mass are not to be placed away earlier, but are to be left on the altar until communion has been completed, because (although not essentially) they pertain to the sacrifice, which is completed only when communion has been completed.

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164. On the consecration of both species. In the same way they ask whether for the essence of the sacrifice of the Mass the consecration of both species is required, or whether the whole nature of the eucharistic sacrifice is had even in the consecration of one. The opinion seems to be true according to which it is affirmed that for the essence of the sacrifice the consecration of both species is required. And indeed, it belongs to the nature of the eucharistic sacrifice that it be the unbloody representation of the bloody sacrifice on the cross; but the representation of the bloody sacrifice is not a Mass except through the consecration of both species: for the sacrifice of the Mass represents the sacrifice of the cross by this, that the body and blood of Christ are placed under different species, namely the body separated from the blood and as it were dead, and the blood of Christ separated from the body and shed; for by the force or sword of the words the blood is separated from the body.[391]

a. This question has practical importance where he who accepted a stipend for a Mass consecrated only one species and could not supply the defect. Therefore, from this opinion, in a case of this sort, he who accepted the stipend does not satisfy his obligation of celebrating for him who gave the stipend; wherefore he must either celebrate the Mass again or seek condonation from the Holy See.

b. But since, on the authority of St. Alphonsus (n. 306), the opinion according to which the essence of the sacrifice is had even in the consecration of one species alone is probable, he who has celebrated for a stipend in such a case probably satisfies his obligation; but he who probably has already satisfied his obligation is not bound to fulfill it again, provided he holds this opinion with St. Alphonsus as probable.

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165. The end and effects of the Mass. 1. The sacrifice of the Mass is one by reason of the thing offered, but by reason of its end it is fourfold: latreutic, insofar as it is offered for worshiping God; eucharistic, insofar as it is offered for giving thanks to God for benefits received; impetratory, insofar as it is offered for obtaining

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390. Cf. Gury, *Casus conscientiae*, II, n. 262; Lehmkuhl, *Casus consc.*, II, n. 130.

391. Cf. Pesch, VI, n. 886 ss.; *Zeitschrift f. k. Th.*, 1892, p. 97.

benefits; and satisfactory, insofar as it is offered for obtaining the remission of temporal punishments which are still owed for sins already remitted. In this way it happens that the sacrifice of the Mass contains in itself alone the differences of all the sacrifices of the Old Testament.

The celebrating priest can explicitly intend one or another or even all of these ends, and laudably does intend them; yet this is not necessary: for the intention of them is always had implicitly whenever the priest intends to perform the sacred action as Christ instituted it or as the Church wills and intends; but this implicit intention is always had in one about to celebrate.

2. To the fourfold end for which the sacrifice of the Mass is offered from its institution there corresponds a fourfold effect, which the same sacrifice produces in reality. It exhibits to the most holy Trinity the most perfect worship of latria, pays the debt of thanksgiving for benefits received, obtains benefits of every kind, supernatural and natural, insofar as these conduce to salvation, and finally obtains from God remission for sinners as to punishment; therefore it produces a latreutic, eucharistic, impetratory, and satisfactory effect.

It is clear that some of these effects are produced with respect to God, others with respect to men: the worship of latria, the payment of the debt of gratitude, and the placation of the divine majesty are referred to God; but the remission of punishments and benefits of diverse kind (the impetratory and satisfactory effect) are referred to men.

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166. The various offerers. Several offerers of the sacrifice can be distinguished, who nevertheless do not all offer the sacrifice in the same way. To clarify this, it must be noted that the sacrifice of the Mass is offered principally by him in whose name and by whose authority it is offered, who therefore is the principal agent in its offering; ministerially (immediately) it is offered by him who sacrifices in the name and by the power of the principal offerer; ministerially (mediately) by him who in some way joins himself morally to the offering minister, which can happen in two ways, either because by act someone joins himself to him, or because only from the intention of the Church he joins himself to him.

a. **The principal offerer is Christ the Lord,** who Himself offers the sacrifice of the Mass and thus through priests, as through His ministers, daily renews the sacrifice of the cross in an unbloody manner.

For according to the Council of Trent, the same one is now offering by the ministry of priests who then offered Himself on the cross.[392] And indeed, Christ in instituting the sacrifice willed that it always be offered through priests in His name; wherefore He conceded to priests in ordination the power of offering the sacrifice of the Mass in His name.

b. **The ministerial (immediate) offerer is the priest alone,** who, although he offers in the person of Christ, nevertheless is not a mere executor of another's will, but also himself sacrifices in his own name.

Christ, as the Council of Trent has (loc. cit.), now offers Himself by the ministry of priests. But because the sacrifice of the Mass is offered through consecration, and only the priest is distinguished by the power of consecrating which is handed over in priestly ordination, therefore only the priest can offer the sacrifice of the Mass as ministerial (immediate) offerer.

c. **The general offerer is the universal Church,** to whom Christ left this sacrifice, so that it might be offered daily in place of the sacrifices of the Old Testament; therefore the Church chooses and consecrates priests so that through them, as through her delegates, she may offer to God the sacrifice of the Mass. Wherefore the priest sacrifices not only as minister of Christ, but also as minister and delegate of the whole Church.

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392. Sess. 22, c. 2.

That the faithful, and indeed all of them, offer the sacrifice ministerially (mediately) is gathered from the rite of the Mass: We offer to Thee, O Lord, etc.; Therefore, most clement Father, we humbly ask and beseech, etc.; This offering, therefore, of our service and also of Thy whole family, etc. Therefore, from the intention of the Church, all the faithful offer the sacrifice of the Mass.

d. **Special and accessory offerers are the faithful who in some way actually join themselves to the offering priest.** Among these the first place is held by those who join their labor with the celebrant, therefore those who either provide a stipend or founded Masses, supply the utensils necessary for Mass, or serve the sacrificing priest; the second place is held by those who are present at Mass in reality, who therefore participate by their will and by their presence; finally, the third place is held by those who are present at Mass in mind and spirit and therefore join themselves to the offerer only by their will, although actual.

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167. The sacrifice and the offerer can be considered triply. 1. Therefore the eucharistic sacrifice can be considered in a threefold way: a. insofar as it was instituted by Christ and is offered by the same Christ; b. insofar as it is offered by the Church, which is the spouse of Christ, in which there always exist many faithful of eminent holiness; c. insofar as it is offered by this determinate priest with this disposition, devotion, and attention. If the sacrifice of the Mass is considered in the first way, it always pleases God the Father infinitely and always produces the same effect, by whatever priest it is offered, whether holy or sinful, whether devout or distracted. If it is considered in the second way, it likewise always pleases God the Father and produces its effect independently of the holiness of the celebrating priest. If it is considered in the third way, it pleases God the Father more and produces a greater effect, the greater the holiness and devotion of the priest is.

2. Likewise the priest offering the sacrifice can be considered triply: a. insofar as he bears the person of Christ, the first offerer and consecrator, of whom the priest is as it were the instrument and ministerial cause; b. insofar as he is the public minister of the Church, in whose name he offers the sacrifice and in whose person he pours forth the prayers which are recited in the Mass; c. insofar as he is a private person offering and praying also in his own name.

a. From these things it is concluded that the sacrifice of the Mass is always a public act of religion, never merely private, and that all the prayers pertaining to the rite of the Mass are poured forth by the priest as he is minister of the Church and a public person. Nor therefore does the character of a private person cease in the priest: for the priest also prays and sacrifices for himself and in his own name.

b. From these things it is concluded that the Mass of a good priest, speaking absolutely, is worth more than that of a bad priest.[393] As to the substantial fruit, which comes *ex opere operato* from the offering of the sacrifice made in the person of Christ, and as to the fruit which the sacrifice produces insofar as it is offered in the name of the whole Church, the Mass of a bad priest is worth as much as that of a good one, since that fruit is independent of the disposition of the minister. Besides this twofold substantial fruit, the Mass of a bad priest profits nothing further, whereas the Mass of a good priest produces other fruits besides from the work of the one working. For insofar as the priest as a private person recites the liturgical prayers in his own name and prays in both Mementos, his prayers are heard as those of a friend of God, but the prayers of a bad priest are not heard by God. But the liturgical prayers are also made in the name of the Church. Now a good priest is accustomed to pray with greater attention, fervor, and confidence than a bad priest; but the more attentively and fervently someone prays, the more he obtains for himself and others. Therefore, even if the prayers which are made in the name of the Church by a bad priest have their fruit, nevertheless

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393. Cf. St. Thomas, III, q. 82, a. 6; Gobat, *Exper. theol.*, tract. 3, n. 111 ss.; Sporer-Bierbaum, III, q. 2, n. 320 ss.; Dicastillo, *De sacram.*, tract. 5, n. 190 ss.

insofar as they are made by a good priest with due disposition and devotion, they profit more, especially as to the impetratory fruit, because the prayers of the Church which are poured forth by a good minister please God more and move Him, in view of the holiness of the minister, to grant ampler goods.

Question Second. On the Value and Fruits of the Sacrifice of the Mass

Article First. On the Fruits of the Sacrifice of the Mass

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168. The fruits of the sacrifice of the Mass can be understood in a broader and a stricter sense. In the broader sense are comprehended all the effects which the sacrifice of the Mass produces both with respect to God and with respect to men; in the stricter sense are signified the effects which the Mass produces in men, i.e., the goods which God confers on men in view of the sacrifice offered. These fruits of the Mass can be considered and divided under a threefold respect: a. by reason of the mode by which they are produced; b. by reason of the thing which is conferred; c. by reason of the persons upon whom the fruits are conferred.

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169. By reason of the mode by which they are produced, some fruits come from the work worked, others from the work of the one working. Fruits are said to come *ex opere operato* when they are conferred from the institution and offering of the sacrifice independently of the holiness and disposition of the offerer; fruits are said to come *ex opere operantis* when they are conferred in view of the dignity and merit of the offerer.

a. The fruits which come from the sacrifice of the Mass for the offerers and for those for whom the Mass is offered, insofar as they come from the fact that the Church offers and prays through her ministers, are said by some to come *ex opere operato*, by others *ex opere operantis* (n. 49). What the fruits are which come *ex opere operato* will be said below.

b. The effects which are caused through the sacrifice of the Mass *ex opere operato* follow infallibly, if in the subject in which they are caused there is found no obstacle: for what is produced *ex opere operato* follows infallibly when the obstacle is removed. Against this affirmation there does not stand: alpha. the fact that many sinners for whom the sacrifice of the Mass is offered are not converted: for by the force of the sacrifice offered, helps are conferred upon all by which they can be converted, if they will; nor beta. the fact that benefits which are sought through the sacrifice of the Mass are not always conceded: for even if those determinate goods which are sought are not conceded, especially temporal goods, nevertheless by the force of the sacrifice offered, some other good is always conceded in place of that which is sought, if it does not find an obstacle.

170. By reason of the thing which is conferred, the fruit of the Mass is fourfold:

a. **Meritorious of grace and glory.** Christ indeed through the eucharistic sacrifice merits nothing further and makes no satisfaction: for redemption was completed through the sacrifice of the cross; nor can the Church offering the sacrifice of the Mass merit anything: for merit supposes a personal action. But the priest as ministerial offerer and all the secondary offerers receive a meritorious fruit, if the conditions required for merit are present in them. The sacrifice of the Mass produces this fruit *ex opere operantis*.

For the offering of this sacrifice is a good work placed by the priest and the other offerers, which, when the due conditions exist, like every other good work, has meritorious, impetratory, and satisfactory value *ex opere operantis*.

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394. Sporer-Bierbaum, III, pr. 2, n. 222 ss.; Lugo, disp. 19, sect. 9; Ballerini-Palmieri, IV, n. 994 ss.; Gihr, *Das hl. Messopfer*, p. 115 ff.

b. **Impetratory.** The sacrifice of the Mass has power of obtaining goods both spiritual and even temporal, if they conduce to salvation. This fruit comes *ex opere operato*, since the sacrifice of the Mass by its institution has power of obtaining the goods which are asked, if they are expedient for the salvation of those asking.

The impetratory effect is produced by this, that Christ, offering His merits, asks the Father that because of these merits He will to concede to this or that man these or those goods, whether supernatural or natural. From this impetratory fruit must be distinguished the impetratory fruit which comes from the supplication of the Church, the efficacy of whose supplication is greater the more there are here and now in the Church faithful of eminent holiness. Finally, from both impetratory fruits must be distinguished the impetratory fruit which comes to the priest and the faithful offering with him *ex opere operantis*, because those offering the Mass place a salutary work.

c. **Propitiatory or expiatory.** The sacrifice of the Mass has power of placating God and remitting sins both mortal and venial.[395] It does not remit sins immediately but mediately, insofar as it confers grace for eliciting pious acts by which the soul is disposed for obtaining remission. This effect also the Mass produces *ex opere operato*, insofar as through the sacrifice of the Mass the merits of Christ, acquired by the sacrifice of the cross, are represented to God the Father and move Him to mercy, so that He concedes the gift of penance.

alpha. The propitiatory fruit can be explained in this way. Because of sins God, justly indignant and averse, denies to the sinner at least richer helps by which he may be brought to penance; but when the sacrifice is offered, God is placated, and, having laid aside indignation, grants helps which, not placated, He would have denied. Therefore the sacrifice of the Mass confers helps for arriving at penance and for destroying sins in a twofold way: by obtaining directly and by propitiating or placating indirectly; for placation directly takes away the indignation which stood in the way of those helps being conceded.[396]

beta. All indeed concede that mortal sins are remitted through the sacrifice of the Mass only mediately, namely because the Mass obtains and confers upon the sinner helps of grace (not however always efficacious), by which he is moved to contrition or to receiving the sacrament with attrition. For the sacrifice was instituted immediately for the worship of God, but not as a sacrament for immediately justifying and sanctifying man. The Council of Trent indicates the same: by the offering of this sacrifice, the Lord, being placated and granting grace and the gift of penance, forgives crimes and sins.[397]

gamma. But concerning venial sins some teach that they are destroyed immediately in the just through the sacrifice of the Mass, with the disposition required for this supposed. Yet the truer opinion, which holds that even venial sins are destroyed only mediately, namely because the sacrifice of the Mass confers on the just helps for eliciting pious acts, in which at least virtual detestation of venial sins and the immediate cause of their remission is contained, seems to be preferred.[398]

d. **Satisfactory.** The sacrifice of the Mass has power of remitting, both for the living and for the dead, temporal punishment which is still owed for sins already remitted.[399] This fruit is produced *ex opere operato* and indeed immediately (not only mediately by obtaining helps for eliciting satisfactory acts), insofar as by the offering of this sacrifice the satisfactions of Christ are applied to those for whom it is offered. Yet it does not remit all punishment at once, but a greater or lesser part according to the measure established by God and according to the disposition of the faithful.

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395. Council of Trent, sess. 22, c. 2 and can. 3.

396. Cf. Lugo, disp. 19, n. 141.

397. Sess. 22, c. 2.

398. Cf. Laymann, l. 5, tr. 5, c. 1, n. 4; Sporer-Bierbaum, III, pr. 2, n. 242.

399. Council of Trent, sess. 25, *De purgat.*

This power of the sacrifice is gathered from the Council of Trent, which teaches in the cited place that souls detained in purgatory are most greatly aided by the sacrifice of the altar; but this would not be true if the Mass did not have power of remitting immediately for the dead temporal punishments, which have the character of an indulgence; for they would not be most greatly aided through the sacrifice of the Mass. But if the sacrifice of the Mass has power of remitting temporal punishments for the dead, there is no reason to deny the same power with respect to the living.

Note. 1. Those who distinguish the propitiatory fruit from the expiatory call propitiatory the fruit which conduces to obtaining remission of mortal sins, but expiatory that which conduces to destroying venial sins. Each remission of sins it produces only mediately and in the manner of impetration.

2. The division by which the sacrifice of the Mass by reason of its end is called latreutic, eucharistic, impetratory, and satisfactory must be called adequate, because under the impetratory end is also contained the propitiatory or expiatory: for the sacrifice is propitiatory (expiatory) insofar as, by God being placated through the sacrifice itself, it obtains graces and helps by which the sinner is moved to conversion.

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171. By reason of the persons to whom the fruits come, a fourfold fruit of the Mass is distinguished: general, special, most special, and ministerial.

It is clear that here the discussion is not of the meritorious fruit, of which the offerers themselves and those assisting are made participants because they exercise a supernatural act of religion, but of the fruits which the Mass produces *ex opere operato*, insofar as it is a sacrifice offered by Christ and by the Church to God, namely of the impetratory and satisfactory fruit.

a. **General** is that in which the whole Church participates, namely all the faithful, living and dead, provided they place no obstacle. The faithful, both living and dead, receive this general fruit without application of the celebrant, from the will of the Church, which always intends to offer for all her members living and dead. But the priest cannot apply this general fruit otherwise, because by divine law he himself is constituted by God to offer sacrifices for the sins of the people.[400]

Therefore all the faithful receive from any Mass the impetratory and propitiatory fruit; but whether they also receive the satisfactory fruit is not established: for to many theologians it seems incredible that each just person would receive remission of punishment from so many thousands of sacrifices offered daily.[401]

b. **Special** comes to those who in a peculiar way concur in the sacrifice (secondary offerers). This fruit also is independent of the intention of the celebrant, who cannot apply it otherwise, since it comes to those upon whom it is conferred from the institution of Christ and from the will of the Church, and in a more intense degree the more closely they are joined with the celebrating priest.

Many authors (Coninck, Gobat, Sporer, and others) think that this fruit can be given and applied by the secondary offerers to others, because in the canon concerning them it is said: who offer to Thee for themselves and for all their own. Therefore the faithful can both hear Mass for another in a twofold sense, both because they intend to give him the fruit to be perceived *ex opere operantis*, and because they give to him the special fruit produced *ex opere operato*.

He who assists at several sacred actions at the same time participates in the fruits of all: for since the due presence and attention, which is the condition on which participation in the fruit depends, can be exhibited

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400. Cf. Hebr. 5:1.

401. Cf. Sporer-Bierbaum, III, pr. 2, n. 247.

simultaneously to several sacred actions, there is no reason to deny that fruits are also received from individual sacred actions.

c. **Most special or personal** is that of the offering priest himself: for just as he is properly the offerer, so also he offers especially for himself. This fruit is received by the celebrant, even if he does not think about it nor intend to acquire it for himself. From the fact that the offering priest in the sacred ministry approaches so near to Christ and is so closely joined with Him, it is rightly inferred that this fruit in degree is not much inferior to the ministerial fruit.

Most theologians with St. Thomas, Suarez, de Lugo, and others deny that this fruit can be applied to others; nevertheless some affirm this and add besides that the priest can accept a stipend for the application of this fruit. But this doctrine has been condemned by the Church.[402] The reason for the condemnation is not that it is plainly certain that this fruit cannot be applied, but that it is uncertain whether it can be applied: for in exchange for an uncertain solution it is not licit to accept a certain stipend, or to satisfy a certain obligation of justice by an uncertain solution.

d. **Ministerial** is that which comes to those for whom the sacrifice is offered in particular and to whom it is applied by the celebrant. This fruit is satisfactory for punishments owed, propitiatory for sins, and impetratory of spiritual and temporal goods; but in order that it may come to certain persons, it is necessary that it be applied by the celebrant.

Article Second. On the Value of the Sacrifice

172. Declarations. It is asked whether the value of the sacrifice of the Mass is infinite or finite. In order that this question can be suitably solved, several things must be noted beforehand.

a. The value of the sacrifice of the Mass is understood first of all as the moral dignity which belongs to this sacrifice by its own nature, without respect to the effects which it produces. Moreover the dignity of the sacrifice depends on the dignity of the offerer and of the victim. Therefore the dignity of the eucharistic sacrifice is simply infinite, since Christ Himself, who at the same time is offerer and victim, is of infinite dignity.

b. Then by the name value is understood the power which the sacrifice of the Mass has from its own nature and dignity for producing certain effects, whether with respect to God or with respect to men, both in the offerers and in those for whom it is offered. Therefore the value and fruits of the Mass are related to each other as cause and effect.

c. This value or power of the eucharistic sacrifice can be considered in first act, i.e., as to the sufficiency which, on account of its own nature and dignity, it has from itself and in itself for producing certain effects; and in second act, i.e., as to the efficacy which, from the will and institution of Christ, it has in reality for producing certain effects. To the value in first act correspond the effects which of itself it can produce; to the value in second act correspond the effects which from the will of Christ it in reality produces.

d. The value of the sacrifice of the Mass can be infinite intensively and extensively. The value which can cause an effect always greater and more perfect is called intensively infinite; the value which can cause effects always more numerous and indeed in subjects always more numerous is called extensively infinite.

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402. Cf. proposition 8 of Alexander VII: A priest can licitly accept a double stipend for the same Mass by applying, to the one asking, also the most special part of the fruit corresponding to the celebrant himself.

e. It is clear that the value of the sacrifice of the Mass, insofar as it is latreutic, eucharistic, and propitiatory, is infinite in second act: for by reason of the eminent offerer and of the thing offered, the act of adoration and thanksgiving is simply infinite, and it fully satisfies the right which belongs to the infinite majesty of God of demanding from His creatures infinite adoration, thanksgiving, and expiation. But it is asked how great the value of the sacrifice of the Mass is for producing impetratory, propitiatory, and satisfactory fruit in men; or it is asked how great the applicative power of the sacrifice of the Mass is.

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173. The value of the Mass. 1. The value of the sacrifice of the Mass in first act is intensively and extensively infinite. For the sacrifice of the Mass is of the same value as the sacrifice of the cross; therefore, just as the sacrifice of the cross is of infinite value because it is of infinite dignity, so the sacrifice of the Mass, as it is the sacrificing action of Christ, is of infinite dignity, and therefore of itself has infinite applicative power, or has the power of producing indefinitely intense effects in innumerable men.

2. The value of the sacrifice of the Mass in second act, as to the special fruits, is extensively infinite: for the fruits which the secondary offerers receive are not diminished in individuals in proportion to the number of those concurring in the sacrifice and assisting at it, but however much their number is increased, the individuals receive the same fruits as if only one were assisting. And indeed, for receiving these fruits on the part of men, nothing else is required except that they themselves offer the sacrifice; but this condition is fulfilled in the same way whether many or few offer.

3. The value of the sacrifice of the Mass in second act, as to the ministerial fruits, is intensively and extensively finite.

a. The ministerial fruits which those receive for whom the Mass is applied are finite in reality: for these fruits by reason of quantity depend on the capacity and number of the men for whom the Mass is offered; but not only their number, but also the capacity of each one, is limited and finite.

b. But it is asked whether these fruits by right, from the will of Christ, are limited to a certain measure, even if the number and capacity of those to whom they are applied is greater, or whether they are limited only by their number and capacity. Now the opinion of some, hardly probable, is that in any sacrifice of the Mass indefinite fruits, both intensively with respect to the same person and extensively with respect to diverse persons for whom it is offered, are applied. Wherefore, if a Mass is offered for many, it profits each one as much as if it were offered for one.[403] But it must altogether be held that the value of the sacrifice of the Mass is limited from the will and institution of Christ. Therefore, if a Mass is offered for many, the fruit determined from the will of Christ is divided among them, and therefore is the smaller the more numerous they are for whom the sacrifice is offered.

The arguments by which the opinion concerning the finite value of the sacrifice of the Mass is especially proved are these. a. The effect which the sacraments produce, according to the opinion of some, is finite, not only because of the capacity of the subject, which is always finite, but especially from the institution and will of Christ (n. 3); but there is no reason to establish otherwise concerning the effect which the sacrifice of the Mass produces: for God has determined all things according to certain laws in the supernatural order equally as in the natural order; therefore the Mass also produces only a finite effect determined from the will of Christ.

b. This doctrine is confirmed by the practice of the Church, which is the infallible interpreter of the institutions of Christ. For the Church has always been solicitous not only that several sacred actions be offered for

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403. It is not licit, however, to accept several stipends for one Mass, because the stipend is given for the support of the minister, which is one; therefore there exists no title for accepting several. Cf. St. Alphonsus, n. 313.

obtaining the same effect, but also that for individual deceased persons sacred actions be said, and finally that several be said for the same soul of a deceased person; but if the Mass were of infinite value and therefore profited many equally as one, any Mass whatever would have to be applied for all the living and dead.

c. From the opinion of the adversaries consequences follow which cannot be admitted. And first, a priest could satisfy several obligations, not indeed from several stipends, but from one stipend, and from other titles validly contracted in law. Then it would follow that the practice which even pious priests everywhere observe in applying Masses is opposed to Christian charity: for they ought to apply every sacred action not only for those who give a stipend, but for all at once, since all would receive the same fruit, and nevertheless he who gave the stipend would suffer no loss.[404]

d. God willed that grace be distributed through the means of salvation depending on the application of means made on the part of men; moreover, He willed that men be incited to use the means of salvation frequently and to repeat acts of virtues more often. Now, to obtain this end better, He disposed the matter in such a way that to one application of any means of salvation there corresponded not an indefinite effect, but only a determinate effect.

Question Third. On the Application of the Sacrifice of the Mass

Article First. On the Application Itself

174. The Mass must be applied. The application of the Mass is the intention by which the priest wills that the ministerial fruit of the sacrifice come to some determinate person. Now this fruit can and must be applied by the intention of the celebrant to those for whom the sacrifice is offered.

a. For the priest by ordination is constituted dispenser of the mysteries of God and receives the power of offering the sacrifice and of applying its fruit both for the living and for the dead.[405] Since, therefore, application has been committed to the priest, according to the opinion of many the Mass profits no one, and its fruit remains in the treasury of the Church, if the priest himself does not apply the fruit of the sacrifice, or if the one to whom the fruit is applied is not capable of it.

b. There are, however, those who think that, if the application is null or if it is made to one incapable, in gratuitous Masses the ministerial fruit comes to the celebrating priest, but in Masses owed from a stipend this fruit comes to the relatives of him who gave the stipend.[406] For they think the priest always has the implicit and habitual intention that the fruits of the sacrifice come to himself, unless they are applied to another; and that the faithful founding or asking for Masses have this implicit and habitual intention, that if the Masses do not profit them, they profit those to whom they are joined by some relation.

c. Nevertheless, the practice is altogether to be recommended of explicitly applying the fruit under condition either to himself or to another, if at any time there is doubt whether he for whom the sacred action is offered is capable. And in gratuitous Masses fruits can indeed be applied under the condition: if he is not capable; but in Masses owed: if it can be done without prejudice to him who gave the alms.

d. From these things it is understood that the second intention, for which the sacrifice of the Mass is offered, is an application which, besides the first, whether from some title owed or made from free choice, is elicited. This second intention can be made in two ways: either conditionally, so that the fruit comes to another if he to whom it is applied in the first place is not capable of it; or absolutely, so that besides him to whom the

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404. Cf. Suarez, disp. 79, sect. 12, n. 7; Lugo, disp. 19, n. 246.

405. Cf. Hebr. 5:3.

406. Lugo, disp. 19, n. 225; Ballerini-Palmieri, IV, n. 1042.

Mass is applied in the first place, from the same Mass the fruit also comes to another. A conditional second intention is usually made by those who fear lest the fruit of the Mass remain wholly or partly in the treasury of the Church, because the subject of the first intention is not capable of it. An absolute second intention is usually made by those who think the fruits of the Mass are infinite and therefore that the second intention profits equally as much as the first. But since this opinion is scarcely probable, the absolute second intention belongs only to the particular Memento.

e. Application, or the offering of the Mass for determinate faithful, is called public if the faithful are publicly advised for whom the sacrifice of the Mass is offered; semipublic if the priest and he who offered the stipend know for whom the sacrifice of the Mass is applied; occult or secret (others say private) if only the priest knows for whom he wishes to apply the fruit of the Mass; it is called private when the priest gives to another the fruits which he himself, as a private person, receives from the sacrifice of the Mass (n. 176, 3).

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175. For whom the Mass can be offered. Generally it must be said that the sacrifice of the Mass can be offered for all who are capable of some fruit, unless it is prohibited by the Church. But the saints in heaven, the damned in hell, and little children who have died without baptism are not capable of fruit; besides these, however, all, both living and dead, can receive some fruit from the sacrifice of the Mass. Wherefore the Mass can be offered and applied for all, even sinners, infants, the possessed, heretics, infidels, unless a peculiar prohibition of the Church stands in the way.

a. That the sacrifice of the Mass can be offered in general for the dead detained in purgatory, and that it profits them, is certain from faith;[407] nevertheless it is not established whether the fruit of the Mass is applied to that soul in particular for whom the Mass is offered: for it can happen that divine justice prevents the hidden reasons why the fruit of the Mass should come to it. Likewise it is not established in what measure it is applied to it: for God determines these things according to the disposition of the soul and its merits. Finally, it is not established in what way the sacrifice of the Mass aids the dead: for although it is certain that the Mass, by reason of the satisfactory fruit, immediately obtains the remission or mitigation of their punishments, nevertheless it is not equally certain whether the Mass, by reason of the impetratory fruit, obtains remission of punishment immediately or only mediately by obtaining graces by which the faithful are moved to pray and offer satisfactions for the same soul.

b. It is clear that those for whom the Mass is offered receive from the sacrifice applied to them only those fruits of which they are capable, but the rest, unless they are applied to another, remain in the treasury of the Church. Only an adult Christian existing in the state of grace is capable of all the fruits; to infants there can come only the impetratory fruit; to sinners only the propitiatory and impetratory fruit; to the dead directly (as it seems) only the satisfactory fruit can come.

c. In honor of the saints the sacrifice of the Mass is offered: alpha. to God, in order to honor Him in His saints; beta. for giving thanks to God for the gifts of grace and glory given to those saints themselves and for the gifts of grace conferred upon men through the intercession of the saints; gamma. for obtaining from God, through the merits and intercession of the saints, goods both spiritual and temporal; delta. finally, that the worship of the saints here on earth may be increased.

d. For little children who have died after baptism the sacrifice of the Mass is offered for a latreutic and eucharistic end, so that God may be worshiped and thanksgivings offered to Him because they, through the mystery of redemption, without merits of their own, have been made participants in eternal salvation.

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407. Cf. Council of Trent, sess. 22, c. 2 and can. 3, *De sacr. miss.*

176. Whether for infidels, heretics, and excommunicated persons. 1. The sacrifice of the Mass can be offered for living infidels, both generally for all and for individuals, not only for obtaining their conversion, but also (with a stipend accepted, if one wishes) for their other intentions, provided scandal is absent and it is established that nothing evil, or of error, or of superstition underlies it, because infidels are capable of the impetratory fruit and are not excluded by the Church from receiving it.[408]

2. For excommunicated persons not to be avoided, to whom heretics, schismatics, and apostates also are reckoned, the sacrifice of the Mass can be offered privately and with scandal removed, not only for obtaining their conversion, but by the new law (with a stipend accepted, if one wishes) also for their intention.

3. For excommunicated persons to be avoided it is not licit to offer Mass even privately, except for their conversion.[409]

But because the Church deprives excommunicated persons to be avoided only of her public and common suffrages, nothing prevents the priest, as he is a private person, from offering Mass for them and, in the Mass, especially in the Memento, from praying for the same. For the sacrifice of the Mass, insofar as it is offered by the priest as a private person, produces *ex opere operato* the most special fruit, which the priest can give even to an excommunicated person; and *ex opere operantis* it has all the effects which any work of virtue has (n. 170). Now, just as with other good works, so also the effects of the Mass produced *ex opere operantis* the priest can give and apply to another, even to an excommunicated person. The Memento, of which we speak, is indeed itself also a public prayer of the Church; yet insofar as it is made by the priest as a private person, it has the impetratory effect of prayer, which can be given to all without discrimination.

4. The sacrifice of the Mass can be offered publicly for all the dead who died in external union with the Catholic Church, and who therefore also were endowed with ecclesiastical burial.

5. It can be applied privately for all the dead remaining in purgatory,[410] even for excommunicated persons, to whom heretics, schismatics, and apostates are reckoned, excluding only those who died in the act of sin and before death gave no signs of penance.

a. It is very doubtful whether dead infidels or non-baptized persons are capable of the satisfactory fruit. For theologians think that those effects which are conferred through visible signs cannot be communicated except to those who visibly adhere to the Church.[411] Nevertheless for dead catechumens the sacrifice of the Mass seems able to be applied, because by faith and the desire of baptism they already in some way pertain to the Church.[412]

beta. Those who are enumerated in n. 5, if before death they gave signs of penance, are to be absolved from excommunication after death; if they did not give signs of penance, the priest who secretly celebrates for them must above all avoid the scandal of the faithful. For this reason he should be advised to tell those asking for Mass that he wishes to celebrate for the dead of this family, and not specifically for this deceased person, if they can be helped through the Mass.

Note 1. For the faithful who died in the act of sin, as drunkards, suicides, etc., the sacrifice of the Mass can be offered publicly, unless they have been deprived of ecclesiastical burial; in that case it is licit to celebrate Mass for them only secretly.

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408. Holy Office, 12 July 1865; Cn. 809.

409. Cn. 809; Cn. 2262, 2, n. 2.

410. Cn. 809.

411. Cf. Lugo, disp. 19, sect. 10.

412. Cf. Aichner, *Compend. iuris. eccles.*, sect. 51.

For the faithful who notoriously died in a state of mortal sin, the sacrifice of the Mass can be offered under condition: if before death he repented - if perhaps he was in the state of grace. But by reason of scandal, an application of this sort cannot be made publicly.

Note 2. An application made against the law of the Church is indeed illicit, but nevertheless is not invalid; hence if a priest accepted a stipend for an application of this sort, once the application has been made, he is not bound to restitution of it. If someone, however, against the prohibition of the Church, offers Mass for an excommunicated person to be avoided, the fruit which corresponds to the Mass insofar as it is offered in the person of Christ is validly applied to him; but the fruit which corresponds to the Mass insofar as it is offered in the name of the Church is neither licitly nor validly applied to him.

Article Second. On the Manner of Application

177. Conditions of valid application. In order that the application be valid, these three things are required:

1. **That it be made by the celebrant himself:** for the dispensation of the fruits has been entrusted by Christ to the priest, from whom he also has the power of sacrificing. Nevertheless it is not required that the application be actual or virtual; even habitual and implicit application suffices: for application is made in the manner of a donation; but a donation once made is valid and remains until it is revoked. Yet although an intention once made certainly is not extinguished by the duration of several months, nevertheless it cannot be extended to a time too long (to several years) without losing its value.

a. But application depends so much on the will of the celebrant that if he applies contrary to the will of his superior, it is indeed illicit, but nevertheless not invalid.

b. A celebrant would effect nothing with this intention: I perform the sacred action for him to whom God, or Christ, or the Blessed Virgin applies it.

2. **That it be made before consecration:** it should indeed be strongly advised that the application be made before Mass; nevertheless an application made in the Mass itself is valid, provided it is made before consecration: for the sacrifice produces the effect intended by the minister when it is completed; but the sacrifice is essentially completed through consecration.

Those who are of this opinion, that the sacrifice before communion is not yet essentially completed, consequently teach that an application avails which is made before holy communion; but since this opinion has scarcely any probability, applications made after the second consecration are very doubtful, not to say invalid. An application made between the two consecrations is valid according to the opinion of many: for since, according to the opinion which is hardly not certain, the sacrifice is completed only by the consecration of the chalice, its fruits can still be applied before the second consecration.

3. **That it be determined explicitly or implicitly to a certain person or to a certain end:** for it belongs to the priest to apply the fruit of the Mass, which God does not confer except according to the intention of the celebrant. Hence, if the priest has determined no end or no person, there is no reason why the fruit of the Mass should be applied to one rather than to another, and therefore it is applied to no one. Yet it is not required that the priest himself know or explicitly determine the person or end, but it wholly suffices that another do this and that the priest celebrate according to this intention explicitly determined by another.

a. Therefore these applications are valid: according to the intention of the superior; for him who first gave the stipend; according to the intention of the giver or petitioner; according to the intention noted in the booklet; according to the order in which the stipends were given; for him whom the foundation requires; for him for whom I am bound to apply; for the greatest sinner; for the soul most abandoned; for the soul which is nearest to redemption, etc. In all these cases, objectively or before God, who distributes the fruits of the

Mass, there is a true and sufficient determination of the application. But he who from ten intentions offered to him should apply according to one of the ten, determining none, would not make a valid application. He, however, who should apply for all ten collectively would both apply validly and, if he had accepted ten stipends, would satisfy his obligation: for in individual Masses each of the petitioners would receive a tenth part, and when the tenth sacred action had been celebrated, each would have received his whole fruit.

b. It is asked whether an application according to the mind of the Blessed Virgin Mary is valid. In order that the application be valid, the priest himself must apply the fruit of the Mass and must determine, at least implicitly, the person or end to which he intends to apply. Therefore this application is not valid: I offer for him to whom God wills to give the fruits; for him to whom God applies or wills to apply, because the priest himself does not determine the person. But this is valid: I apply for him for whom God wills me to apply, because the priest himself determines the person, namely the one for whom, according to the good pleasure of God, he must apply; just as an application is valid for him for whom a superior wills it to be applied, provided the superior has a determinate will. But God always has a determinate will: for He always wills that it be applied for him for whom it is more pleasing to Him. Now to apply according to the mind of the Blessed Virgin signifies to apply for him for whom the Blessed Virgin wills it to be applied; therefore this application is valid, because the priest himself determines the person to whom the fruits of the sacrifice ought to come, namely to him to whom it is more pleasing to the Blessed Virgin that they come.[413]

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178. Whether the fruits of the Mass can be divided. It is certain that the diverse fruits of the Mass can be divided and separated from one another. For sometimes it happens that the fruits of the Mass are separated, without the celebrant willing and intending it. If, for example, the sacred action is offered for one who is in the state of mortal sin, the impetratory and propitiatory fruit indeed will come to him, but not the satisfactory. But even by the will of the celebrant the fruits of the Mass are validly, and sometimes also licitly, divided, as if the impetratory fruit alone is applied to one, but the satisfactory to another, or conversely. Indeed the same fruit is divided among several if the same sacrifice of the Mass is applied for several.

Concerning this matter the following rules can be established:

a. He who is bound from justice to apply the Mass for an accepted stipend cannot licitly divide the fruits of the Mass, but must apply to the one giving the stipend the whole fruit of the sacrifice of which he is capable.

b. Even in Masses for the dead which must be celebrated because of an accepted stipend, the whole fruit, both satisfactory and impetratory, must be applied to them; nor is it licit in Masses for the dead owed from justice to apply the impetratory fruit either to himself or to another. It is indeed not established in what way the sacrifice profits the souls of the dead insofar as it is impetratory, but it is certain that the dead can be aided by the impetratory fruit (n. 175); and likewise it is certain that those who give a stipend for the dead have the right that the dead be aided from the Mass in every way in which they can be aided.

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179. Particular questions which are of some importance for the practice of celebrants.

1. **Which intention avails, if the priest has made two diverse intentions.** It must be answered that the first avails, unless by the subsequent one it must be judged revoked. Therefore: a. if he made the first intention absolutely, so that he willed it to avail, even if, forgetful of it, he formed another, certainly the former avails; b. if, mindful of the former, he made another, certainly the later avails; c. if, forgetful of the former, he made another, the predominant intention avails; but that is judged to be predominant which he

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413. Cf. Pasqualigo, *De sacrificio novae legis*, I, q. 169; Suarez, *De sacramentis*, disp. 43, sect. 6.

would have made if he had remembered the former. But if the intentions are equal, the later avails, since this one is actual, whereas the former is only habitual.[414]

Because it will often be doubtful which intention availed, in practice it suffices that the priest at another time intend to apply the Mass to him for whom he has not yet applied it: for one or the other was certainly valid.

2. **Whether an application is valid for him who will be the first to give a stipend.** To apply a Mass for him who afterward will be the first to give a stipend is illicit, nor is it licit to retain a stipend later given for a Mass previously applied.[415] And indeed a Mass so applied is only probably valid: for although the intention is determinate in the knowledge of God, nevertheless the sacraments must be administered in a human manner according to human determination. Often an application of this sort will certainly be invalid: for it will often happen that a Mass is said for a cause which does not yet exist (e.g., for a sick person who is still healthy); wherefore the fruit of the Mass would have to be suspended, which cannot be done.

If a priest foresees that Masses will be requested, e.g., for some deceased person, he can at once offer them and afterward accept a stipend for those offered: for the application is valid and licit, as made for a determinate person.

3. **Whether an application made for a living person who is believed dead is valid, if it ought to have been applied for him as dead.** If the contract is interpreted according to the rigor of law, one so applying does not satisfy, because the end which the one giving the stipend intends is not obtained, namely, by the sacrifice of the Mass, to destroy punishments still to be paid after death. Yet because a living person receives a richer and more certain fruit from the sacrifice of the Mass than a dead person, and because the punishments of purgatory, on account of the sacrifice of the Mass which is applied to him while living, can become shorter and milder, it is not improbably supposed that he who gave the stipend does not wish to urge his right exactly to the line.

If a Mass to be paid is handed over to someone for a deceased male, but he, through error, applies the fruit of the Mass to a deceased female, he has satisfied the intention of the petitioner. For in reality he has two intentions: one general, of applying according to the intention of the petitioner; the other particular, of applying for a deceased male. Now the first intention is predominant, and therefore the second is judged invalid. It comes to the same thing if it is said that the error was accidental, which could not vitiate the substantial act or intention of applying according to the intention of the petitioner.

4. **How the application must be determined when stipends are given by many unknown persons, as often happens in pious pilgrimages.** The priest can celebrate according to the intention of the giver, because the celebrant has at least the implicit intention of applying to individuals according to the order of time in which they gave the stipends: for he who is prior in time is stronger in right; and thus the application is sufficiently determined.

This holds not only in the case in which the same priest is going to satisfy all the obligations, but also in the case in which several priests receive intentions from a box placed in a church for collecting alms of Masses, or from a heap of stipends collected by a sacristan from various persons; for the celebrant satisfies the obligation if he applies according to the intention of the giver as many times as he has accepted stipends of Masses. For the distributor is judged to have the same implicit intention of handing over stipends according to the order of time in which they had been contributed. The celebrant can also apply the individual Masses to all those

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414. Cf. Lugo, *De sacram. in gen.*, disp. 8, n. 121 s.

415. Cn. 825, 1. Cf. Lacroix, l. 6, pr. 2, n. 222.

who gave stipends, according to the proportion of the stipend; for once the owed number of Masses has been celebrated, individuals have received what was owed to them.[416]

Question Fourth. On the Obligation of Celebrating

The obligation of celebrating or of applying the fruit of the sacrifice of the Mass can arise from a sixfold title: a. from priesthood; b. from office; c. from stipend; d. from benefice; e. from obedience; f. from promise.

1. Obligation by Reason of Priesthood

180. 1. Every priest is bound by divine law to celebrate sometimes, unless he is legitimately excused.

Most authors indeed agree in asserting a grave obligation of celebrating sometimes;[417] but not all derive this obligation from the same source. For many affirm that a divine precept of celebrating sometimes has been imposed on all priests, which they prove thus: a. The words of Christ: do this in commemoration of Me, contain a true precept gravely obliging; but this precept does not refer to the priestly order universally, nor to pastors alone, but to the apostles as they are priests, and therefore to all future priests. - But in those words of the Lord there does not seem to be contained a precept of sacrificing imposed on individuals separately, but on individuals taken collectively, i.e., it is prescribed to them that they take care lest the offering of the sacrifice ever be lacking in the Church. b. A priest who neglects to celebrate does not use the grace given to him and frustrates the power handed over to him in ordination; but a grave disorder is contained in this if it happens for a long time: for the sacrifice of the Mass exhibits to God due worship and brings immense utility to men. - But from the power of sacrificing conferred on individual priests, one could infer an obligation of using it also, if it could be demonstrated that the offering of the sacrifice by individuals is necessary; but that the offering of individuals is necessary cannot be demonstrated.

But those who deny that a strict precept and grave obligation are demonstrated by these arguments[418] concede at least this: that a priest who abstains from celebration for a whole year without an excusing cause (excessive scrupulosity) sins gravely by reason of scandal; for a prolonged omission of the sacrifice of the Mass is regarded by the faithful as a sign of a bad conscience, of depraved life, and of a certain contempt.

2. But how often a priest is bound to celebrate neither divine nor ecclesiastical law determines; authors, however, commonly teach that to avoid grave sin it suffices that he celebrate three or four times in the year on the more solemn feasts, indeed on any days whatever, provided that between them there is an interval suited to avoiding scandal, i.e., provided that celebration is not delayed beyond six months.

Therefore two things are required to avoid grave sin: a. that each year celebration be made three or four times; b. that celebration not be delayed beyond six months. These points indeed are well confirmed by ecclesiastical law: "He who without a just cause has not celebrated three or four times in the year sins mortally and can be punished by the bishop."[419]

3. A priest who can celebrate daily and neglects this without a reasonable cause, where the custom of celebrating daily is in force, cannot be excused from venial sin; but he does not sin if from a reasonable motive, e.g., of greater preparation, humility, or real inconvenience, he sometimes abstains from celebration.[420]

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416. The Sacred Penitentiary declared on 7 Dec. 1892 that by this manner of acting satisfaction is made to the obligation of applying Masses for a stipend, provided that the Masses are completed within the time defined by ecclesiastical practice, and that Masses which are offered for a certain day or for an urgent cause are not delayed.

417. Several times a year, cn. 805 has.

418. Lugo, disp. 20, n. 2 ss.; Ballerini-Palmieri, IV, n. 1905.

419. S. C. C., in the month of December 1669.

420. St. Alphonsus, n. 559.

2. Obligation by Reason of Office

181. On the obligation itself. 1. By a divine precept obliging under grave sin, all those upon whom a pastoral office is incumbent are bound not only to celebrate on certain days, but also to apply the sacrifice for the people committed to them. This obligation indeed is of justice, since pastors are bound to it, as to the other pastoral offices, from a quasi-contract.

a. The obligation of offering the sacrifice for the people is contained in the pastoral office itself: Every pontiff is appointed for men in those things which pertain to God, that he may offer gifts and sacrifices for sins.[421] Since the pastoral office in general is of divine institution, the obligation of applying for the people is of divine law. Wherefore the Council of Trent says that by divine precept it has been commanded to pastors to offer sacrifice for their sheep;[422] and indeed for bishops by absolute divine law, because the episcopate is of divine institution, but for pastors by hypothetical divine law (if and as long as the Church has enjoined this upon them), because the parochial office is of ecclesiastical institution.

b. Therefore by this law are bound diocesan bishops, abbots having jurisdiction over clergy and people with a separated territory, pastors, whether they are secular or regular, and indeed after they have taken possession of the see, capitular vicars when the see is vacant, in mission places vicars and apostolic prefects and quasi-pastors who preside over quasi-parishes, i.e., over parts of a vicariate or apostolic prefecture, then also vicars of pastors, who either administer a vacant parish or hold the place of an absent pastor. But regular prelates, titular bishops, and apostolic administrators are not bound by this law, nor are the cooperators or chaplains of pastors.[423]

c. Although regular prelates are not bound by strict law to apply the sacrifice of the Mass for their subjects, nevertheless, because pastoral care over their subjects has truly been committed to them by the Church, it is most fitting that they too offer the sacrifice of the Mass for their subjects. How often and when they do this is left to their judgment. If they celebrate Mass for their subjects several times during their office, they certainly satisfy this qualified obligation.

d. Since the pastor must offer the sacrifice of the Mass for his sheep - for the people committed to him - but the deceased faithful do not belong to "his sheep," to "the people committed to him," he is bound to apply only for the living and in reality applies only for them, unless he explicitly extends the intention also to deceased parishioners. But the application to be extended to the dead is only conditional, insofar as it can be done without prejudice to the living, because the parishioners themselves, from the will of the Church, have a right to the entire ministerial fruit of the sacrifice.

2. How often pastors of souls must offer the sacrifice of the Mass for the people the Church has determined, namely on all Sundays and feasts of precept, even suppressed ones; and this indeed even if they do not enjoy suitable revenues and even if immemorial custom stands in the way.[424]

a. Feast days on which it must be applied for the people: 1. of the Nativity of the Lord; 2. of the Circumcision; 3. of the Epiphany; 4. of the Resurrection with the two following weekdays; 5. of the Ascension; 6. of Pentecost with the two following weekdays; 7. of the Most Holy Trinity; 8. of the Body of Christ; 9. of the Finding of

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421. Hebr. 5:1.

422. Council of Trent, sess. 23, c. 1 and c. 14, *De ref.*; S. C. C., 10 May 1692. Cf. Const. *Nuper* of Innocent XII; Encyclical *Amantissimi Redemptoris* of Pius IX, 3 May 1858; *In suprema* of Leo XIII, 10 June 1882; Cn. 466.

423. Cn. 339 (for bishops), 323 (for abbots or prelates nullius), 466 (for pastors), 440 (for capitular vicar), 306 (for vicar or apostolic prefect), 466 (for quasi-pastors).

424. Benedict XIV, const. *Cum semper*, 19 Aug. 1744; S. C. C., 25 Sept. 1847.

the Holy Cross; 10. of the Purification; 11. of the Annunciation; 12. of the Assumption of the Blessed Virgin Mary; 13. of the Nativity of the Blessed Virgin Mary; 14. of the Dedication of St. Michael; 15. of the Nativity of St. John the Baptist; 16. of Saints Peter and Paul; 17. of St. Andrew; 18. of St. James; 19. of St. John; 20. of St. Thomas; 21. of Saints Philip and James; 22. of St. Bartholomew; 23. of St. Matthew; 24. of Saints Simon and Jude; 25. of St. Matthias; 26. of St. Stephen Protomartyr; 27. of the Holy Innocents; 28. of St. Lawrence; 29. of St. Sylvester; 30. of St. Joseph (19 March); 31. of St. Anne, Mother; 32. of All Saints; 33. of the patron of the kingdom; 34. of the patron of the place; 35. of the Immaculate Conception.

Apostolic vicars and prefects, and likewise quasi-pastors, are bound to apply more rarely than the rest, namely: on the solemnities of the Nativity of the Lord, Epiphany, Easter, Ascension, Pentecost, Corpus Christi, the Immaculate Conception and Assumption of the Blessed Virgin Mary, St. Joseph, Saints Peter and Paul, and All Saints.[425]

b. If a feast day falls on a Sunday, the pastor satisfies the obligation by one Mass; if the feast is so transferred that on the day *to which* it is transferred not only the office is said with the Mass of the transferred feast, but the obligations of hearing Mass and abstaining from servile work also are observed, the Mass for the people must be applied on the day *to which*; otherwise, on the day *from which*.[426]

c. A pastor who is placed over two parishes equally principally united, or who besides his own has undertaken to administer another or others, must apply only one Mass. The same holds of a bishop.[427]

d. The grave obligation refers to the application itself; but the adjuncts of the application (person, place, day) do not oblige under grave sin; therefore by omitting them grave sin is not committed, unless they are often and almost by custom violated.

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182. What kind the obligation is. The obligation of applying for the people is:

a. **Real,** so that a pastor who, impeded by a just cause, cannot apply himself, is bound to satisfy the obligation through another or on another day.

b. **Personal,** so that he himself must apply, unless he is legitimately impeded.[428] But a legitimate impediment is infirmity, the obligation of celebrating conventual Mass if the pastor is at the same time a canon, or something else which by prudent judgment is judged truly grave.

A grave cause which excuses a pastor from this obligation, according to the declaration of the Sacred Congregation of the Council, is not: alpha. contrary custom; beta. funerals to be celebrated; gamma. a Mass to be said for spouses; delta. a Mass founded for a certain day, which falls on a feast day of precept; epsilon. the persuasion of the faithful, who think that the parochial Mass is always applied for themselves and therefore willingly gather to hear it.

c. **Local,** i.e., the Mass for the people must be said in the parish church, so that the people can be present at it; nevertheless, if the pastor is legitimately absent, at his pleasure either he himself in the place where he is staying, or another for him in the parish church, can apply.[429]

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425. Cn. 306 and 466.

426. Cn. 339, 3.

427. Cn. 339, 2; 406, 2.

428. S. C. R., 20 Dec. 1864, n. 3128. But the reason why a pastor can fulfill other pastoral duties through another, but must himself apply for the people, is this: because the priestly office of mediator, which is exercised by offering sacrifice, is a personal office. Cf. Pasqualigo, *De sacrif. miss.*, q. 855, n. 7.

429. S. C. C., 14 Dec. 1872; Cn. 466, 5.

d. **Affixed to a determinate day,** so that it is not licit to transfer the application without necessity to another day, unless it has been granted by special indult.[430] But it is not required that the Mass which is applied for the people be a solemn Mass or the parochial Mass itself; the obligation can be satisfied by a private Mass.

To several dioceses, e.g., Metz, there has been conceded the faculty of transferring the application for the people to another following day, if on suppressed feasts there occurs the celebration of a marriage or of one funeral Mass which cannot be anticipated or transferred.[431] To poor curates it is conceded that, if on that day a rich stipend is offered, a Mass according to the intention of the petitioner can be said, with the application for the people transferred to another day.[432] To pastors of those dioceses in which on suppressed feast days it is licit by apostolic indult to apply Mass not for the people, but according to the mind of the bishop, it is permitted that they satisfy their obligation not on the very day on which they are bound, nor by themselves, but through another priest.[433]

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3. Obligation by Reason of Stipend

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183. On the stipend itself. It is licit to require and receive a just stipend for the application of a Mass, not as the price of the sacrifice or of the fruit applied, which would be a most grave sin of simony, but for honest support. This is established from the custom universally received in the Church. And indeed, he who is occupied for another in spiritual ministry by divine law requires temporal support from him.[435]

Mass stipends draw their origin from the offerings of the faithful.[436]

a. In the primitive Church, during the solemnities of Masses, the faithful gave their offerings (bread and wine) at the altar. From these was chosen what was necessary for consecration (and communion of the faithful); what remained after consecration went partly to the clerics and partly was distributed to the poor. For those who had offered the offerings (in the beginning all present were such), the sacrifice of the Mass was offered.

b. Gradually the offerings of bread and wine ceased, and in their place the faithful offered coins, not however all as before, but only some. When coins were now being offered, it seemed that the very thing which it was licit to offer during Mass could also be offered before or after Mass. Finally, those who offered coins to the priest outside Mass asked that the sacrifice of the Mass itself be offered specially for them.

c. From the seventh century onward it seems to have happened that coins were offered to the priest outside Mass by those who asked that a Mass be celebrated. At the same time the custom was introduced of sacrificing for particular faithful and according to their special intention. Since the offerings from which the stipend of the Mass arose at first had the character of alms offered to the clerics and the poor, the stipend is sometimes called an alms even in our time.[437]

Notes

430. Pius IX, const. *Amantissimi Redemptoris*, 3 May 1858.

431. S. C. C., 3 Sept. 1903.

432. Benedict XIV, const. *Cum semper*, 19 Aug. 1744.

433. S. C. C., 16 Dec. 1914.

434. Link, *Messstipendien* (Regensburg, Manz, 1901).

435. Matt. 10:10; 1 Cor. 9:13. Cf. *De praeceptis*, 12th ed., n. 198; Cn. 824.

436. Cf. Link, p. 22 ff.; Benedict XIV, *De missae sacrificio*, l. 3, c. 21, n. 1-5; Gasparri, I, n. 535 s.

437. S. C. C., 21 June 1625; 5 July 1664; Benedict XIV, *Quanta cura*, 30 June 1741.

184. On the obligation arising from a stipend. 1. From an accepted stipend there arises a grave obligation of justice of offering the Mass according to the intention of him who gave the stipend: for there intervenes between the priest and him who gives the stipend an onerous contract, which must be observed from justice. Hence the priest who, having accepted a stipend, does not apply the Mass according to the intention of the one giving the stipend, gravely wounds justice and is bound to restitution of the stipend.[438]

a. Recent theologians teach as altogether certain by common consent that he sins gravely who fails to celebrate even one sacred action owed from a stipend, although others, because of the contrary opinion of certain older authors, teach that he sins gravely only more probably, unless the quantity of the stipend is grave. These authors falsely measured the quantity of the sin from the quantity of the stipend. The true reason why this sin is grave must be taken not from the quantity of the stipend (unless it was given by a poor person), nor from the gravity of the spiritual loss which he who gave the stipend suffers (unless he asked in grave necessity), but from the will of the Church manifested by so many decrees, which obliges the priest under grave sin, because of the great importance of the matter, to fulfill this contract. But the priest who has not satisfied his obligation is not bound under grave sin to restitution of the stipend, unless the stipend constitutes a relatively grave sum.

b. The contract which is made between him who gives the stipend and him who accepts the stipend cannot be called a contract of exchange or sale, by which the labor intrinsically joined with celebration is exchanged for the stipend; but with most authors it must be called the unnamed contract, I give that you may do, i.e., I give a stipend for support, that you may apply for me the sacrifice of the Mass.[439] Hence it follows that once this contract has been entered, ownership of the stipend passes to the priest, together with the obligation of justice of applying the sacrifice of the Mass according to the intention of the giver, which obligation he can satisfy either by himself or through another. Therefore, if the priest, even without fault, by a fortuitous event has lost the stipend received, the obligation of applying does not cease, since the thing perishes for its owner.[440]

2. Those adjuncts also must be observed from justice which are rightly asked by him who gives the stipend, namely of celebrating at a determinate time and place and a determinate quality of Mass, provided the one accepting the stipend has obligated himself to observe these things. Wherefore a grave defect in this matter must be supplied, if it cannot be done otherwise, by another Mass duly celebrated according to the will of the one giving the stipend.[441]

a. If the time at which the Mass is to be said has been determined either expressly or tacitly, namely by the very quality of the intention (e.g., for a dying person, for a happy childbirth, for the happy outcome of a grave matter), it must be applied at the agreed time.

b. If, in a privileged altar, celebration is to be made from an accepted stipend for a deceased person, the priest who enjoys a personal privilege of the altar satisfies the obligation when celebrating at any altar; but he does not satisfy by applying another plenary indulgence, because the deceased person does not gain this so certainly.[442]

Notes

438. S. C. C., 21 June 1625; 5 July 1664; Benedict XIV, *Quanta cura*, 30 June 1741.

439. Cf. *De praeceptis*, 12th ed., n. 198.

440. Cn. 829.

441. Cn. 833.

442. S. C. Indlg., 2 May 1852.

He who, through an error committed in good faith, has not satisfied this obligation, e.g., because without a personal privilege he celebrated at another altar, not privileged, is not indeed bound to restore the stipend, but is bound in compensation to apply another plenary indulgence to the same deceased person.[443]

c. He who by reason of a stipend or foundation is bound to say a votive Mass does not satisfy the obligation by applying the Mass of the day, unless a legitimate impediment excuses. Yet since this defect affects not the substance but only the quality of the Mass, it does not exceed venial sin. But he satisfies the obligation of applying for the dead by saying a Mass of a saint, and likewise he satisfies the obligation of applying for the living by saying a Requiem Mass; nevertheless it is in no way fitting that this be done, unless a just cause excuses. For although by reason of the sacrifice there is no difference between one Mass and another, nevertheless by reason of the prayers which occur in the Mass, one profits the dead more than the other.

If, when a stipend has been offered, a Mass is asked in honor of some mystery, of the Blessed Virgin Mary, or of a saint, the obligation is satisfied by this, that the Mass of the current day is applied according to the intention of the one giving the stipend, unless a votive Mass is expressly asked. But it is more advisable that, insofar as it can be done, satisfaction be made to the intention of the one giving the stipend by a votive Mass.[444]

3. It is not licit to accept several stipends for one sacred action, but absolutely as many Masses must be celebrated as have been asked by reason of the stipend given and accepted, even if the stipends are small.[445]

a. That it is not licit to accept several stipends for a single Mass is manifest in the opinion of those who hold that the fruit of the sacrifice is finite; but neither do those who think the fruit of the sacrifice is infinite concede that several stipends are to be accepted for one Mass, both because the title for accepting them is lacking, since daily support is one, and because it has been prohibited by the Church.[446]

b. A stipend can be accepted for one Mass which is celebrated on the day of the Commemoration of All the Faithful Departed, and for the individual Masses which are celebrated on the feast of the Nativity of the Lord. Likewise, for an extraordinary burden and labor, e.g., for a Mass to be celebrated with chant, in a distant place, at a late hour, for several continuous days, etc., it is licit to require a fee greater than the customary one; but in no way is this licit for a spiritual advantage, e.g., for celebration at a privileged altar, before a miraculous image, etc.

c. It is licit to accept a stipend for the application of a Mass which is celebrated for spouses, if the spouses themselves have not given a stipend for the application of the Mass.[447] The same is licit for the application of a funeral Mass, if a stipend has not been given so that it be applied for the deceased person whose funeral is being held:[448] for in both cases only the quality of the Mass, not its application, is prescribed by the Church.

d. Nevertheless it is not licit to accept one stipend for celebration alone and another for application, unless it is certainly established that the stipend was offered for celebration without application, cn. 825, 4.

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185. On the quantity of the stipend. 1. A priest can licitly accept for a Mass what the liberality of the faithful

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443. S. C. Indlg., 22 Feb. 1847. By this decree the Congregation concedes to priests who were bound to apply the indulgence of a privileged altar, and who, erring in good faith, did not gain it, that compensation be made by the application of another plenary indulgence, as the same Congregation declares, 24 July 1885. Cf. Beringer-Hilgers, *Die Ablasse*, 14th ed. (Paderborn, Schoningh, 1915), I, 568.

444. S. C. R., 13 June 1899, n. 4031.

445. Cn. 828.

446. This proposition (10) was condemned by Alexander VII: It is not against justice to accept a stipend for several sacrifices and to offer one sacrifice.

447. Holy Office, 1 Sept. 1841.

448. S. C. C., 27 Apr. 1895.

freely and spontaneously offers.[449] But it is not licit to require anything except the stipend which is determined either by the law of the bishop or, in its absence, by the custom of the place. "If a priest about to celebrate requires more beyond the alms taxed by the bishop, he not only offends against the law of the Church, but also wounds commutative justice";[450] nevertheless he does not commit the sin of simony.[451]

a. If a benefactor has given stipends for Masses, but has not determined the number of Masses, the number must be computed according to the stipend of the place in which the offerer was staying, unless another intention of the same can be presumed (cn. 830), as if perhaps at other times he was accustomed to give a richer stipend.

b. If someone by testament or legacy has prescribed Masses to be celebrated, but has not determined the quantity of the stipend, either recourse must be had to the bishop, so that he may prescribe a suitable stipend, or the stipend must be fixed according to the custom of the place.

2. The bishop can prohibit priests from admitting an alms smaller than the customary tax. But a prohibition of this sort, wherever it exists, must not be understood in such a way that, if a reason of mercy or charity demands it, it is not licit to admit a smaller stipend, provided it is declared that this is done under the title of alms. But he cannot prohibit the faithful from giving an alms greater than the customary one, because the bishop cannot prohibit works of piety.

By common law, indeed, any priest can licitly apply a Mass for an alms below the diocesan tax. But if there exists an episcopal prohibition that alms for Masses below the diocesan tax be received, not only secular clerics, but also regulars, are subject to the statute of the bishop.[452]

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186. On manual Masses to be duly satisfied. 1. In order that the burdens of Masses and manual Masses owed from a stipend be duly satisfied, and that all commerce concerning Mass stipends be avoided, several decrees have been issued by the Holy See, the principal of which are these:

a. S. C. C. under Urban VIII, 21 June 1625, *Cum saepe.*

b. S. C. C. under Innocent XII, 23 Nov. 1697, *Nuper.*

c. Constitution of Benedict XIV, 30 June 1741, *Quanta cura.*

d. S. C. C., 9 Sept. 1874.

e. S. C. C., 24 Apr. 1875.

f. S. C. C., 25 May 1893, *Vigilanti.*

g. S. C. C., 28 Aug. 1897.

h. S. C. C., 11 May 1904, *Ut debita.*

i. S. C. C., 22 May 1907.

With the decree *Ut debita* the dispositions of the new Code, cn. 837-844, almost agree.

Very many dispositions which in the course of time were issued by the Holy See concerning manual Masses are renewed, confirmed, and more accurately determined by the decree *Ut debita.* According to the mind of the

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449. S. C. de prop. fid., 30 July 1877.

450. Benedict XIV, *De synodo*, l. 5, c. 9, n. 2.

451. Cf. *De praeceptis*, 12th ed., n. 198.

452. Cf. Council of Trent, sess. 22, decree *Quanta cura De sacrif. missae*; Benedict XIV, *De synodo*, l. 5, c. 9, n. 2; Cn. 832.

legislator, this decree obliges those to whom it pertains of itself under grave sin, therefore in grave matter under grave sin, in light matter under light sin (n. 4).[453] The summary of this decree is contained in the following points, with those things noted which are modified in the new Code:

2. Three kinds of Masses are distinguished:

a. **Manual Masses,** whose stipends are offered by the faithful either from their own devotion, as it were into the hand, or from an obligation even perpetual made by a testator to his own heirs.

To manual Masses also belong those which a family by force of inheritance, even in perpetuity, must see celebrated, and which permanently adhere to a church, monastery, confraternity, or pious places, but are not founded, so that they can be applied by any priest.[454]

b. **Masses after the manner of manual Masses,** which are founded, but cannot be applied in their proper place or by those who from the foundation ought to satisfy them, and therefore by law or by indult of the Holy See must be handed over to other priests so that they may be celebrated.

c. **Founded Masses,** whose stipends are received from the revenues of foundations.[455]

3. Holy Mother Church is very solicitous that Masses which are requested by the faithful with a stipend offered are certainly and duly satisfied; to obtain this end she prescribes several precautions.

a. Rectors of churches and of other pious places, whether secular or religious, in which stipends of Masses are customarily received, should have a special book in which they accurately note the number of Masses received, the intention, the stipend, and the celebration. Ordinaries are bound to inspect these books at least every year, either by themselves or through others.

b. Ordinaries of places and religious superiors who commit Masses to be celebrated to their own subjects or to others should quickly enter the Masses accepted with their stipends in a book and should see to it, as far as they can, that they are celebrated as soon as possible.

c. All priests, whether secular or religious, must carefully note what intentions they have received and which they have satisfied.

d. The right and duty of watching that the burdens of Masses are fulfilled pertains to the local ordinary, and in the churches of religious to their superiors.[456]

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187. On the time suitable for celebration.[457] 1. If the time of celebration has been determined by the offerer either explicitly or implicitly, the priest accepting the Masses is bound to celebrate them at the determined time.

a. The time is determined implicitly by this, that the end of the application is indicated, e.g., for a dying person, for a happy childbirth, for new communicants, for the happy outcome of some grave matter, etc.

b. A priest sins gravely if he does not celebrate within the time suited by reason of the end; and when that time has passed, he is bound to restore the stipend, even if he afterward celebrates, namely when the end for which he ought to have celebrated can no longer be obtained.

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453. The whole decree consists of a preface and 15 numbers, to which the numbers added here in the text within parentheses refer.

454. S. C. C., 19 Dec. 1904.

455. Cn. 826.

456. Cn. 842 ss.

457. Cf. cn. 834 s.

2. If the time has been determined by the offerer neither explicitly nor implicitly, the Masses must be celebrated within a moderate time according to the greater or lesser number: if one is to be celebrated, within a month; a hundred Masses requested by the same person within a semester; and another longer or shorter space of time more or less according to the greater or lesser number of Masses. According to the judgment of authors, this more exact determination can be made: if 20 Masses are offered by one and the same person without determination of time, they must be satisfied within two months; if 40, within three months; if 60, within four months; if 80, within five months; if 100, within six months, and so on; if 200, within a year, unless the offerer either asks that the celebration be made within a shorter time, or grants a longer time for it (n. 9).

a. Therefore if someone, with a stipend offered, asks for a Mass, it must be applied within a month; if twenty different persons ask the same priest for a Mass, likewise all must be applied within a month. Indeed, if in some solemnity five hundred different persons offer a stipend for one Mass, of themselves they must be applied within a month.[458] But if the same person asks the same priest for twenty Masses, it suffices if they are applied within two months.

b. For priests who receive Mass stipends not from the faithful but from the ordinary, by concession of the Holy See the time within which the Masses must be applied begins from the day on which they received the stipends from the ordinary, not from the day on which they were offered by the faithful.[459]

c. This determination of time must be taken not scrupulously and mathematically, but in a human and moral manner. Nevertheless, that which up to now was handed down by authors, namely that Masses for one recently deceased must be applied within a month, but Masses offered for other intentions within two months, unless they are asked for an urgent cause, can no longer safely be taught. Nor must a distinction any longer be made between Masses to be applied for the dead and Masses to be applied for the living; but the time suitable for application is the same in either case.

d. The precept applies to all Masses which by this decree are called manual. Therefore if someone accepts from a pastor Masses founded in his church to be celebrated, they must be celebrated within the time determined above: for for him who accepts them they are Masses after the manner of manual Masses, although the pastor, since they are founded, could have applied them within the year.

e. Therefore he who without just cause notably defers Masses beyond the prescribed time sins gravely; nevertheless he is not bound to restitution of the stipend, because afterward he can still satisfy the obligation of celebrating. A delay is judged notable if a Mass which was to be celebrated within a determined time is deferred for a month beyond the prescribed time.

3. If the offerer has expressly left the time to the judgment of the priest, he can celebrate them at the time which pleases him more; nevertheless, within a year counted from the time at which he accepted them.

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188. 4. Therefore:

a. It is licit for no one to seek or accept more Masses than he can probably celebrate within the stated time, either by himself or through his subjects, if there is question of an ordinary or regular prelate (n. 1). To these must also be reckoned pastors whose chaplains must celebrate according to their intention.

Notes

458. S. C. C., 27 Feb. 1905.

459. S. C. C., 27 Feb. 1905.

alpha. Nothing prevents a priest who has already accepted stipends from one or another person from accepting several other Masses from other offerers, provided they can be applied within a suitable time. If, for example, 40 Masses are offered to someone by one and the same person, it suffices if he satisfies them within three months; meanwhile he can also satisfy several other obligations owed either from office or from other stipends.

beta. A priest indeed is not licitly able to accept for himself Masses which he cannot apply within the due time; nevertheless he can accept them for others, i.e., he can declare himself ready to the one offering the stipends to see to it, if it pleases him, that they be applied by another priest.

b. It is licit for no one to accept more Masses than he can probably apply within a year from the day of the obligation undertaken, unless someone spontaneously gives a greater number (n. 3).

The sense of this number will be clear from an example. If to a priest who within the year must celebrate 150 Masses from a benefice, 300 stipends are offered by the same donor, he cannot accept more than 200, because besides those owed from the benefice he cannot apply more within the year. Yet if someone spontaneously gives 500 Masses to a priest, by that very fact he does not require that they be applied within the year, but consents that the application of several be deferred beyond the year.

5. All who are obligated to fulfill burdens of Masses must, at the end of the year, hand over to their proper ordinaries the Masses which they have not yet satisfied, unless there is question of a smaller number of Masses (n. 4).

a. All, whether clerics or laypeople, but especially beneficiaries and administrators of pious causes. Therefore heirs who by force of testament or legacy are bound to see to it that Masses are said, during the course of the year can hand them over to any priest to be celebrated; but if they neglect this, after the year they lose the right of seeing to the celebration by themselves, and they are bound to send them to the ordinary.

b. At the end of the year. If there is question of founded Masses or Masses attached to some benefice, the obligation begins from the end of that year within which the Masses ought to have been applied; if there is question of manual Masses of a larger number, the obligation begins after a year from the day of the obligation undertaken.

c. A smaller number: for the priest licitly retains as many Masses as he can apply within the due time. In the same way he licitly retains those whose celebration, by the will of the donors, can be deferred beyond the year.

d. The proper ordinaries of regulars are regular prelates (generals, provincials, local superiors), to whom regulars must hand over at the end of the year the Masses which they have not yet satisfied.[460]

6. In churches (e.g., of pious pilgrimages) in which more Masses are requested than can be celebrated there within the due time, the faithful should be advised by a notice placed in an open place that the requested Masses will be celebrated either there, when it can conveniently be done, or elsewhere.

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189. On handing superfluous Masses to others. 1. He who has superfluous Masses which he himself cannot apply within the time suitable for celebration must assign them either to the ordinary, or to the Holy See, or to another priest, with the prescribed conditions observed (n. 5).

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460. S. C. C., 27 Feb. 1905.

He who hands over Masses with a stipend to the ordinary or to the Holy See is freed from every obligation by the very handing over; he who hands them over to other priests is not freed from the obligation of celebrating until he has obtained testimony of the accepted obligation and of the received stipend.[461]

Testimony of the celebration performed is no longer required.

190. 2. The prescribed conditions are these:

a. **As to the Masses.** That the Masses be celebrated in that place (church, altar) and at that time (day, hour), as the will of the founders or offerers requires.

b. **As to persons.** alpha. Intentions of Masses accepted from the faithful or from pious places can licitly be handed over to priests (whether staying inside or outside the diocese), who celebrate them either by themselves or through their subjects, namely where they are handed over to ordinaries or regular prelates (or pastors), n. 8.[462]

It is not licit to give Mass stipends to booksellers and administrators of periodicals, even if they are religious men, nor to sellers of sacred utensils and vestments, however much they are pious and religious institutions, nor to any others, however much they are ecclesiastical men, who ask for Masses not with the intention that they celebrate them either by themselves or through their subjects (n. 8). It is clear that by this there is not prohibited that Mass intentions be given or procured for priests so that from their stipends they may buy books or things of any kind.

beta. The priests to whom Mass intentions are handed over must either be known as above all exception, i.e., such that they provide moral certainty that they will celebrate the accepted Masses (n. 5), or must be commended by testimony of their proper Ordinary.[463]

gamma. Testimony of the received stipend must be required.

This testimony must be required so that the one handing over Mass stipends to others may know that he is immune from the obligation of celebrating. And indeed, to obtain this end for the internal forum of conscience, it makes no difference whether the testimony is written or oral; indeed even moral certainty obtained from the circumstances of things and persons prudently considered seems sufficient for the forum of conscience.

Note. If there is question of Masses to be sent to churches of the Oriental rite: a. it is not licit to send them: alpha. to laymen who distribute them to priests; nor beta. directly to Oriental presbyters; nor gamma. directly to superiors of congregations of Oriental religious; nor delta. directly to titular bishops or simple patriarchal vicars. But b. they must be sent either alpha. to the Sacred Congregation for the Propagation of the Faith; or beta. to apostolic delegates, signifying at the same time the number of Masses and the sum of stipends which must be handed over to Oriental prelates existing within the scope of the delegation; or gamma. to prelates having ordinary jurisdiction for priests subject to themselves.[464]

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191. 3. As to the stipend. 1. In transmitting manual Masses, the whole stipend must be transmitted, unless the offerer expressly permits something to be retained or it is certain that the excess above the diocesan tax was given in view of the person.[465]

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461. Cn. 839.

462. Cn. 838.

463. Cn. 838.

464. S. C. de prop. fide, 15 July 1908.

465. Cn. 840.

To these one may add another case, namely if the one receiving the stipend spontaneously remits part of the offered stipend:[466] for he is not prohibited from making donations. That the expenses of transmission can be deducted is manifest.

a. He commits a grave sin against religion who retains part of the stipend in grave matter, even if he expends the retained money for pious uses. That partial retention of the stipend is prohibited by the Church under grave sin is manifest from the penalties previously issued against this manner of acting. But it has been doubted whether by this manner of acting one sins against commutative justice with the burden of restitution, or only against religion. Certainly the opinion of those who deny a wound of commutative justice is probable:[467] for the arguments by which the affirmative opinion is demonstrated do not prove the matter. They argue thus: alpha. From the condemned proposition: a priest who has accepted Mass stipends cannot satisfy through another, with part of the stipend retained for himself;[468] but he who does not satisfy his obligation wounds justice. - But nothing requires that the words of the condemned proposition be understood thus: he cannot satisfy his obligation without a wound of justice; since they can conveniently be understood thus: he cannot licitly satisfy his obligation. beta. A priest accepting a stipend indeed acquires ownership of it, but according to the will of the giver; but the will of the giver is that the Mass be celebrated for such a stipend; therefore he who retains part of the stipend acts against the will of the giver, which pertains to the substance of the contract, and therefore acts against justice and is bound to restitution, not indeed to him who gave the stipend, but to the celebrating priest. - But it is in no way established that this is the will of him who gives the stipend, which is clear from these things: he who has accepted a Mass stipend can satisfy the obligation of celebrating through another, even if he gives no stipend, provided the one conferring the stipend has not expressly demanded that the one accepting himself celebrate the Mass. For if another in place of the one accepting the stipend celebrates gratis according to the intention of the giver, no one doubts that he who accepted the stipend has satisfied the obligation.

b. To administrators of churches who give stipends to outside priests celebrating in their churches, it is not licit to retain part of the stipend under this title, that the celebrating priests pay something for necessary expenses, even if the church is poor. Nevertheless, it is licit for rectors of churches to require payment of expenses from priests wishing to celebrate in their churches as a condition that they be permitted to celebrate in the church, especially if the church is poor, or many priests, or the same priests frequently, celebrate there.

c. To an executor of a testament who, for a certain sum of money, must see that a determinate number of Masses is celebrated, it is not licit without injustice to retain part of the sum for himself because he sees to it that Masses are celebrated where the stipends are smaller: for since he never acquired ownership of the stipends, there exists no title by which he could retain part of them.[469]

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192. In Masses to the likeness of manual Masses it is sufficient to transmit the stipend of the diocese in which the Mass is celebrated, if the excess takes the place of part of the endowment of the benefice or of the pious cause, unless the mind of the founder stands in the way.

a. Therefore, if the foundation was made in such a way that the celebration of Masses is entrusted to a certain priest, it is sufficient to transmit the diocesan tax. But if the foundation was made in such a way that the

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466. Benedict XIV, const. *Quanta cura*, 30 June 1741.

467. Ballerini-Palmieri, IV, n. 1017; D'Annibale, III, n. 190, note 17; Genicot, *Theol. mor. inst.*, 231.

468. This proposition (9) was condemned by Alexander VII: After the decree of Urban, a priest to whom Masses to be celebrated are handed over can satisfy through another, with a lesser stipend given to him and the other part of the stipend retained for himself.

469. St. Alphonsus, n. 322.

celebration of Masses is annexed to some church, the pastor who sees to it that they are celebrated by another must give him the whole stipend,[470] except in the case in which the foundations constitute part of the parochial congrua.

b. For funeral or nuptial Masses, whose celebration by law and custom belongs to pastors, a greater tax is usually given; the pastor can retain its excess, if he sees to it that the Mass is celebrated by another. But if the greater stipend is given by reason of chant, of a later hour, etc., the excess must be handed over to the celebrant, who must undergo the extraordinary burden.

c. If to a priest who accompanies a funeral 5 crowns are offered with the burden of celebrating a Mass, or if to a pastor 20 crowns are given with the burden that a triduum be instituted and three Masses celebrated, it is sufficient that to him to whom the Masses to be celebrated are entrusted there be given the diocesan stipend. But if the Mass to be said is entrusted to a priest existing outside the diocese, the stipend of the diocese of the celebrant must be given. If a Mass connected with a benefice is entrusted to another priest, the ordinary stipend of that place in which the Mass is celebrated must be given.[471]

The decree *Ut debita* further admonishes two things:

a. The stipend of a Mass cannot licitly be separated from the celebration of the Mass (n. 8).

Since by these words this alone is prohibited, namely that Mass stipends be given to those who accept them for another end, not for this end, that they pay off the Masses either by themselves or through their subjects, it is not prohibited that priests be asked to accept Masses to be celebrated and then donate their stipends to a pious work. - Nor is it prohibited that, from a just cause of necessity, a priest exchange the intention of a Mass with another, while retaining his own stipend, even though the stipends of each are not equal, but one is greater than the other. For in this case one is judged spontaneously and freely to donate the excess to the other. - Nor, finally, is it prohibited that pastors, whose vicars must celebrate according to the intention of the pastor, retain the stipends of Masses for their sustenance.

b. The stipend of a Mass cannot licitly be exchanged into other things, but must be returned in its own species (n. 9).

alpha. Although it is not licit by means of Masses to sell or buy any things whatsoever, nevertheless it is licit for him who asks for a Mass or Masses to hand over to the priest, for Masses to be celebrated or already celebrated, a book or another thing in place of money, provided this is not done habitually nor turns to the support of some commerce (n. 10).

beta. Both from declarations of the Holy See and from indults and privileges granted by the same Holy See either to bishops or to priests, it was licit to exchange the stipends of Masses with another thing, e.g., newspapers, religious sheets, and even, for promoting a pious work, to hand over stipends to others with part of them retained. But now all these things are obrogated and must be held as abrogated (n. 9). - In like manner there has been revoked the indult granted to more celebrated sanctuaries, by force of which from Mass stipends offered by the faithful they could deduct a part, so that provision might be made for the decor and ornament of the sanctuary (n. 11).

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193. On the reduction of Masses. 1. From a just cause the Church is accustomed to reduce the burdens of Masses or even entirely to extinguish them.

Notes

470. S. C. C., 25 July 1874.

471. S. Office, 11 May 1904, *Ut debita*, n. 15.

The occasion of reducing the burdens of Masses presents itself especially when, in the course of time, it has happened that the revenues of a foundation no longer suffice for paying off the complete number of Masses. By a reduction of this kind the founders suffer no damage: for the supreme pontiff supplies the satisfactory fruit by this, that from the treasury of the Church he applies the satisfactions of Christ and of the saints for those for whom the sacred offerings would have been offered; but the impetratory fruit produced from the prayer of the Church he supplies by this, that he directs to this end the prayers which are made in the name of the Church.

2. The supreme pontiff has reserved to himself the power of reducing the burdens of Masses, so that a bishop without a special indult of the Holy See cannot validly reduce the number of Masses, unless the founder has granted this power also to the ordinary of the place.[472]

a. When, on account of the smallness of a legacy which has not yet been accepted, reduction is necessary, the bishop can, without faculty of the apostolic see, reduce the number of Masses to be celebrated according to the norm of the customary stipend.

b. From the case in which the sum of the foundation is not diminished in itself, but no longer suffices for all the burdens, there must be distinguished the case in which the very sum of the foundation has perished either wholly or in part, but without fault of him who must celebrate the Masses. In the former case the reduction of Masses can be made by the supreme pontiff alone. If in the latter case the sum of the foundation has wholly perished, the obligation of celebrating the Masses ceases; but if it has perished in part, that must be observed which the new Code, cn. 1517, 2, establishes: "If the execution of the burdens imposed has become impossible because of diminished revenues or another cause, with no fault of the administrators, the Ordinary also, after hearing those whose interest is involved and with the will of the founder preserved in the better way in which it can be done, will be able equitably to diminish the same burdens, except the reduction of Masses, which always belongs uniquely to the Holy See." Thus, if the founder determined a certain stipend for individual Masses, the Ordinary can equitably diminish the number of Masses; but if the founder determined the number of Masses, their reduction must be made by the Apostolic See.

194. On the condonation of Masses. Under certain conditions the Church is accustomed to condone the burdens of Masses, whether they are founded or manual. The effect of condonation is twofold: of supplying from the treasury of the Church the fruits of omitted sacrifices, so that the petitioners perceive the same fruits which they would have perceived if the Masses had been celebrated, and of remitting the obligation of celebrating them.

a. The supreme pontiff alone can grant condonation, because he alone can supply from the treasury of the Church for Masses not celebrated.

b. Condonation is customarily granted when a priest has not celebrated several Masses which from foundation or from stipend he should have celebrated, and can no longer celebrate them. Condonation is not granted when there are means or revenues by which past omissions can be supplied.

Note. All the works by which Christ the Lord accomplished the redemption of the human race are contained in the treasury of the Church; but the works of redemption were works of adoration, of thanksgiving, of supplication, of placation, and of satisfaction; therefore there are contained in the treasury of the Church adorations, thanksgivings, supplications, placations, and satisfactions of infinite value, which Christ the Lord offered to God the Father for us. - Moreover, since in the treasury of the Church there are the merits of Christ, in the same treasury there are the merits which proceed from the sacrifice of the cross; but the sacrifice of

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Notes

472. S. C. C., 31 Jan. 1625. Cn. 1517, 1.

the Mass is the renewal of the sacrifice of the cross; therefore all the effects which the sacrifice of the Mass can produce are contained in the treasury of the Church and in reality are applied from them by the supreme pontiff through condonation according to the intention of those who had asked for the Masses.

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4. Obligation by reason of benefice.

195. By benefice is understood a simple benefice or chaplaincy, which imposes on the beneficed cleric the obligation from a pious foundation of celebrating Mass daily or yearly on certain days. These obligations arising from foundations are customarily called "perpetual burdens of Masses." The intention of founders is directed either to this, that a certain number of Masses be celebrated according to their intention, or to this, that Masses be said in a certain place, by which an occasion of hearing Mass may be furnished to the people.

1. The obligation of justice, to which the beneficed cleric is bound to satisfy, refers not only to the Masses themselves to be celebrated in a determinate number, but also to other adjuncts prescribed by the founder, namely to the species of the Mass (read or sung), to the place, to the time, etc., if the founder designated these things for a grave cause.
2. The beneficed cleric is not bound to satisfy the obligation of celebrating himself personally, unless this is required by express or equivalent words. But if he himself must celebrate, the obligation is grave, which nevertheless admits smallness of matter, so that he sins gravely if without an excusing cause he rather often does not celebrate himself.
3. The application of the Masses, where the founder has expressly established nothing concerning it, must be made according to the presumed intention of the founder. And indeed the Masses are rightly presumed to be applied to the soul of the founder when the founder simply imposes the burden of celebrating Masses; but when he prescribes that a certain number of Masses to be celebrated be applied to himself, he is judged to have left the application of the others free.
4. If a beneficed cleric who has the burden of a daily Mass does not have to celebrate himself personally, he can licitly omit none, but must see to it that the Mass be said by another when he himself does not celebrate. But if he himself is personally bound to celebrate daily, he can sometimes from a just cause omit a Mass, and he is not bound to supply it through another.[473] Causes of this kind are:

a. **Illness;** if, however, the illness is not brief but long lasting, he must celebrate through another, even with a stipend conferred, if there is need.

But a brief illness seems to some to be one which does not exceed fifteen days, to others one which does not exceed a month, to others one which does not exceed two months. Even this last opinion seemed probable to some,[474] but contrary decrees are present, from which he is bound to supply through another if the illness lasts beyond fifteen days,[475] except in the case in which the beneficed cleric on account of illness had become entirely incapable and had nothing from which he might live from elsewhere, and had been ordained to the title of the benefice.[476]

b. **Religion;** therefore he can, because of a defect of devotion or disposition, and hence for the sake of humility and reverence, omit celebration once in a month.

Notes

473. S. C. C., 18 Sept. 1683.

474. Cf. St. Alphonsus, n. 333.

475. S. C. C., 4 June 1689 and 17 Nov. 1695.

476. S. C. C., 14 Apr. 1655.

c. **A reasonable impediment;** therefore he can omit Mass by reason of a journey or for making exercises; indeed authors permit that sometimes (five or six times in a year) he apply for himself or for his own. But it is not licit, when he celebrates for another, to accept a stipend, because from the foundation he has already received a stipend.

5. A beneficed cleric who must celebrate Mass in a determinate church, at a determinate altar, at a certain hour, sins gravely if he rather often (more than once and again in a month) without a just cause does not observe these dispositions of the founder, provided the founder determined them for a grave cause still enduring, e.g., for the convenience of the people, for the special cult of some saint, etc.

a. In dispositions of the founder of this kind a bishop can dispense for a time from a just cause, but in perpetuity the Holy See alone can dispense.

b. A beneficed cleric who from foundation is bound to celebrate on feast days at a determinate altar or in a determinate church can, on feasts afterward abrogated by the Church, celebrate in another church or at another altar, if the end of the foundation is that an occasion of hearing the sacred rite be furnished to the people.[477]

c. A beneficed cleric who from foundation is bound to apply for the founder on individual feast days is bound to this also on suppressed feasts.[478]

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5. Obligation by reason of obedience.

196. 1. Both the Council of Trent[479] and the Code of Canon Law[480] in almost the same words command bishops and religious superiors to take care that priests subject to them offer the most holy sacrifice of the Mass at least on individual Sundays and other feasts of precept; priests subject to them, if anywhere the superiors have given such a precept, are bound to obey.

2. That secular prelates, i.e., the supreme pontiff and the bishop, can of themselves command priests subject to them not only the celebration of Mass but also its application is certain, and the contrary opinion of some rests on a false foundation, namely that the Church cannot command internal acts; nevertheless superiors who are not religious rarely use this power, because priests undergo temporal damage by the fact that they are deprived of the stipend of Masses.

The conventual Mass, (if several must be celebrated, only one) must by ecclesiastical law be applied daily for benefactors in general.[481] Religious indeed are not bound by common law, but for the most part by statute of the order, to make this application. The conventual Mass is called the Mass which is to be sung in cathedral and collegiate churches and in churches of regulars of either sex, in which the canonical office is performed in choir; therefore those who are not bound to choir do not have a conventual Mass.

3. Regular superiors, however, are accustomed to command the application of Mass to their subjects under diverse titles: and indeed from justice, where the stipends of Masses are accepted by superiors under this agreement, that they see to it that these are paid off through subjects; or from obedience, where either by force of the dominative power by which they have power over subjects they themselves enjoin the

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Notes

477. S. C. Ep. et Reg., 1 Mar. 1872.

478. S. C. Ep. et Reg., 15 Dec. 1836.

479. Sess. 23, c. 14, *De reform.*

480. Cn. 805.

481. Thus Benedict XIV establishes, const. *Cum semper alia*, 10 Aug. 1754.

application of Mass, or by force of constitutions they prescribe Masses which are exacted by these for a certain intention.

a. Therefore subject religious priests are bound, whether from justice or from obedience, to apply the sacrifice of the Mass according to the intention prescribed by superiors. If a subject religious acts against the precept of the superior, he indeed validly applies to another intention, yet illicitly; and if he was bound from justice to offer, without doubt he sins gravely; otherwise he sins gravely or lightly or in no way against obedience according as the superior intended to oblige the subjects under grave sin or under light sin or not at all under sin. Constitutions of orders enjoining Masses generally do not oblige under sin.[482]

b. The precept of a superior enjoining the sacrifice of the Mass does not extend beyond the end intended by the superior. Therefore he who from obedience alone, i.e., from the precept of a superior or from statute of the order, is bound to perform the sacred rite, can apply to himself or to others the remaining fruits which do not directly contribute to the prescribed end. Thus, if Mass is exacted for a sick man to obtain his health, the priest can apply the other fruits besides the impetratory fruit; and if Mass is exacted in thanksgiving, he can apply at least the satisfactory fruit at will.

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6. Obligation by reason of promise.

197. 1. He who seriously and with the mind of obliging himself promises that he will offer the sacrifice of the Mass for someone, once the promise has been accepted by the other, is ordinarily bound from fidelity to apply the Mass for him. Yet for the most part promises of this kind are not made seriously and with the mind of obliging oneself, but show only a benevolent proposal; wherefore they rarely induce a true obligation. Therefore all things depend on the intention of the one promising.

2. The obligation from fidelity is ordinarily only light, even in a grave matter. Therefore he who truly promised one or several sacred rites to another and omits to apply them does not sin gravely, unless he expressly intended to oblige himself under grave sin, or took upon himself the burden of one who was bound under grave sin to celebrate. But if a true promise has not intervened, the omission of celebration is no sin.

He who is bound to perform the sacred rite from a liberal promise satisfies the obligation if he applies only the promised or requested fruit; but he can reserve the remaining fruits to himself or to another. For a liberal promise must be interpreted so that it is as little burdensome as possible to the one promising. For example, he who promised to one person a sacred rite in thanksgiving for a benefit received, to another for obtaining health, to a third for a deceased friend, satisfies the threefold promise by one sacred rite.[483]

Question V.

On the place of celebration.[484]

The place of celebration is a church and an oratory; but sometimes a license of celebrating also outside a church or oratory is granted.

198. On church and oratory. 1. A **church** is a building constructed for divine worship with this end, that it may be for the use of all the faithful for publicly exercising divine worship.

Notes

482. Cf. S. C. de Relig., 3 May 1914.

483. Cf. Sporer-Bierbaum, III, pr. 8, n. 417, who followed Gobat, *Experient. theol.*, tr. 3, n. 144; Lugo, disp. 19, n. 193.

484. Gasparri, l.c., 3: *De loco celebrationis missarum*, nn. 121-358. J. B. Gattico, *De oratoriis domesticis.* Van Gameren, *De oratoriis publicis et privatis. Ephemerides liturgicae*, De oratoriis, vol. X (1896), p. 41. Cn. 1161 sq., 1188 sq.

2. An **oratory** is a place destined for divine worship, yet not with this end, that it may be for the use of all the faithful for publicly exercising religion. An oratory is called **public** if it serves for the use of some person or family or community in such a way that nevertheless the right belongs to all the faithful of assisting at the divine offices which are celebrated there; and it is called **private** if it serves for the use of some person, family, or community in such a way that others have no right of assisting at the divine offices which are celebrated there.

Therefore a public oratory ought to have a door which opens from a street or from a public place, so that the faithful can freely approach it. Sometimes authors define a public oratory by this mark, which rather is a necessary consequence and an indication of publicity; but the proper mark of a public oratory is the right of the faithful to come to the functions celebrated there, so that without this right an oratory is private, even if its door opens onto a public road; and with this right granted, an oratory is public, even if it is situated within the walls of a private house. But if one cannot reach the oratory from the street except through the atrium of the house or through a meadow, it is required that the owner be bound not to impede the free access of the faithful; otherwise the oratory is not public.

3. A private oratory is strictly private or domestic if it serves the use of some person or particular family; and it is semiprivate or semipublic if it serves the use of some community or group of the faithful and it is not free for anyone at all to approach it.

a. Therefore private oratories are all oratories erected in a private house, namely in the house of some individual or particular family, even of a magnate, a prince, or the king himself. Although the oratories of Cardinals and Bishops, whether residential or titular, are private oratories, nevertheless they enjoy the rights and privileges of a semiduplicate oratory. Cn. 1189. - Chapels in a cemetery erected by families or private persons for their own burial are private oratories. Cn. 1190.

b. Semipublic oratories are oratories erected in a public house, namely in the house of some community, of which kind are: seminaries of clerics, monasteries of men and of women, even of simple vows and without enclosure, colleges destined for the education of boys or girls, although erected without the authority of the ordinary, hospitals, orphanages, public prisons, universities, the house of a confraternity or of a pious association approved by the bishop, houses assigned for making exercises, and houses assigned for exercising works of mercy.[485]

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199. On the license of celebrating in them. 1. By common law Mass can be celebrated only in a church or in a public oratory, provided that this place is consecrated or at least blessed.[486]

Public oratories are governed by the same law as churches (cn. 1191). Therefore there Mass can be celebrated and ecclesiastical functions can be performed on all days of the year, even the more solemn ones, unless the rubrics stand in the way.

2. The bishop can grant the faculty of erecting a semipublic oratory, but a. in any community only one, except that in boarding schools, gymnasia, lyceums, prisons, hospices, etc., besides the principal oratory, other smaller ones can be erected if in the judgment of the ordinary necessity or great utility demands it; and b. on this condition, that he has visited the oratory either by himself or through another ecclesiastical man and has found it decently furnished.[487]

Notes

485. S. C. R., 23 Jan. 1899, n. 4007.

486. Council of Trent, sess. 22, decree *Quanta cura, De observand. et evitand. in celebrat. missae.*

487. Cn. 1192.

a. A semipublic oratory legitimately erected cannot be converted to profane uses without the license of the bishop. Cn. 1192, 3.

b. In monasteries of nuns with papal enclosure the bishop cannot, on account of the enclosure itself, permit that Mass be celebrated within the enclosure; nevertheless there are not lacking, although rare, examples of this faculty granted by apostolic indult.

c. Also in semipublic oratories all ecclesiastical functions can be performed, unless the rubrics stand in the way or the bishop has excepted some. (Cn. 1193.) For in the concession of the faculty the bishop can add various limitations, e.g., that only one Mass be celebrated, that it not be celebrated on certain days or at certain hours.[488]

d. By force of a privilege granted to the Society of Jesus,[489] provincials can, by themselves and without the license of the bishop, erect oratories in regular houses and also in colleges directed by regulars and in other houses where some regulars reside; in these oratories several Masses can be celebrated on the same day, even by outsiders, and those assisting can satisfy the precept. By force of the same privilege, oratories can also be erected in farms of regulars (economic houses), which enjoy the privileges of a semipublic oratory.

3. Today the Roman pontiff alone grants the faculty of celebrating in a strictly private oratory.

a. In an oratory of this kind, after the bishop has visited and approved it, celebration can take place, but only one Mass, and that read, on individual days, except the more solemn feasts.

b. Nevertheless the bishop, provided just and reasonable causes are present, diverse from those for which the indult was granted, can permit celebration even on the more solemn feasts by way of an act. Cn. 1195.

4. The bishop can grant the faculty of celebrating outside a church and oratory, e.g., in the open air, only in a case of necessity.

A case of this kind would be present: a. If churches had been made unfit for celebration, e.g., by fire or earthquake. In this case this can be done even by presumed license, if express license cannot be had so quickly. b. If a great multitude of the faithful would lack the sacred precept where it could be celebrated only in the open air.

5. In order that one may celebrate on a ship, today a peculiar apostolic indult is required, so that neither apostolic missionaries by force of this title nor priests having the privilege of celebrating everywhere by force of this privilege can celebrate on a ship without a special apostolic indult.[490]

a. The conditions under which this faculty is granted are: alpha. that the sea be calm; beta. that no danger of irreverence be present; gamma. that another priest or deacon assist, who after the consecration holds the chalice; nevertheless this condition is sometimes omitted, in which case the danger of spilling the most precious blood must be guarded against in another way; delta. that it not be celebrated in private cabins, unless from the circumstances the danger of irreverence is remote.[491]

b. An indult has been granted to the bishops of all America, Oceania, and Australia, that whenever they are going to Rome, during the maritime journey and also on the return, they can perform the sacred rite on a

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488. Semipublic oratories are also equated with public ones to this extent, insofar as the Masses which are celebrated in them ought to correspond to the calendar of the place, not of the celebrant, at least if the principal oratory is in question. S. C. R., 22 May 1896, n. 3910.

489. Gregory XIII, const. *Decet rom. pontificem*, 3 May 1575.

490. S. C. R., 4 Mar. 1901. S. C. de prop. fide, 20 Jan. 1667. Benedict XIV, *De sacrif. miss.*, l. 3, c. 6, n. 11.

491. S. C. de prop. fide, 7 Mar. 1902, by which celebration in private cabins is absolutely prohibited; 13 Aug. 1902, by which celebration is permitted under the condition indicated in the text.

ship on individual days, provided alpha. the place chosen for this presents nothing indecent; beta. the sea is so tranquil that there is no danger of spilling the most precious blood; gamma. and, if he is present, another priest, vested in surplice, assists the celebrating prelate.[492]

Question VI.

On the time of celebration.

Article I.

When it is licit to celebrate.

200. On what days it is licit to celebrate. It is licit to celebrate daily, except on a few days on which celebration is restricted by a special ecclesiastical law or is entirely prohibited, namely on the last three days of greater week.

1. On Thursday in the Supper of the Lord it is licit to celebrate one solemn Mass, but only in churches in which the most holy sacrament is reserved and the functions of the sacred triduum are performed either according to the form of the Roman missal or at least according to the form of the small ritual (*Memoriale rituum*) of Benedict XIII.[493]

Because many parochial churches, especially rural ones, lack ministers and vestments, and therefore cannot perform the functions of the sacred triduum according to the form of the Roman missal, Benedict XIII took care that for poor parishes, and especially rural ones, a small ritual be published, in which the simpler functions would be described. This ritual must be used in parochial churches;[494] but in other non-parochial churches, e.g., of regulars or of nuns, it is not licit to use it without apostolic indult, but in these churches the functions must either be performed according to the form of the missal or be omitted entirely.

2. Private Masses, except in a few cases, are prohibited on this day.

a. In parochial churches in which the functions of the sacred triduum cannot be held, the bishop can permit that the pastor celebrate a private Mass for the convenience of the people.[495] But by custom the petition for permission, which would have to be renewed yearly, is omitted.

Where the solemn functions of the sacred triduum are not held, religious superiors can celebrate a private Mass to provide Holy Communion to their own, but in the domestic chapel and, this failing, in the church with doors closed.[496]

b. In parochial churches in which the functions of the sacred triduum are performed, the bishop can permit that before the solemn Mass a private Mass be celebrated for the sick who cannot be present at the solemn one. But by custom the petition for permission is omitted.

c. In order that in non-parochial churches in which the solemn functions are performed a private Mass may be celebrated before the solemn one, the license of the bishop must be sought; but the bishop must obtain an indult for granting it. But custom has it that without a petition for permission, from presumed license, for the convenience of the faithful, Mass is everywhere celebrated in all churches, even of seminaries, hospitals,

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Notes

492. S. C. R., 30 June 1908.

493. S. C. R., 14 June 1659, n. 1120.

494. S. C. R., 28 July 1821, n. 2616.

495. S. C. R., 28 July 1821, n. 2616.

496. S. C. R., 31 Aug. 1839, n. 2799.

prisons, of regulars both men and women, provided these churches enjoy their own priest-curate and the right of reserving the most holy sacrament.[497]

To a bishop who cannot celebrate in the cathedral church it is licit to say Mass in his domestic oratory, and, if he is set on a journey, in the house where he is staying.[498]

3. If on Thursday in the Supper of the Lord there falls a feast of precept (St. Joseph, or the Annunciation of the Blessed Virgin Mary, where these are of precept), the bishop must take care that so many Masses be said in the churches as suffice for the people to be able to satisfy the precept of hearing the sacred rite.[499] Where on these days there no longer exists any obligation of hearing the sacred rite, there is likewise no reason for several sacred rites.[500] For the rest, one must stand in this matter by the legitimate custom of the region.

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201. 1. Friday of greater week is called an aliturgical day, on which, except the case of necessity, any Mass, whether solemn or private, is prohibited under grave sin. Only the Mass of the Presanctified is celebrated, which is not a true Mass, but only sacred communion.

a. The Mass of the Presanctified must be celebrated in all churches in which on Thursday in the Supper of the Lord the accustomed function has been held.[501]

b. In a case of necessity, namely in one in which otherwise a sick person would die without viaticum, it is licit to celebrate Mass also on this day. But that Mass must be said which most befits the time, namely *De passione Domini*.

2. If on this Friday or on Holy Saturday there falls the feast of the Annunciation of the Blessed Virgin Mary, the office and Mass of the feast (with the obligation of hearing Mass and of abstaining from servile works where they are of precept) are transferred to Monday after Sunday in white.[502]

If on Friday in Parasceve or on Holy Saturday there falls another feast of precept, e.g., of a patron, the office with Mass is transferred to another unimpeded day; the obligation of abstaining from servile works is observed on Friday itself, but the obligation of hearing Mass on the day of Parasceve ceases,[503] since private Masses are prohibited and the hearing of the Mass of the Presanctified does not suffice for satisfying the precept; but on Holy Saturday both obligations of the feast must be observed,[504] but those who cannot be present at the solemn Mass are excused from the precept of hearing the sacred rite, since the celebration of a private Mass is prohibited also on this day.

202. On Holy Saturday it is licit to celebrate the solemn sacred rite in churches in which the functions of the sacred triduum are held; but private Masses in any churches or oratories whatsoever are entirely prohibited, notwithstanding any custom whatsoever to the contrary.[505]

Notes

497. Cf. however Schneider-Lehmkuhl, *Manuale sacerdot.*, 15th ed., pp. 500, 516.

498. Ballerini-Palmieri, IV, n. 1057.

499. S. C. R., 13 Sept. 1692, n. 1883; 12 Sept. 1716, n. 2240.

500. S. C. R., 26 Sept. 1868, n. 3179.

501. S. C. R., 9 Dec. 1899, n. 4049.

502. S. C. R., 11 Feb. 1690, n. 1822.

503. S. C. R., 20 Mar. 1706, n. 2164.

504. S. C. R., 2 Sept. 1903.

505. S. C. R., 11 Feb. 1690, n. 1822.

a. In parochial churches in which the baptismal font is to be blessed, the functions must be performed on this day; but in other churches they can be omitted, even if on Thursday and Friday the functions according to the small ritual were held.[506]

b. Although Holy Saturday also is an aliturgical day, nevertheless the solemn Mass is celebrated today in the morning by anticipation; by apostolic indult, however, the faculty is granted, although very rarely, of celebrating a private Mass; this faculty is never granted for Friday in Parasceve. In the Mass which is permitted on this day, with the prophecies and the rest omitted, one must begin in the usual manner with the confession, which, since there is no Introit, is followed by the *Kyrie*.[507]

c. But on this day it is licit to distribute sacred communion to the faithful, even for satisfying the Easter precept, but only during the solemnities of Mass or immediately after they have been completed. Cn. 867, 3.

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203. At what hour of the day it is licit to celebrate. 1. The disposition of the Roman Missal, namely that Mass can be celebrated at any hour from dawn to midday, the new Code has enlarged in such a way that it says that the beginning of Mass is not to be made earlier than one hour before dawn nor later than one hour after midday.[508]

a. By the name of dawn is understood the beginning of morning twilight; since this is diverse for diverse places and for the same place is diverse at diverse times of the year, for individual regions there is usually prepared and appended to the directory of the divine office a table which indicates the hour of dawn.

b. The time of dawn and of midday must be taken morally, so that he satisfies the precept of the Church who does not finish Mass before dawn and does not begin after midday.

c. In regions in which dawn lasts through the entire night, of itself nothing stands in the way of beginning Mass soon after midnight; nevertheless propriety forbids that this be done without a just cause. Where dawn is very late, the custom of celebrating earlier than is licit by the general rule can be observed.[509] Where dawn does not appear, as happens at a certain time of year in polar regions, it is licit to begin Mass from the beginning of the civil and customary day, on which men are accustomed to rise at daybreak for the works of the day.[510]

2. On the Nativity of the Lord it is licit to celebrate one solemn Mass after midnight, but no private Mass without apostolic indult.[511]

a. Therefore by common law it is not licit at midnight or before dawn for him who had said the solemn Mass to celebrate the other two Masses,[512] nor for other priests to celebrate even a single private Mass, nor to give sacred communion to the faithful. Nevertheless, in all religious or pious houses having an oratory with the faculty of habitually reserving the most holy sacrament there, one priest can celebrate three Masses or, with the things to be observed observed, only one Mass, which is valid for satisfying the precept by those present, and can minister Holy Communion to those asking.[513] The privilege does not hold for churches of regulars, and for public oratories it holds only with doors closed.[514]

Notes

506. S. C. R., 9 Dec. 1899, n. 4049.

507. 22 July 1848, n. 2970.

508. General rubrics of the Missal, XV, 1. Cn. 821, 1.

509. Genicot, *Theol. mor. inst.*, II, 236.

510. Special Congregation, 18 Sept. 1634.

511. General rubrics of the Missal, XV, 4. Cn. 821, 2.

512. S. C. R., 20 Apr. 1641, n. 752; 7 Dec. 1641, n. 781.

513. Cn. 821, 3.

b. The Mass which is said on the night of the Nativity of the Lord is not licitly begun before midnight, so that the consecration occurs after midnight. The sacred congregation reproved this usage and commanded it to be abolished,[515] and cn. 827, 2, says: The Mass can be begun at midnight.

Note. Sometimes the privilege of celebrating two hours before dawn or after midday is granted. Privileges of this kind granted to some religious orders do not seem to have been abrogated.

204. Gravity of this precept. 1. The precept concerning the hour of celebration obliges under grave sin in grave matter. Therefore he who without a just cause celebrates notably before or after the time established by the Church, i.e., by two whole hours before dawn or after midday, commits a grave sin,[516] unless particular circumstances excuse.

a. The precept of not celebrating before dawn is graver than the precept of not celebrating after midday; hence of itself a graver cause is required for anticipating the established time than for postponing it, and license of celebrating after midday is granted more easily than license before dawn. In fact, in some cities on Sundays and feasts Mass was already celebrated a whole hour after midday.

b. Commonly authors concede also to bishops the power of dispensing in this law in a particular case.[517] The same power belongs also to regular superiors, who, with the special privilege of celebrating before dawn and after midday excluded, can dispense with their subjects in this law in a particular case.[518]

2. From a just cause without dispensation it is licit to celebrate Mass before or after the established time: for ecclesiastical law does not oblige with grave inconvenience. Moreover, in the following circumstances the cause is judged to be just:

a. If viaticum must be confected; in this case it must be celebrated even immediately after midnight.

b. That to artisans and servants an occasion of hearing Mass may be furnished; for this cause it is licit also on weekdays to anticipate the time by a whole hour.

c. If a solemn sacred rite is prolonged beyond midday and there is a custom of afterward celebrating a private Mass, lest a great part of the people lack Mass.

d. If a priest on a day of precept is impeded by a journey from celebrating at the due hour: in this case he can anticipate or postpone Mass by more than one hour.

e. At the funeral of a great prince, on the occasion of a sermon, of public supplication, of gatherings of orders, of matrimony, etc.; in these circumstances it is licit to celebrate Mass later than a whole hour after midday.

Article II.

How often it is licit to celebrate on the same day.

205. By divine law indeed nothing stands in the way of Mass being celebrated several times on the same day; but by ecclesiastical law it is licit to celebrate only once in a day,[519] except on the day of the Nativity of the

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Notes

514. S. Office, 26 Nov. 1908.

515. General rubrics, XV, n. 4. S. C. R., 11 May 1878, n. 3448; 2 June 1883, n. 3576.

516. St. Alphonsus, n. 346.

517. Cf. Lugo, disp. 20, n. 97; St. Alphonsus, n. 344; Lehmkuhl, *Theol. mor.*, II, n. 117 (n. 298); Ballerini-Palmieri, IV, n. 1051.

518. Cf. Lacroix, l. 6, pr. 2, n. 225; St. Alphonsus, n. 344.

519. Cn. 806.

Lord, on the day of the Commemoration of All the Faithful Departed, and when power has been given by the Holy See or by the ordinary of the place.

1. On the day of the Nativity of the Lord all priests can celebrate three Masses (assigned in the Missal for this day), but are not bound to do so, so that they can celebrate either three or two or only one.[520]

a. If a priest celebrates only one or two Masses, he ought to choose that which approximately corresponds to the hour of celebration, i.e., the first if he celebrates at midnight, the second if at dawn, the third if after dawn.

b. To dim-sighted priests who by privilege say daily a Mass of the Blessed Virgin, on the day of the Nativity of the Lord by concession of Benedict XV it is licit to celebrate the same votive Mass three times.[521]

c. A priest who on the day of the Nativity, by force of an indult, can celebrate in a private oratory by reason of his own illness or that of a neighbor, licitly says three Masses.[522]

d. Formerly there was doubt whether a priest who must complete a sacred rite begun by another but not finished could still celebrate; this doubt, however, was defined negatively by the Holy See.[523]

2. On the day of the Commemoration of All the Faithful Departed it is licit for all priests to celebrate three Masses, of which they can apply one to whomever they prefer and can receive a stipend for it; another, without stipend, they must apply for all the faithful departed; and a third, likewise without stipend, according to the mind of the supreme Pontiff.[524]

a. In Spain, Portugal, in the Philippine Islands, and in Latin America, by concession of Benedict XIV, all priests, both secular and regular, on the day of the Commemoration of All the Faithful Departed could celebrate three Masses for the departed;[525] this privilege has now been extended to the universal Church.

b. On this day itself all altars are privileged.

c. Moreover these Masses are to be said: the first, which is had in the Missal on the day of the Commemoration of All the Faithful Departed; the other, which is read in the Missal in the Anniversary of the Departed, with the sequence and proper prayers; the third, which is in the Missal for daily Masses with the sequence and proper prayers.[526]

d. He who celebrates only one must read that which is had in the Missal on the Commemoration of All the Faithful Departed; the same must be used by him who is going to celebrate Mass with chant; this one can anticipate the second and third.

e. For the Mass for which a stipend can be accepted, it is not licit to accept more unless it is offered freely; nor is it licit, by reason of external inconvenience, to accept anything for the other two Masses; nor is it licit, once a stipend has been accepted, to apply two Masses according to one's own choice and on another day to offer two according to the prescribed intention without stipend.[527]

Notes

520. S. C. R., 18 June 1875, n. 3355.

521. S. R. C., 26 Jan. 1920.

522. S. C. C., 13 Jan. 1725.

523. S. C. R., 16 Dec. 1823, n. 2630.

524. Constitution *Incruentum Altaris* of Benedict XV, 10 Aug. 1915. Cn. 806, 1.

525. Const. *Quod expensis*, 27 Aug. 1748.

526. S. C. R., 11 Aug. 1915.

527. S. C. C., 15 Oct. 1915.

f. A priest who celebrates only one Mass can apply it (with a stipend accepted) according to his own intention; he who celebrates two must apply one or the other for all the faithful departed.[528]

3. By concession of the Holy See or of the ordinary it is licit to celebrate twice in a day, or to binate; but without a special apostolic privilege it is never licit to celebrate three Masses on the same day.[529]

This privilege is very rarely granted and only because of extraordinary causes, as it was granted for five years to the Mexican diocese[530] and, on account of a great lack of priests, also to the diocese of Tulancingo in the Mexican province.[531] In the time of the great war it was granted to military chaplains.

Note. The laws of the Church concerning the iteration of Mass were diverse at diverse times. In the first centuries scarcely any trace of Mass repeated on the same day occurs; but in the middle age, especially after the thirteenth century, the practice of repeating Mass grew strong. A twofold inconvenience especially arose from repeated celebration: namely the appearance and suspicion of avarice because of the doubled stipend received from celebration, and the danger that priests might neglect other pastoral duties. Wherefore it happened that the abuse of repeated celebration had to be prohibited. In the Council of Trent and in the new Code of Canon Law the laws now in force were enacted, according to which, except in the case of necessity, it is not licit to binate.

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206. On the faculty of binating. 1. The ordinary cannot grant the faculty of binating except in a case of necessity, where namely, because of a lack of priests, on a feast day of precept a notable part of the faithful could not hear Mass.[532] This necessity can happen in two ways:

a. If one priest administers two parishes which are so distant from each other that the people of each parish cannot be present at the same sacred rite, and there is no other priest who may celebrate in the other place.

b. If the people of the same whole parish, whether because of narrowness of place or for other causes, cannot come together at the same Mass, and there is no other priest.

alpha. Hence, if in a parish whose pastor has the faculty of binating there happens to be staying a priest who is going to celebrate the other Mass, the faculty of binating ceases, since the necessity, which is the sole reason of this faculty, ceases.

beta. Previously, indeed, another Mass was customarily celebrated also because of spiritual utility, e.g., so that the people could hear the sacred rite on suppressed feast days; so that, at the arrival of a pious pilgrimage, of a bishop, of a prince, or in the celebration of nuptials or obsequies, there might be an opportunity of hearing the sacred rite; so that nobles could hear Mass on feast days in a private oratory. But from the law now in force, bination is permitted only in a case of necessity.

gamma. If viaticum to be carried to a dying person must be confected, the priest who is still fasting can and must binate, i.e., he who after the consecration and before the purification has been taken is informed; indeed probably even a priest who is not fasting can do this (n. 155).

Notes

528. S. C. R., 28 Feb. 1917.

529. Cn. 806, 1.

530. S. C. C., 29 Mar. 1896.

531. S. C. C., 9 Sept. 1899.

532. Cn. 806, 2.

533. Cn. 806, 2.

2. The judgment concerning the existence of necessity is committed to the prudence of the ordinary,[533] wherefore the faculty of binating must be sought from him, on whom its concession depends.

a. Nevertheless in an unforeseen case of urgent necessity, in which recourse to the bishop is impossible, the other Mass can be celebrated from presumed license, provided the celebrant is fasting.[534] Thus, for example, in a place where two priests exercise the care of souls, if on Saturday one of them is seized by illness, so that on the following day he cannot celebrate, the other can binate on Sunday, if another priest cannot be had and otherwise a great part of the people (about 60 persons) would lack the sacred rite. After the fact, however, the matter must be referred to the ordinary for recognition of the cause.

b. Since this faculty of binating is granted because of the necessity of the people, it is not personal but real; and therefore if the priest to whom it was granted cannot celebrate, another priest who supplies his place can be called.

3. Outside the case of necessity, for obtaining the faculty of binating recourse must be had to the Holy See, which grants it in extraordinary cases.

A case of this kind is judged extraordinary if the people or a great part of them could not hear Mass on a day, not indeed of precept, but of great devotion, or if in mission regions the faithful rarely have the opportunity of hearing Mass.

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207. On accepting a stipend for the other Mass. In order that every occasion of base gain from the celebration of Masses might be excluded, the Church has always prohibited those binating, without a special privilege, from accepting a stipend for the second Mass, or from satisfying through it an obligation of justice, whether their own or another's.[535] Nevertheless, nothing prevents them from satisfying through it an obligation of charity or of gratitude.[536] License for accepting a stipend for the second Mass is sometimes granted by reason of the poverty of the celebrants or in favor of a pious cause. But compensation which is attributed to the celebrant in view of extraordinary labor or inconvenience, as if the Mass must be celebrated in a distant place, does not have the character of the stipend prohibited by the Church.[537]

a. The application of the fruits of the second Mass is permitted to the judgment of the celebrant, unless he must apply for the people. But if against the grave prohibition of the Church he has accepted a stipend for the Mass of bination, he is bound to its restitution, since the title of retaining it is lacking.

b. The prohibition of accepting a stipend for the second Mass must not be taken in such a way that a stipend cannot be accepted for the second Mass itself, but in such a way that another or second stipend cannot be accepted; but it makes no difference whether the licit stipend is accepted for the first or for the second.

c. Therefore pastors who binate and who must apply one sacred rite for the people can accept a stipend for neither Mass; nevertheless through the second Mass they can satisfy the burden of applying for the people on Sundays and feast days, if they must apply twice for the people.

d. Priests who from the statutes of the sodality to which they have given their name are bound to celebrate a Mass for a deceased member can satisfy this obligation by applying the second Mass on the day of bination,[538] because they are not bound to this application from justice.

Notes

534. Cf. Gury, *Casus conscientiae*, II, n. 264.

535. S. C. C., 19 Dec. 1835; 25 Sept. 1858; 21 Mar. 1863. Cn. 824, 2.

536. S. C. C., several times, but recently *in Trevir.*, 6 Aug. 1881.

537. S. C. C., 23 May 1861.

538. S. C. C., 5 Mar. 1887.

e. From the prohibition of receiving on the same day a double stipend there are excepted the three Masses which it is licit to celebrate on the solemnity of the Nativity of the Lord: for for these three stipends can be accepted, as the S. C. C. has declared several times. On the same day the pastor is bound to offer one sacred rite for the people; for the rest he can accept a stipend.

Note. Concerning the rite to be observed in the repetition of Mass, the appendix of the Roman Ritual should be consulted, where there is an instruction of the S. C. R. issued 12 Sept. 1857 for a priest having apostolic faculty of celebrating Mass twice on the same day.

Question VII.

On the rite of celebration.

It does not belong to this place to teach the rites according to which the sacrifice of the Mass is to be offered from the prescription of the Church; rather, concerning the rites themselves or concerning the liturgical precepts which are of greater moment, it must be indicated, as far as can be done, whether they oblige under grave sin or under light sin. The rubrics of the Missal set forth the rites to be observed in the celebration of Mass.

208. On the Missal and its rubrics. 1. In the Latin Church Mass must be celebrated in the Latin language according to the rubrics of the Roman Missal, cn. 819.

The supreme pontiff Pius V, in the bull which is prefixed to the Missal published by his order, establishes two things: first he prohibits the use of other missals, unless they are granted from special privilege; then he commands that Mass be celebrated according to the rubrics contained there.[539] In recent time the S. C. C. took care that a typical edition of the Roman Missal be published, to which all future editions of the same must be exactly conformed.[540] The Code has these things: With any contrary custom reprobated, the celebrating priest is to observe accurately and devoutly the rubrics of his ritual books, cn. 818. The sacrifice of the Mass must be celebrated in the liturgical language of each one's rite, cn. 819.

2. Some rubrics of the Missal are preceptive, others directive (n. 20). The rubrics which indicate the rites to be observed in the celebration itself are preceptive under grave or under light sin according to their matter; but the rubrics which indicate rites to be observed outside, i.e., before or after Mass, are directive.

a. The very common opinion both among ancient and among recent theologians, which distinguishes the rubrics of the Missal and of other liturgical books into preceptive and directive, must by all means be held; nor are some recent rubricists to be heard who want absolutely all rubrics to be preceptive.[541]

b. Although directive rubrics of themselves do not oblige in conscience, nevertheless in violating them venial sin can easily be committed, namely where they are not observed without a reasonable motive.

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209. On the omission of rites. In order that it may be determined which omission in the celebration of Mass is grave and which is light, one must distinguish between the ordinary parts of Mass, which must always be performed, such as the confession, epistle, proper prayers, offertory, breaking of the host, mixture of this with the blood, etc., and extraordinary parts, which are not said in every Mass, such as the Gloria, Creed, commemorations, sequence, and those things which in the preface and canon are proper to certain feasts.[542]

Notes

539. Const. *Quo primum*, 19 July 1570.

540. Const. *Officiorum ac munerum*, 25 Jan. 1897, n. 18.

541. Cf. *Civilta cattolica*, 1891, IV, p. 34 ff.

542. Cf. St. Alphonsus, n. 404.

1. The omission of an ordinary part can easily become a grave sin, especially if it occurs in the canon of the Mass, which is more closely connected with the sacrifice of the Mass; thus it is grave to omit any prayer of the canon or to change its words in such a way that the sense is varied.

Authors attempt to determine more accurately which omissions, especially in the canon, should be judged grave; but in determining these they do not agree. Thus, for committing a grave sin, some require that two, others that ten names of saints in the canon be omitted.[543] "Nor do those more minute determinations of grave or light omission," as Genicot well notes (II, n. 241), "have much bearing on practice: since no one is accustomed by direct will to pass over a part of the Mass; but if some omit certain things through culpable negligence, their guilt is to be judged from the general cause of omissions which they culpably posit, not from the omissions which in fact happened."

2. The omission of an extraordinary part does not exceed venial sin, because these parts are less closely connected with the sacrifice of the Mass; thus it is venial to omit the Creed or the sequence or the prophecies on Ember days, or even the Passion in Holy Week: for with respect to the Mass this seems to be called a part that is not notable, and therefore, with a grave cause existing (as if otherwise the people on a feast day would lack Mass) and scandal excluded, it could be omitted without sin. If, however, several parts at once were omitted, grave matter could be reached.

210. On the addition of rites. 1. In the celebration of Mass, to add something to the rites to be performed from the prescription of the Missal, with the mind of introducing a new rite, or without this mind but in notable quantity, especially if prayers are added which are not contained in the Missal, is a grave sin.

The Council of Trent prohibits priests from employing "other rites or other ceremonies and prayers in the celebration of Masses, besides those which have been approved by the Church";[544] and Pius V prohibits priests from presuming to add or recite in the celebration of Mass other ceremonies or prayers than those which are contained in this Missal.[545] These prohibitions are to be understood principally of an addition which is made with the mind of introducing a new rite.

2. It is not licit from private devotion or from some private necessity to add a collect or something of this kind to the rites or prayers of the Missal.

"Let the celebrating priest take care," cn. 818 has, "lest he join other ceremonies or prayers by his own judgment." From these words the opinion of those authors (St. Alphonsus, Ballerini, D'Annibale, Genicot) loses probability, who thought that from private devotion or from some private necessity to add a prayer from those which are in the Missal is not a sin.

3. To interpose a short ejaculatory prayer, either orally or by mind alone, among the liturgical prayers themselves is certainly to be disapproved; but to add prayers of this kind between individual prayers, while the priest, e.g., makes the elevation of the species, incenses, genuflects, etc., is not a sin, even if it is done orally, since this is not properly contrary to the rubrics.

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211. On some requisites for celebrating. 1. It is not licit to celebrate Mass except on an altar, whether fixed or portable, at least mobile, i.e., at least on a consecrated stone.[546]

Notes

543. Cf. St. Alphonsus, n. 405.

544. Council of Trent, sess. 22, decree *Quanta cura*, *De observ. et evitand. in celebr. missae.*

545. Const. *Quo primum*, 19 July 1570.

546. Cn. 822.

The privilege of celebrating without a consecrated stone is not usually granted even to missionaries.[547] But the privilege which belongs to bishops by common law, of celebrating from a just cause in any decent place provided a consecrated stone is present, is granted to other priests by special indult of the Holy See.

2. In the celebration of Mass a Missal is required, so that to celebrate without a Missal is of itself a grave sin on account of the danger of erring; but it is not prescribed that the Mass be read, not even the canon, if the moral danger of erring is excluded.

He does not sin who once or twice, even from devotion alone, celebrates without a Missal where this cannot easily be had, provided he knows with moral certitude that he will not err. To avoid the wonder of the people, in this case another sacred book should be placed on the altar.

3. The cross with the image of the crucified, standing out among the candlesticks, so that the priest and the people can easily look upon it, must be present on the altar:[548] for the cross with the image of the crucified recalls to the priest and faithful the sacrifice of the cross, which is renewed on the altar.

It is an abuse to be removed by the ordinary, if anywhere a small cross is placed either on the tabernacle or on the little door of the tabernacle in place of the cross to be placed among the candlesticks.[549]

If, however, on the altar there is a large image of Christ crucified, whether sculpted or painted, it is not necessary to add another cross.[550]

4. During the whole time of Mass there must burn on the altar two candles made from beeswax,[551] nor is it licit by reason of the dignity of the celebrant, if he is inferior to a bishop, to light more than two.[552]

a. To celebrate without any light is a grave sin, unless it is done in the necessity of confecting viaticum for a dying person.

To celebrate with one candle is venial; wherefore for a reasonable cause it is licit to celebrate with only one candle. If the light fails before the consecration and another cannot be had, the sacred rite must be stopped; if it fails after the consecration has been begun, the sacred rite must be completed; but if another light can be had within a quarter of an hour, one must wait. - If the candles are extinguished during celebration, they must be lit again, yet without the sacred rite being interrupted in the meantime.[553]

b. Under grave sin candles must be made from beeswax, and indeed without any admixture of foreign matter, whether vegetable or mineral. Since, however, today foreign substances are frequently mixed even into the wax from which candles are formed, and adulterated candles are sold as genuine, the Holy See, considering the great difficulty of having genuine beeswax, established these things: Let bishops take care according to their powers that the paschal candle, the candle to be immersed in baptismal water, and the two candles to be lit at Masses be from beeswax at least for the greatest part; but the material of the other candles which are to be placed above altars ought to be from the same wax in greater or notable quantity.[554]

Notes

547. S. C. prop. fid., 2 Sept. 1870.

548. General rubrics of the Missal, n. XX. Ceremonial of Bishops, l. 1, c. 12.

549. S. C. R., 18 Sept. 1822, n. 2621.

550. S. C. R., 16 June 1663, n. 1270.

551. General rubrics of the Missal, n. 44.

552. S. C. R., 7 Sept. 1850, n. 2984.

553. Cf. Lacroix, l. 6, pr. 2, n. 394; D'Annibale, III, 400.

554. S. C. R., 14 Dec. 1904, n. 4147.

555. Suarez, disp. 81, sec. 6, n. 5.

There are those who permit that, when wax is lacking and necessity exists,[555] indeed once or twice from devotion alone, celebration can take place with a light from oil.[556] More easily it can be permitted that this be done with candles made from stearin or another material, which today can scarcely be distinguished from candles made from beeswax. For although the reason on account of which the Church prescribes candles made from wax is chiefly symbolic, nevertheless there is added also a reason of decency, on account of which authors say that to celebrate with tallow candles (*Unschlitt*) is mortal.[557]

c. By reason of solemnity, namely if the Mass is not strictly private, but conventual or parochial or solemn or holding the place of a solemn one, it is licit to light more candles, which likewise must be from wax; nor is it permitted that for worship or upon the altar, besides candles from wax, there be used candles from stearin[558] or illumination from gas[559] or electric light.[560]

5. In celebration there is required under grave sin a male server, except in a case of necessity; wherefore each of these is of itself grave: both to celebrate without a server, and to admit a woman serving at the altar, even if she is a nun.

a. Cases of necessity are: alpha. that viaticum may be confected; beta. that the people may satisfy the precept of hearing the sacred rite; gamma. that the priest himself on days of precept may be able to satisfy the precept of hearing the sacred rite; delta. if the server, the oblation having already been made, departs and does not return.[561]

b. Priests, however, to whom a special faculty of celebrating without a server is granted (as happens in missions), licitly use this faculty if otherwise they cannot celebrate.

c. In order that celebration may take place with a server who does not know how to respond, a lesser necessity of celebrating is required.

d. If the server pronounces badly, the priest himself, if it can conveniently be done, should supply; if this cannot be done, he should abstain without scruple from every correction, lest he disturb himself or others.

6. When a just cause exists, it can be permitted that a woman respond from a distance to the priest who has first arranged all things necessary for Mass, yet without approaching the altar.

Formerly the S. C. R. permitted the ministry of a woman of this kind only in urgent necessity;[562] but in recent time it no longer requires a necessity of celebrating in order that a woman may be able to respond to the priest, yet it does not determine more accurately the cause which is required for this.[563] Since now it is established,[564] "when a man is lacking, a woman can serve from a just cause, yet under this law, that she respond from a distance and in no way approach the altar," it seems one must say that a priest, with a woman responding,

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556. Gobat, *Exper. theol.*, tract. 3, n. 291.

557. St. Alphonsus, n. 394; in missions sometimes license is granted of using candles made from the fat of the whale.

558. S. C. R., 4 Sept. 1815, n. 3376.

559. S. C. R., 16 May 1901.

560. S. C. R., 24 June 1914. Concerning electric light these are the decrees: Electric light is forbidden not only together with candles from wax above altars, but also in place of candles or lamps which are prescribed before the most holy Sacrament or Relics of the saints. Nor is it licit at the time of exposition to illuminate the interior part of the ciborium with electric lamps placed in the interior part itself. For other places of the church and other cases electric illumination is permitted, provided that in all things there is preserved the gravity which the sanctity of the place and the dignity of the sacred liturgy demand.

561. St. Alphonsus, n. 391.

562. S. C. R., 27 Aug. 1836, n. 2745.

563. Cf. Gasparri, I, n. 649.

564. Cn. 813, 2.

especially if she is a nun and Mass is said in the chapel of nuns, can celebrate if otherwise because of the lack of a server he would have to omit celebration, even if there is not a greater necessity of celebrating.

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212. On the interruption of Mass. Mass must be celebrated without interruption in a continuous course. A twofold interruption is distinguished: essential, when the sacrifice of the Mass, once begun, remains incomplete, as if it is interrupted between the consecration (of one species) and communion, and afterward cannot be continued; and accidental, when the parts of Mass are separated one from another by an intervening extraneous action.

1. To interrupt Mass essentially, or rather to break it off, is never licit, unless danger of death or profanation of the most holy Eucharist is imminent.

If Mass must be broken off after the consecration of one species, the priest can, with the consecration of the chalice omitted, consume the host already consecrated or carry it away with himself together with the chalice to be consecrated in another place. But if he has completed both consecrations, let him consume both species immediately if he can, or, if he cannot, let him carry them away with himself to a safe place to be consumed afterward.

2. To interrupt Mass accidentally is licit from a just cause, and indeed:

a. After the Gospel it is licit to interrupt it for having a sermon, for reciting prayers for the departed, for receiving a procession, for making the proclamation of banns, etc.

b. Before the offertory it is licit to interrupt it at the arrival of a prince, of pilgrims, of a procession, if those arriving otherwise cannot hear Mass on a feast day. In this case the priest can begin Mass again, so that the faithful may hear the complete Mass.

c. Before the canon it is licit to break it off if the priest himself remembers some impediment, e.g., that he is not fasting, that he is irregular, etc., or if a person excommunicated by name is present who cannot be expelled.

d. Once the canon has begun, and a fortiori once the consecration has been completed, it is licit to interrupt Mass only from a most grave cause, as if a dying person must be baptized or absolved. But it is not licit to minister other sacraments between consecration and communion, because they are not of so great necessity.

alpha. Mass is licitly interrupted also on account of a necessity proper to the celebrating priest, e.g., because of a briefly passing illness, or because of a necessity of relieving himself which cannot be deferred until the end of Mass.

beta. A priest interrupting Mass must see to it that the sacrament meanwhile is guarded, and therefore that he enclose it in the tabernacle, if it is present.

gamma. Returning, the priest begins the Mass interrupted after the consecration where he had left off; and if it was interrupted before the consecration, if the interval interposed is less than one hour, he likewise begins where he had left off; but if the interval interposed is greater than one hour, he begins from the beginning, and indeed in such a way that, when the oblation has already been made, he receives new matter and consumes the matter previously offered after the sacred blood has been consumed.

e. After the communion of the celebrant, immediately before the distribution of Holy Communion, it is licit to have from the altar a brief exhortation to those communicating.[565]

Notes

565. S. C. R., 16 Apr. 1853, n. 3009; 23 Mar. 1881, n. 3529.

f. After communion it is likewise licit to interrupt Mass, so that religious vows may be emitted or renewed.

In all religious congregations of either sex in which vows are emitted or renewed within Mass, the norm established by general decree of the Sacred Congregation of Rites must be observed from the prescription of the Church.[566] This norm was taken from the constitution of Gregory XIII, *Quanto fructuosius* (1 Feb. 1583), by which the constitutions of the Society of Jesus are approved.

g. After the communion of the celebrant or within Mass it is not licit to distribute Holy Communion to the faithful who are so distant that he himself loses sight of the altar.[567]

Therefore the previously approved practice is prohibited, according to which in hospitals, after the *Confiteor*, etc., has been recited at the altar, the priest with the pyx, without a humeral veil, carries Holy Communion to the sick existing in rooms from which the altar cannot be seen.

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213. On completing an interrupted sacrifice. If a priest fails from illness while celebrating, these things must be observed:

1. If he fails after the consecration of the first species and before the consumption of the most precious blood, another priest, even one not fasting, if one fasting is not present, must complete the sacrifice, because the divine precept concerning procuring the integrity of the sacrifice is graver than the precept of ecclesiastical fasting. Even an irregular or excommunicated priest must complete it.

If one hour is interposed between the breaking off of the sacrifice and its continuation, probably there no longer exists an obligation of seeking a priest who may complete the sacrifice, but what remains can be consumed in another Mass, because probably the moral union between the two parts of the Mass is lacking. Nevertheless, even after several hours, it is still licit to supply.[568]

2. If the same priest who was seized by illness while celebrating can, after some interruption, complete the sacred rite, not another, even if fasting, but he himself, even if no longer fasting, should do this: for the divine precept, that the same one complete the sacred rite who began it, prevails over the precept of ecclesiastical fasting.[569]

3. If he fails before the consecration of the first species or after the consumption of the most precious blood, nothing must be supplied by another priest, because the sacrifice properly has either not yet been begun or has already been completed.

214. On those things which are to be said in a clear voice or secretly.[570] 1. He who recites those things which by prescription of the rubric are to be said in a clear voice so low that those present can understand nothing, sins venially, because he violates a preceptive rubric.

2. In like manner he who recites those things which by prescription of the rubric are to be said secretly either too low, so that even with any impediment removed he cannot hear himself, or too high, so that he is heard even by those present, commits a venial sin, because he injures a preceptive rubric.

Notes

566. S. C. R., 14 Aug. 1894, n. 3836; S. C. R., 5 June 1896, n. 3912.

567. Cn. 868.

568. Cf. St. Alphonsus, n. 355. Lacroix, l. 6, pr. 2, n. 549.

569. Lacroix, l. 6, pr. 2, n. 552.

570. Cf. General rubrics of the Missal, n. XVI.

3. He sins gravely because he pronounces a great part of the canon in a very raised voice, or the words of consecration so low that he himself cannot hear them. The reason of the first is because he notably injures a preceptive rubric; the reason of the second is because he exposes the consecration to the danger of nullity.

Since a reasonable cause entirely excuses from observing those things which are prescribed only under venial sin, when a cause of this kind exists, those things which are to be said secretly can be said in a clear voice, and those things which of themselves would have to be said clearly can be said in a low voice.[571]

Book Fifth.

On Penance.[572]

Chapter First.

On Penance Itself.

Question First.

On the nature of penance.

Penance is taken in two ways, as it is a virtue and as it is a sacrament. The virtue of penance is a part of the sacrament of penance, namely the act of the penitent (sorrow for sins), which is necessary for validly receiving the sacrament; and from this part the sacrament takes its name.

Article First.

On the virtue of penance.[573]

215. Notion. 1. Penance in general signifies sorrow concerning some thing previously committed by oneself. Penance as a virtue signifies sorrow concerning sin previously committed by oneself. General and special penance are distinguished. He elicits general penance who sorrows for sin from the motive of some virtue having relation to God; and he elicits special penance who sorrows for sin from the particular motive of the virtue of penance.

Sorrow concerning a committed sin can proceed either from the peculiar motive of the virtue of penance, or from the motive of some other virtue. Now of these virtues some have relation to God himself, because their motive is the good of God, such as charity, hope, religion, obedience, gratitude; others do not have relation (at least immediate relation) to God, because their motive is the good of rational nature, such as temperance, fortitude, truthfulness, commutative justice.

2. Penance insofar as it is a special virtue is defined: sorrow and detestation of a committed sin, insofar as it is an injury to God.

a. The virtue of penance taken fully and completely contains several acts in itself: alpha. hatred and detestation of sin, by which we will that this, as far as can be done, not be present or not have been done; beta. sorrow and sadness concerning the sin committed; gamma. the will of destroying sin in ourselves, and consequently of using the means necessary for this, namely confession, which is understood from the will of God to be necessary for destroying sins; delta. the will of satisfying God wounded by sin: for an offense and injury

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571. Cf. Gasparri, II, n. 848. Genicot, *Theol. mor. inst.*, II, n. 254.

572. St. Thomas, III, q. 84-90. Supplement, q. 1-28. St. Alphonsus, l. 6, n. 425-705. Suarez, *De poenitentia*, disp. I-XXXVIII. Lugo, *De poenitentia*, disp. I-XXVII. Sporer-Bierbaum, *Theologia moralis sacramentalis*, Pars III, *De poenitentia.* Coninck, *De sacramentis*, Tom. II, *De poenitentia.* Stoz, *Tribunal poenitentiae.* Elbel-Bierbaum, *Theologia moralis*, Vol. III, pars 9, *De sacramento poenitentiae.* Ballerini-Palmieri, *Opus theologicum morale*, Vol. V, sect. 5, *De sacram. poenit.* Lehmkuhl, *Theol. moralis*, II, tr. 5.

573. Cf. Coninck, *De poenitentia*, disp. 1.

inflicted on another is followed by the obligation of satisfaction to be rendered freely by the offender; epsilon. the purpose of absolutely avoiding sins in the future.

b. The essence of the virtue of penance formally consists in detestation and sorrow. For true penance includes both acts: for a committed sin is apprehended as an evil in some way present, either insofar as it has not yet been fully destroyed as to guilt and punishment, or at least insofar as it is true that it was committed at some time. Now, as soon as the sinner apprehends the committed sin as an evil, an act of hatred (abhorrence), displeasure or detestation arises in the will; and because this evil is apprehended as present, in a will capable of sorrow there also arises at the same time sorrow and sadness, just as a good which is apprehended as present cannot be loved without joy arising concerning it.

c. True penance always implicitly contains the purpose of not sinning: for by the act of penance a man detests past sin; but since the same malice, on account of which he detests the past sin, is present also in future sin, he virtually detests future sin also. But if penance is conceived from a universal motive, by which a man detests every grave sin, in it there is likewise contained a universal purpose of committing no sin in the future. Therefore the Council of Trent says that contrition excludes the will of sinning, certainly also in the future.[574]

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216. Object of the virtue of penance. The material object of penance is sins committed by the penitent; the formal object is the malice of sin, which consists in an injury inflicted on God, and the honesty or goodness which is contained in repairing the injury brought upon God. For every sin is repugnant to divine authority and to the honor due to God, which honor the sinner has wounded by the greatest injury to God. And since the will cannot detest an evil unless it loves the good contrary to it, to the formal object of penance there also belongs the goodness which is contained in repairing the wounded honor of God.

In any sin there are diverse malices on account of which we can detest the sin: alpha. that it is against the will of God commanding and therefore disobedience; beta. that it is against the authority and honor of God and therefore an injury to God; gamma. that it is an evil of God and therefore an offense of God; delta. that it deprives us of eternal beatitude and constitutes us guilty of eternal punishment. Now he who detests sin because it is an injury to God exercises an act of the virtue of penance; he who detests it from another motive exercises another virtue, namely that from which the motive of detestation and sorrow has been taken.

217. When penance obliges. On a man existing in mortal sin there lies the obligation of turning himself to God through penance and of reconciling himself with offended God; this obligation Sacred Scripture intimates by these words: *Be penitent and be converted, that your sins may be blotted out.*[575] *Do penance, for the kingdom of heaven has drawn near.*[576]

1. The precept of penance is a special precept distinct from other precepts, so that the sinner not doing penance is damned not only because of the sin of which he has not repented, but also because of the sin of impenitence.

2. The precept of penance does not oblige immediately after mortal sin has been committed.

a. It is an affirmative precept, which does not oblige always, but only at a determinate time; but by no argument can it be demonstrated that this time is that which immediately follows the sin committed.

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574. Cf. sess. 14, c. 4, and sess. 6, c. 6.

575. Acts 3:19.

576. Matt. 4:17. Cf. Ezech. 18:30; Rom. 2:5.

b. Moreover, if it obliged immediately, it would oblige at individual moments; therefore he who delays penance would commit a new sin at least as often as, adverting to the obligation, he does not repent. But this is opposed to the common sense of the faithful, who do not think that they sin because they are not converted immediately after a sin has been committed, but defer conversion to a time.

3. The precept of penance obliges of itself in death: for if on a sinful man there lies the obligation of doing penance and converting himself to God, this obligation certainly presses when it is necessary and no other time remains in which satisfaction can be made to it.

4. Those offend against the precept of penance who defer conversion for a notable time, much more until death. But how much this notable time is, beyond which penance and conversion cannot be deferred without sin, different authors determine differently. Probable, indeed more common, is the opinion which Laymann establishes, namely that he who satisfies the precept of annual confession does not defer penance beyond the licit time.[577]

a. Concina thinks that penance cannot be deferred beyond a week without sin. St. Alphonsus (n. 437) "does not altogether acquiesce" in the opinion which holds that he does not sin who does not defer penance beyond a year; but he judges that penance cannot be deferred beyond a month without sin. Nevertheless he grants that sinners, especially the unlearned, are ordinarily excused from the sin of delayed penance, because they scarcely ever advert to this obligation.

b. There are those who with St. Thomas[578] say that the precept of penance of itself obliges only in death; and they demonstrate this affirmation by this argument: the obligation of this precept, as affirmative, must be restricted only to that time for which it is certain to us, and must not be extended to other times; but no time can be assigned within which the precept of penance obliges, except in death. But those who with Suarez[579] extend this obligation also to other times confirm their opinion in this way: alpha. Sacred Scripture[580] and the holy Fathers[581] urge penance with most grave judgments and with one voice condemn too great a delay of conversion, especially until death. beta. It is judged to be mortal sin voluntarily to persist through one's whole life in enmity with God and to defer until death the compensation of the injury inflicted on God by mortal sin: for this manner of acting seems to involve contempt of God, especially since he by his grace warns and moves one to conversion.[582] gamma. He who, turned away from God, lives in the state of mortal sin is lacking in his primary obligation of tending to the ultimate end and of working his salvation; but it seems incredible that a man can without sin neglect this obligation for a long time, indeed through his whole life. Less efficacious for this end is the argument taken from this, that a man can die at any moment of time.

Article Second.

On the sacrament of penance.

218. Definition. Penance, as it is a sacrament, is defined: the sacrament by which sins committed after baptism are remitted to a contrite and confessed man through priestly absolution.

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577. Laymann, *De poenitentia*, c. 2, n. 6.

578. Cf. II-II, q. 14, a. 2; yet the holy doctor himself deduces the necessity of penance outside danger of death from another head, namely from the obligation of avoiding mortal sin, which cannot be avoided for long in the state of sin. Cf. I-II, q. 109, a. 8.

579. Suarez, disp. 15, sect. 6, n. 2 ff.

580. Cf. Rom. 2:4, 5; Eccl. 5:8, 9.

581. Cf. Suarez, disp. 15, sect. 6, n. 3.

582. Lugo, disp. 7, n. 234.

The specific difference of this sacrament from the other sacraments is set forth by the words by which the matter is signified, namely contrition and confession; the form, namely priestly absolution; and the effect, which is the remission of sins committed after baptism.

219. Nature of the sacrament of penance. To declare the nature of this sacrament, insofar as it is needed in moral theology, these things must be repeated from dogmatic institutions.[583]

1. Christ gave to the apostles and to their successors in the priesthood the true power of remitting and retaining sins committed after baptism.

a. That this power was conferred on the apostles is clear from the words of Christ: *Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them; and whose sins you shall retain, they are retained.*[584]

b. That this power was handed on not only to the apostles but also to their successors in the priesthood is deduced especially from its end: for since the need of obtaining remission of sins exists perpetually in the Church, the power of remitting sins also ought to endure perpetually in the Church.

2. The power of remitting and retaining sins is a judicial power, which is exercised by way of judgment.

a. Three things are required for a judicial act or sentence: alpha. that knowledge of the cause precede it as a necessary condition; beta. that the judge, endowed with due authority, pronounce the law or sentence; gamma. that he pronounce sentence not according to whim, but according to the merits or demerits of the man whose cause is being treated.

b. Now that the power of remitting and retaining sins is not merely gracious, as is the power of baptizing, but judicial, is gathered both from the natural force of the words signifying the power of the keys and especially from the power of retaining sins joined with the power of remitting them.

3. The exercise of the power of remitting and retaining sins is the sacrament of penance, instituted by Christ in the very handing over of this power. Certainly all things are present in it which constitute a true sacrament: a. a sensible sign: namely Christ willed that by absolution pronounced by voice sins be remitted to men; b. efficacious of grace, since sins are remitted through the infusion of grace; c. stably instituted by Christ, namely as long as sinners exist who need the remission of sins.

In this this sacrament differs especially from other sacraments (except, however, matrimony, which also consists in a juridic act, namely in mutual consent): that it does not consist, like the others, in a certain consecration, but in a sacramental judgment; and that it does not remit sins by way of gift and benefit, but through a judicial act.

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220. On the necessity of the sacrament of penance. 1. This sacrament, received in reality if it can be done, or, if it cannot be had, at least in desire, is necessary by necessity of means for salvation for all who after baptism have fallen into mortal sin: for the remission of mortal sin committed after baptism is simply necessary for salvation; but the means instituted by Christ for obtaining it is the sacrament of penance, received in reality if it can be done; but if it cannot be done, at least the desire of it is required.[585] Wherefore the Council of Trent says: This sacrament of penance is necessary for salvation to those fallen after baptism, as baptism itself is to those not yet regenerated.[586]

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583. Cf. Palmieri, *De poenitentia*, p. 45. Chr. Pesch, *Praelect. dogm.*, VII, n. 58 ff. Hurter, *Compend. theol. dogm.*, III, n. 436 ff.

584. John 20:22, 23.

585. Cf. Pesch, VII, n. 353 ff.

586. Sess. 14, c. 2.

a. Although contrition perfected by charity reconciles a man to God before reception of the sacrament, nevertheless the reconciliation itself is not produced by contrition without the desire of the sacrament, which is included in it;[587] for in the New Testament there is no remission of (mortal) sins independently of the power of the keys. Therefore the necessity of this sacrament is, like that of baptism, a hypothetical necessity of means.[588]

b. By desire of the sacrament is understood a serious will or purpose of confessing. This purpose does not necessarily have to be explicit, but an implicit one suffices, such as is contained in the act of perfect contrition: for he who truly loves God has the will of observing all things which from the will and institution of God are necessary for salvation. Nor must it be a purpose of confessing as soon as possible, but in due time, namely when either because of danger of death or because of the ecclesiastical precept the obligation of confessing presses.

2. This sacrament received in reality is necessary for all fallen after baptism by necessity of precept, both divine and ecclesiastical.

a. The divine precept: for for adults, from the institution and will of God, the sacrament of penance is a means necessary for obtaining remission of sins and eternal salvation.[589]

b. The ecclesiastical precept concerning the use of the sacrament of penance to be made every year by individual Christians was enacted in the Fourth Lateran Council, and again in the Council of Trent, and finally in the Code of Canon Law.[590]

221. When the divine precept obliges. The divine precept of receiving the sacrament of penance or of confessing presses both of itself and by accident.

1. And of itself indeed it presses in danger of death: for positive precepts oblige at least at that time when they are necessary; otherwise they would be imposed in vain. But, with mortal sin supposed, confession in death is plainly necessary; therefore a sinner who is found in certain or probable danger of death is bound by divine law to confess, if he can.

According to the opinion of many authors it presses also several times in life, although it cannot be determined how often and when it presses. Yet this obligation from divine precept cannot be demonstrated with certitude. But from the argument of this opinion, namely that it is not licit for a sinful man to remain long in the state of sin, but that he is bound by divine law to reconcile himself with God, it does not follow that this must be done through sacramental confession: for it can be done through perfect contrition with the desire of confession to be made in due time.

2. By accident, however, it obliges: alpha. when the sacrament of the Eucharist must be received; beta. when the state of grace is required, e.g., if a sacrament of the living must be confected or received and an act of perfect contrition cannot be elicited; gamma. if at any time so grave a temptation presses that it cannot be overcome by other means.

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222. On the parts of this sacrament. The parts of the sacrament of penance can be assigned in diverse ways: on the part of the whole sacrament the parts of penance are two, as in all the other sacraments, namely matter

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587. Council of Trent, sess. 14, c. 3.

588. Cf. *De Praeceptis*, n. 7.

589. "If anyone shall deny that sacramental confession either was instituted or is necessary for salvation by divine law…" anathema sit. Council of Trent, sess. 14, can. 6.

590. Fourth Lateran Council, c. *Omnis utriusque*. Council of Trent, sess. 14, can. 8. Cn. 906. Cf. *De praeceptis*, n. 692 ff.

(contrition, confession, and satisfaction) and form (absolution); the parts of penance on the part of the penitent alone are contrition, confession, and satisfaction, and on the part of the priest alone, absolution. The question disputed among theologians, which parts of penance are essential, must at least be touched in passing.

1. With all agreeing, absolution is the essential and principal part of the sacrament of penance; and in like manner all agree that satisfaction actually imposed and fulfilled is only an integral part of this sacrament: for the primary effect of the sacrament of penance, namely the remission of sin, is produced even if satisfaction is not imposed or, once imposed, is not actually completed.

If satisfaction is called an essential part of the sacrament of penance, this can be understood in the confessor only of the power which can and must impose satisfaction, and in the penitent only of the will of accepting and fulfilling satisfaction, which will is always virtually contained in contrition.

2. Whether contrition and confession, or sorrowful confession, is an essential part of the sacrament is disputed. And the Thomists indeed, to whom also some Scotists had acceded, commonly teach with the more recent authors that the acts of the penitent, or sorrowful confession, are an essential part of the sacrament, so that together with absolution they signify and cause the remission of sins and justifying grace. But several Scotists with a few more recent authors affirm[591] that priestly absolution alone is the properly essential part of the sacrament, since it alone signifies and causes remission of sins and sanctifying grace; but that sorrowful confession or the acts of the penitent are necessarily required by way of disposition and condition without which not.

3. Therefore to the question in what the essence of the sacrament of penance consists, the Thomists answer: in the sorrowful confession of sins and in sacramental absolution together; but the Scotists answer: in sacramental absolution alone, with contrition and confession supposed as a necessarily prerequired condition. What is true in this question cannot be defined with certainty; each opinion is probable, neither is certain.

223. Effects of the sacrament of penance. 1. **Remission of sins** through the infusion of sanctifying grace, by which sins are so remitted that afterward they no longer revive because of a subsequent sin.

2. **Condonation of eternal punishment:** for when mortal guilt has been destroyed, eternal punishment is also remitted, which is commuted into temporal punishment. Certainly grace, which is infused through the sacrament, grants a right to eternal glory, which cannot stand at the same time with liability to eternal punishment.

3. **Condonation of temporal punishment:** according to the disposition of the penitent God also remits temporal punishment according to a greater or lesser measure. Therefore, although it can happen that even the whole temporal punishment due for mortal sins remitted is destroyed, nevertheless this does not occur, as the Council of Trent says, without great weepings and labors of ours.[592]

4. **Revival of merits:** for meritorious works mortified by sin revive again through penance, insofar as, the impediment of mortal sin having been removed, they are again worthy of the reward of eternal life.

a. From the divine promise, sins are so destroyed through penance that after conversion they do not harm the wicked man;[593] but they would harm very greatly if merits did not revive. Moreover, unless merits revived, God would have to be said to punish eternal punishment, already remitted, again; for punishment would then exist in the privation of merits, since by the privation of a greater degree of glory proportionate to

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591. Among recent authors the Scotistic opinion is not displeasing to D'Annibale (III, n. 181, 2), Ballerini-Palmieri (V, n. 3 ff.), Berardi (*Prax. confess.*, IV, n. 2).

592. Sess. 14, c. 2.

593. Ezech. 18:21 ff.

them it would endure forever; but this cannot be admitted, both because in revelation no mention occurs of a punishment of this kind, and because the state of punishment cannot be composed with the state of most perfect friendship, such as is in the blessed.

b. Therefore, of moral works which are performed by man, five kinds can be distinguished: alpha. meritorious works or living works, which are worthy of the reward of eternal life; beta. mortified works, which render a man worthy of eternal death; gamma. dead works, which in themselves are good, but because they are done by a man in the state of mortal sin, are worthy neither of reward nor of punishment; delta. mortified works, which before were living works indeed, but with sin supervening cannot be worthy of eternal life; epsilon. revived works, which before, having been mortified, once mortal sin has been removed, again become living and worthy of eternal reward.

5. **Sacramental grace** or a right to the helps of grace. And since the end of this sacrament is that sins be destroyed, these helps tend to this, that man may be able to satisfy for past sins and guard against future sins.

Question Second.

On the matter of penance.

The matter of penance is one thing remote, another proximate; it must be noted, however, that the word matter is used here in another sense than in the remaining sacraments.

Article First.

On remote matter.

a. The remote matter is all sins committed after baptism. It is also called the matter about which, because the acts of the penitent and the absolution of the priest are occupied about these sins themselves as to be detested and destroyed.

b. Remote matter is distinguished: alpha. necessary and free; beta. certain and doubtful; gamma. sufficient and not sufficient.

224. On necessary matter. Those sins are called necessary matter which by divine precept must necessarily be submitted to the keys of the Church through confession. This matter is constituted by all and only mortal sins committed after baptism and not yet directly remitted by force of the keys, or directly indeed remitted, but not accused as is required.[594]

a. Sins are said to be directly remitted which are remitted by force of absolution; and in this way are remitted all those sins which by the penitent in themselves are rightly submitted to the keys of the Church and are pardoned by a confessor having jurisdiction over them. Sins are said to be indirectly remitted which are remitted by force of sanctifying grace infused through sacramental absolution. If, for example, a suitably disposed penitent omits a grave sin in confession from inculpable forgetfulness, the absolution of the confessor necessarily produces the remission of sins and the infusion of grace, but it itself cannot remit except sins submitted to the keys; yet grace cannot be infused unless all mortal sins are destroyed; therefore by force of the infused grace even the sin omitted in confession is remitted indirectly and by concomitance.

b. If a penitent because of a legitimate cause excusing from the integrity of confession, e.g., a dying man, accuses his sins only in general, these are directly remitted, but there remains the obligation of declaring

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594. Council of Trent, sess. 14, c. 5. Condemned proposition of Alexander VII, n. 11.

them afterward more accurately, if it can be done, because the divine precept of declaring sins according to species and number has not yet been fulfilled.

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225. Whether an adult who has been rebaptized under condition is bound to confess sins committed before this baptism.

a. A Catholic adult who has again been baptized under condition is not bound to confess again sins already accused: for if the first baptism was valid, the sins have already been remitted through absolution; and if the baptism was not valid, they are remitted through the second baptism. But sins committed from the last confession and not yet accused must be declared integrally in confession.

Nor may it be said that, because these sins perhaps have already been remitted through the baptism now conferred, it is not certainly established that there is an obligation of confessing them; but a doubtful obligation is no obligation. For the obligation of confessing these sins is plainly certain, which will be evident from those things which must immediately be said concerning an acatholic adult baptized again.

b. An acatholic adult who, having been converted to the faith, because of baptism doubtfully conferred is baptized again under condition, must confess his sins integrally.

alpha. Several authors (D'Annibale, Ballerini-Palmieri, Bucceroni, Genicot) teach that confession indeed is to be advised, but is not to be imposed from obligation, except in those places in which it has been prescribed by the bishops. For baptism previously received is doubtfully valid and therefore the obligation of confessing the sins of the past life is doubtful; but a doubtful obligation is no obligation. But the sins themselves committed after the doubtfully valid baptism are certainly destroyed. For if the first baptism was invalid, they are destroyed through the second baptism; if it was valid, they are destroyed through perfect contrition or indirectly through confession performed with attrition.[595] But the decrees of the Holy See issued concerning this matter do not contain a universal law, but only a particular precept given for those to whom they referred, because of their special conditions.

beta. Nevertheless the opinion affirming the obligation of integral confession in the case under discussion seems to be held.

alpha. It is indeed true that there exists no decree of the Holy See by which the obligation of integral confession for those who are rebaptized under condition is expressly declared. For the four decrees of the Holy Office hitherto issued concerning this matter, by which the obligation of confession is proclaimed, are in reality particular: the first in the case of Carl Wippermann, 1715; the other to the bishop of Philadelphia, 1859; the third to the bishops of England, 1868; the fourth to the bishop of Vallispratensis, 1874. But the response of the S. C. de prop. fide, 10 July 1869, given to the bishop of Quebec and finally published in 1899, by which it is declared that the decree of the Holy Office to the bishops of England contains a universal law, is of private authority, published by the secretary of the congregation without the congregation itself having been consulted.[596] Yet it is rightly affirmed that the Church by these decrees, although in themselves particular, has virtually and equivalently declared that the sins of the doubtfully baptized constitute necessary matter of confession and must be declared in confession by divine law. For although the decrees refer to particular cases, nevertheless, since their circumstances are very diverse and yet the same decision is always presented, it is a sign that the same reason underlies all, which is no other than that the sins of the doubtfully baptized, from the will of Christ, constitute necessary matter of absolution and therefore must be submitted by all to the keys of the Church.

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595. Cf. Lacroix, l. 6, pr. 1, n. 323.

596. Cf. Mannajoli, *De obligationibus christianorum propriis, quibus in genere dubie baptizati obstringuntur* (Rome: Pustet, 1913), p. 139 ff., p. 197.

beta. The internal reason by which the certain obligation of confessing sins committed after baptism not certainly valid is proved is this. From the certain conferral of baptism there arises a certain right of the Church over him who received baptism (even if perhaps invalid), and this because of the very grave harms which would follow if the doubtfully baptized were not judged her subjects and subject to all her laws. The very same judgment must be borne in doubt concerning the value of a marriage certainly contracted, in doubt concerning the value of a religious profession certainly emitted, in doubt concerning the value of sacred ordination certainly received, and this because of the grave evils which would otherwise follow.

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226. Sins committed in baptism itself can practically be counted among the doubtful matter of the sacrament of penance; wherefore they need not necessarily be declared in confession, nor can they alone be remitted absolutely through absolution.[597]

The sin of fiction or unworthy reception of baptism, or another sin, e.g., of doubt in faith, committed in the very act of baptism, does not indeed impede the value but nevertheless impedes the effect of baptism. Now it is asked whether these sins are destroyed by force of baptism, which revives when the obstacle has been removed, or whether they must be accused in the following confession, so that they may be remitted by force of absolution. Commonly authors, making no distinction between the sin of fiction and other sins, affirm that all sins committed in the reception itself of baptism constitute necessary matter of penance: for these sins must be said to have been committed after baptism; therefore they must be destroyed through penance. - For it can scarcely happen that sin is completed in the very instant of baptism conferred in such a way that it does not continue after baptism has been received; but if nevertheless it were already completed in the very instant of baptism conferred, it could not be destroyed through penance. Since, however, some doubt concerning the obligation of confessing these sins,[598] others deny it,[599] and finally since it can scarcely be discerned whether the sin had already been terminated in the very instant of baptism or also endured afterward, these sins in practice are rightly counted among doubtful matter.

227. On free matter. Those sins are called free matter which can be submitted to the keys of the Church, but need not be. This is constituted by venial sins committed after baptism and not yet remitted, and by sins both mortal and venial already directly remitted.

a. Venial sins are matter of this sacrament, because they are true sins committed against the law of God and therefore can be remitted through the power of the keys, which is not restricted to some genus of sins; but free matter, because in confession they can be concealed without fault and in many other ways they can be destroyed.[600]

b. Sins already remitted are matter of this sacrament, because nothing prevents the pardon of a committed sin from being sought and given repeatedly, as will be said below; but they are free matter, because sins already remitted do not need repeated accusation.

c. Since sins both venial and mortal already once remitted are not necessary matter but free matter, it follows that in the confession of mortal sins venial sins may licitly be omitted, whether all or several; but in the confession of venial sins some, even most venial sins, may be omitted; finally in a general confession which is not necessary, not only venial sins, but also mortal sins, whether some or several, whose confession has already once been duly made, may be omitted.

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597. Ballerini-Palmieri, V, n. 18.

598. St. Alphonsus, n. 427.

599. D'Annibale, III, n. 164; Lugo, disp. 16, n. 2.

600. Council of Trent, sess. 14, c. 5.

228. On certain and doubtful matter. Certain matter is every true sin certainly committed, whose absolution therefore (with the things to be supposed supposed) is certainly valid; doubtful matter is a doubtful sin, i.e., either one not certainly committed, or one which is not certainly a true sin, whose absolution therefore (even with the other requisites supposed) cannot be called certainly valid. Therefore, if nothing is submitted to the keys except a doubtful sin, of which kind is alpha. a sin doubtfully committed; beta. a doubtfully mortal sin; gamma. a sin doubtfully accused, absolution will be valid if guilt really underlies it, and will be invalid if no guilt underlies it.

a. He who brings nothing except doubtful matter (whether because he doubts concerning consent or because he narrates mere imperfections) of itself can never be absolved absolutely, nor even conditionally without an urgent cause, because the sacrament would be exposed to the danger of nullity. For this reason, if a penitent confesses only doubtful sins, he must be induced to accuse from his past life some certain sin already remitted, whether mortal or at least venial, either by saying: I accuse myself of sins committed formerly against charity, religion, chastity; or by responding affirmatively to the confessor asking: do you accuse yourself and are you sorry for sins committed formerly against charity, religion, chastity?

b. But if this cannot be done, whether because he has committed nothing certain or because from simplicity or weakness he does not remember them, he is to be absolved under condition (*if you are capable*), if the doubtful sins proposed are mortal. But if the doubtful sins which he confesses are venial and nothing certain from prior life can be added, he is not to be absolved even under condition except rarely, because on the one hand from absolution denied no great spiritual damage arises, and on the other hand the sacrament is not to be exposed to danger of nullity unless spiritual damage is feared which otherwise cannot conveniently be avoided.

c. The practice has grown strong in the Church that penitents, especially pious ones who confess rather often, add to the sins committed since the last confession at least generically one or another sin of the past life; and this is usually done for a twofold reason: first, that certain matter of confession may be had, if perhaps the sins committed since the last confession are only doubtful; then that sorrow for the sins declared in confession may be conceived more certainly, if perhaps true and sincere sorrow is lacking concerning light daily defects. Now, lest the end of this practice be frustrated, namely of providing for the validity and fruit of the sacrament, penitents must be warned that from the sins of their past life they add those which more burden their conscience and for which they truly and sincerely grieve and propose amendment.

d. Not rarely penitents accuse themselves with this or a similar formula: I had doubts against faith, or I had temptations against chastity; of these I accuse myself insofar as before God I am guilty. Ordinarily by this formula they intend to signify a doubt concerning a sin committed. Wherefore if they have not accused other certain sins, they cannot be absolved unless from past life they submit to the keys some certain sin for which they grieve and propose amendment.

229. On sufficient and not sufficient matter. Sufficient matter is said to be sins from which the penitent can validly be absolved; but insufficient matter is said to be sins from which he cannot validly be absolved. Every true personal sin constitutes sufficient matter; but what is not a true personal sin, such as an imperfection, constitutes insufficient matter, cn. 902.

1. That sins already remitted through absolution constitute sufficient matter of absolution is established from the use and practice of the Church: for it would be impious to doubt the value of some sacramental action which the whole Church throughout the world frequents.

That sins already remitted can be matter of absolution is certain and can be declared in this way. Just as we can truly renounce several times a right which we have already once renounced, e.g., by renewing religious vows, so God can truly renounce several times the right to vengeance which he had acquired from our sins. And just as a father, who has already given pardon of an offense to a son, if the son asks again, truly and properly grants the same pardon again, so God grants it again to a sinner asking pardon again in confession, even truly and properly. But the granting of pardon from divine institution is done through the infusion of grace. Nor can it be said that the words of absolution in this case are not true, since no sins are present to be absolved: for the words of absolution signify not only the remission of sin, but also the infusion of grace, which of itself and by its nature is remissive of sin and therefore would remit it if it were present; but since it is not present, the grace itself alone is conferred by accident.[601]

2. By the name of imperfection here is understood both an indeliberate transgression of a precept and an action or omission which is opposed not to a precept but to a counsel.[602] Therefore imperfections of themselves are not sins, and accordingly do not constitute sufficient matter of penance; nevertheless penitents are not to be prevented from confessing their imperfections, both because ordinarily they have an attached venial sin, and because from knowledge of them the confessor can better direct the penitent. But mere imperfections which are submitted to the keys of the Church constitute only doubtful matter, because perhaps they are joined with venial sins.[603]

a. Imperfections which are committed by this, that counsels or more perfect things are neglected, have an attached sin when the more perfect things are omitted from a disordered affection, not from a reasonable motive.[604] Now in order that these defects constitute apt matter of absolution, they must in some way be declared in confession, and true sorrow must be conceived concerning them.

b. Although imperfections as such cannot be the object of sacramental absolution, nevertheless they are moral defects concerning which we can grieve, so that we may render God more propitious and beneficent to us. For since God is accustomed to be more liberal toward those who perform even works of supererogation and of mere counsel, but ordinarily denies more abundant helps of grace and providence to those who neglect works of this kind, nothing prevents those desiring more abundant graces from grieving concerning negligences of this kind, so that God may more certainly become more beneficent toward them.

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230. On sins accused only in general. a. The confession of sins is generic if sins are not accused in that specific mode (in the lowest species) in which from the will of Christ they must be accused. Therefore a generic confession of sins can be instituted in three diverse ways: alpha. if the penitent only says that he has sinned, and does not determine whether he has sinned gravely or lightly: *I accuse myself of my sins*, or if he gives only signs of sorrow without any confession of sin, e.g., by striking the breast or by sighs; beta. if the penitent only says that he has sinned gravely, and does not determine the genus or species of the sin: *I accuse myself of my mortal sins*; gamma. if the penitent only says the genus or subaltern species of the sin, and does not determine the lowest species: *I accuse myself of sins committed against justice, against religion, against the fourth or sixth precept.* Concerning the first mode especially the question is instituted, whether sins accused only in general are sufficient matter of valid absolution; for if that accusation suffices for valid absolution, a fortiori the others will be sufficient.

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601. Cf. Lugo, disp. 13, n. 73.

602. Cf. *De principiis*, n. 286.

603. Lugo, disp. 16, n. 103.

604. Cf. *De principiis*, n. 92.

b. To solve the question, one must distinguish between the matter which is required from the precept of Christ, and that which from the essence of the sacrament instituted by way of judgment is required and suffices for valid absolution. Besides this, one must distinguish the case of necessity, where namely specific confession of sins is impossible and absolution is necessary, from the case in which either specific confession is possible or absolution is not necessary.

1. Outside the case of necessity a generic confession of mortal sins does not suffice for receiving valid absolution. For from the precept of Christ grave sins must be declared distinctly and determinately as to species and number, in order that absolution be valid: for Christ willed that absolution, which has the character of a judicial sentence, outside the case of necessity be an exact and perfect judgment, which cannot be instituted without accurate knowledge of the cause. Therefore he who does not confess sins distinctly fails in the precept of Christ, and therefore from defect of disposition is incapable of valid absolution.

2. In a case of necessity, where accurate confession is impossible, for valid absolution it suffices that sins be declared only in general: for impotence excuses from affirmative precepts; wherefore in a case of necessity no other confession is required except that which the essence of the sacrament or judicial sentence demands. But a judgment cannot indeed be had without any knowledge of the cause; nevertheless a true judgment, although imperfect, can be instituted, provided some confused and indistinct knowledge of the judicial cause is supplied; therefore, looking to the essence of judgment, generic and indistinct confession of sins suffices for valid absolution. These things are well confirmed from the practice of the Church, which is the authentic interpreter of the institutions of Christ: for the Church not only permits that, e.g., to soldiers when battle is imminent, or to sailors when shipwreck is threatening, after a generic confession has first been made, absolution be given; but also commands that the dying who can confess only generically be absolved not conditionally, but absolutely.[605] From these things it is rightly inferred that, for certainly valid absolution in a case of necessity, generic confession of sins suffices.

In human judgment, which primarily and principally consists in the condemnatory sentence of the delinquent through the imposition of a punishment suitable to the crime, determinate and perfect knowledge of the cause is required essentially; but in sacramental judgment, which primarily and principally consists in the reconciliatory and absolutory sentence of the penitent, determinate and perfect knowledge of the cause is not essentially demanded. Although of itself a punishment suitable to the crime must also be imposed, nevertheless this is not required for the essence of sacramental judgment.

3. Outside the case of necessity, for valid absolution generic confession of sins seems to suffice where free matter is concerned, and especially where venial sins are concerned: for in the confession of venial sins and of free matter generally, for receiving valid absolution no other confession is required besides that which is necessary for the essence of the sacrament; for there is no precept of confessing venial sins. But for the essence of the sacrament generic confession of sins is sufficient: for the essence of the sacrament is one and immutable; therefore what suffices in necessity for instituting a valid sacramental judgment must also suffice outside necessity. Therefore in the confession of free matter, and specifically of venial sins, generic confession of sins is sufficient.

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231. Whether a wholly generic confession of venial sins only is licit. - No one denies that a wholly generic confession, whether of mortal or venial sins, is licit in a case of necessity: for what is valid is also licit in a case of necessity. But a wholly generic confession of venial sins only (if, for example, a pious penitent

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605. Roman Ritual, tit. 3, c. 1, n. 24.

who is not guilty of mortal sin only says: *I accuse myself of my venial sins and ask absolution*) outside a case of necessity is not licit, because it is contrary to the practice of the Church, which has the force of law.

a. From the first centuries of the Church up to these times, by the use and practice of the Church outside a case of necessity, specific confession even of venial sins has flourished; but this long-lasting custom has obtained the force of law in the same manner in which vocal confession of sins has obtained the force of law from custom. Therefore, from a precept of the Church introduced by legitimate custom, a specific confession of venial sins must be made. b. The sacrament of penance was instituted by Christ by way of judgment, which of itself and ordinarily ought to be concerned with matter determined at least in species, as is clear from the obligation of confessing mortal sins according to species and number. But the dignity and fittingness of the sacrament demands that outside a case of necessity, whether mortal or venial sins are submitted to the keys, the sacrament always be administered in that mode in which it was instituted by Christ, namely so that a judgment can be borne concerning determinate matter. c. If once a merely generic confession of venial sins were admitted, several inconveniences would follow: alpha. penitents would lack the admonitions, counsels, and spiritual direction of the confessor; beta. the sacrament would be exposed to the danger of nullity, for several penitents, not distinguishing imperfections from sins, would easily submit only imperfections and therefore doubtful matter to the keys; gamma. several would not satisfy the precept of confession, for holding mortal sins to be venial they would not declare them in species; delta. more indulgent confessors would easily admit a generic confession even of mortal sins.[606]

There are indeed some (Gury-Ballerini, Eschbach, Bucceroni, Apicella, Genicot, and among the older authors Dicastillo) who judge that a generic confession of venial sins is licit. But their opinion does not seem probable and therefore is illicit in practice. For they bring no other argument except this: "With the certain validity of the sacrament standing, illicitness cannot arise from elsewhere than from a positive divine precept; but this precept is not had. Therefore, where grave sins necessarily to be accused in confession are lacking, there is no obligation of accusing the remaining sins in determinate number and defined species" (Bucceroni). But the obligation does not arise from an explicit divine precept, but from the reasons brought forward above, especially from custom, which has obtained the force of law. Nor is an exception to be taken against this reason, that it is not established whether the faithful confessing venial sins in species indicate a strict obligation or only that which is better, because they confess only from devotion. For those confessing from devotion know that they can licitly abstain from confession; but if they confess, they think that they must confess in species.

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232. Corollaries: a. From these things this instruction is gathered for practice: if someone, to render absolution more certain, joins to doubtful or lighter sins which he has committed since the last confession sins of the past life already remitted, absolutely speaking it suffices that they be added generically and indeterminately (*I accuse myself also of the sins of my whole life*). Nevertheless it is to be advised that the genus or subaltern species of one or another sin also be declared (*I accuse myself also of sins committed against charity, religion, or against the fourth or sixth precept*). And this must especially be advised when the sins declared from the last confession are truly doubtful, so that the sacramental judgment may be more determinate.

b. Therefore generic confession of sins in a case of necessity suffices both for valid and for licit absolution. A case of necessity is present if, on the one hand, specific accusation is impossible, and on the other hand, absolution is necessary. This happens in the following cases: alpha. if a dying man deprived of speech expresses by signs in some way confession and desire of absolution; beta. if soldiers with battle imminent or sailors with shipwreck threatening can confess only generically because of lack of time; gamma. if deaf-

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606. Cf. Laymann, l. 5, tr. 6, c. 5, n. 15.

mutes or those whose language the confessor does not know ask for absolution; delta. if rude men, or those of failing memory because of old age, come to confession, who can accuse no sin in particular and respond nothing to questions posed except that they are sinners like other men. Therefore penitents of this kind can validly and licitly be absolved, because on account of moral impossibility they are excused from a more accurate accusation just as the dying deprived of speech are excused; but only rarely (three or four times in a year), because only in a case of necessity are they excused from specific confession. For the rest, if the confessor proposes to a penitent of this kind some sins into which he can be presumed once to have fallen, in this way: do you grieve for sins ever committed, but especially for lies, for negligences in divine service, etc., and if the penitent responds that he grieves, a more determinate accusation is also had, since it can certainly be supposed that the penitent formerly committed one or another of the sins proposed.[607] With this effort used, these can be absolved as often as they ask for absolution.

Article Second.

On proximate matter.

233. The proximate matter of this sacrament is the three acts of the penitent: contrition, confession, and satisfaction as to be accepted. By the Council of Trent these acts are called the quasi-matter of the sacrament of penance.[608] In what manner the acts of the penitent stand in this sacrament, whether they are true matter from which the sacrament is constituted and confected, or only a necessary condition so that sacramental absolution may obtain its effect (n. 222), dogmatic theologians dispute.[609]

a. With the Thomists, the common opinion of more recent authors affirms that the acts of the penitent are the true matter of this sacrament, which together with priestly absolution constitutes the sacramental sign efficacious of grace. These think that the Council of Trent calls these acts quasi-matter because they are not a material thing as water is in baptism.

b. The Scotists with a few more recent authors teach that the acts of the penitent are not matter from which the sacramental sign is essentially constituted, but only a condition necessarily prerequired so that absolution, which alone is the efficacious sign of grace, may produce its effect. These judge that by the Council of Trent these acts are called quasi-matter because they do not truly and properly have the character of sacramental matter. Nevertheless, this must be added: the Scotists conceive their opinion in a diverse manner. For several, especially the older ones (Bosco, Sporer, Holzmann, etc.), require contrition and sensible confession as a condition of valid absolution, because the nature of sacramental judgment demands knowledge of the cause; but others, especially the more recent authors (Ballerini, Berardi, etc.), teach that merely internal acts suffice for valid absolution, namely contrition, in which the purpose of confessing is always implicitly contained, and which alone is a sufficient disposition for obtaining pardon of sins through absolution.

alpha. The Church in the Council of Trent deliberately abstained from deciding this question (whether the acts of the penitent are the matter of this sacrament);[610] wherefore we can follow either opinion theoretically and practically. But because the opinion which teaches that the acts of the penitent are the proximate matter of the sacrament does not lack its probability, absolutions cannot be held certainly valid when a sorrowful confession of the penitent, in some way sensible, has not preceded them. And since the opinion which teaches that the

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607. Elbel-Bierbaum, III, pr. 9, n. 15.

608. Sess. 14, c. 3.

609. Cf. Palmieri, *De poenitentia*, p. 144 ff.; Pesch, VII, n. 75 ff.; Ballerini-Palmieri, V, n. 9 ff.

610. Cf. Pallavicini, *Historia concil. trid.*, l. 12, c. 10, 27.

acts of the penitent have only the character of a necessary condition is not destitute of all probability, those also can be absolved under condition who manifest no sign of sorrow and confession.

beta. The practical importance of this controversy is seen especially in the absolution of the dying: for if the acts of the penitent are essential parts and true matter of this sacrament, which by its nature ought to be sensible, he cannot validly be absolved who does not outwardly manifest those acts by a sensible sign; but if they have only the character of a necessary condition and disposition, absolution will be valid even if those acts are not manifested outwardly.

Question Third.

On the form of penance.

234. Pious custom, which nevertheless does not oblige in conscience, has this, that before confession the confessor bless the penitent with these words:

May the Lord be in your heart and on your lips, that you may rightly confess all your sins, in the name of the Father and of the Son and of the Holy Spirit. Amen.

But the form of the sacrament of penance is:

May almighty God have mercy on you and, your sins having been dismissed, bring you through to eternal life. Amen. Then, with the right hand raised toward the penitent, he says:

May the almighty and merciful Lord grant you indulgence, absolution, and remission of your sins. Amen.

May our Lord Jesus Christ absolve you, and I by his authority absolve you from every bond of excommunication, (suspension) and interdict, insofar as I can and you need. Then I absolve you from your sins in the name of the Father and of the Son and of the Holy Spirit. Amen.

May the passion of our Lord Jesus Christ, the merits of the Blessed Virgin Mary and of all the Saints, whatever good you have done and evil you have borne, be to you unto remission of sins, increase of grace, and reward of eternal life. Amen.[611]

235. On the form itself. A twofold form of this sacrament is distinguished: essential, which from the Council of Trent[612] is contained in these words: *I absolve you from your sins*; and rubrical, which is that whole form prescribed in the Ritual. This again is twofold: preceptive, which is constituted by the words: *May our Lord… in the name of the Father*, etc.; directive, which is constituted by the words which are had before and after the essential form. A valid form of absolution must express three things: a. the person of the minister judging with due authority: *I absolve*; b. the person of the accused: *you*; c. the genus of bond from which the accused is absolved by judicial sentence: *from sins.*

If the words of the form are considered as human words in the obvious and natural sense, they have this sense: I by judicial sentence free you from your sins. But if they are considered as sacramental words, namely insofar as they have been elevated by Christ to signify the sacramental effect, they have this sense: I by judicial sentence confer on you grace of itself remissive of the sin committed by you. For the sacraments were instituted by Christ to signify and produce grace, which in baptism is remissive of original sin, but in penance of personal sin committed after baptism.

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611. Roman Ritual, tit. 3, c. 3.

612. Sess. 14, c. 3.

236. On the essential form. Not all the words of the essential form are required for the value of the sacrament: for the form is certainly valid: *I absolve you from sins*; this form is probably valid: *I absolve from your sins*, because the person who is absolved is sufficiently signified by the word *your*; likewise this form: *I absolve you*, because the debt of sin from which the penitent is absolved is sufficiently clear from this, that absolution is granted by a priest who is furnished with the power of remitting sins. Yet since, because of the disagreement of authors, it is not altogether certain that these last two forms suffice for valid absolution, the whole essential form must always be pronounced, with the invocation of the most holy Trinity also added, not indeed from the necessity of the sacrament, but from the use and custom of the Church in this way: *I absolve you from (your) sins in the name*, etc.

a. The chief argument by which it is shown that these words *I absolve you* suffice for valid absolution is taken from this, that the Greeks use this form: *I have you absolved*; but it cannot be affirmed that the Greeks absolve invalidly through the form granted to them by the Council of Florence. And certainly these words: *I absolve you*, pronounced over the penitent after the confession of his sins has been made, from the circumstances signify absolution from sins.

b. He who absolves with this formula: *I absolve from your sins* or: *I absolve you*, sins gravely: for since these forms are only probably valid, the sacrament is exposed to the danger of nullity. Therefore if someone had absolved with this form, the absolution would have to be repeated with the whole essential form used. He who omits *I*, *amen*, or the invocation of the most holy Trinity sins only lightly, because he changes the form only accidentally and in a non-notable way.

c. Several can also be validly absolved at once by this form: *I absolve you from your sins in the name of the Father*, etc.; and this can licitly be done in a case of necessity, e.g., in shipwreck, before battle, etc.[613]

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237. On the rubrical form. 1. The prayers which precede absolution, *Misereatur* and *Indulgentiam*, the Council of Trent[614] says are laudably added; according to the opinion of doctors, this word does not signify a precept. Code cn. 885 admonishes: "Let them not be omitted, unless from a just cause."

A cause of this kind is constituted both by lack of time, whether on the part of the confessor or on the part of the penitent, and by a multitude of penitents.

2. From the prescription of the Church, absolution from censures (*from every bond of excommunication, suspension, and interdict*) is premised as a precaution to absolution from sins, because it is not fitting that he be reconciled with God who has not first been reconciled with the Church.

a. To absolve from sins first, with absolution from censures omitted, a penitent who certainly has incurred a censure (excommunication), is a grave sin against the grave precept of the Church, although the absolution is valid. Nevertheless, by this form: *I absolve you from your sins*, the confessor can also absolve from censures, provided by these words he intends to absolve both from sins and from censures; nevertheless, in a case of urgent danger it is better to use these words: *I absolve you from censures and sins in the name*, etc.

b. To omit absolution from censures is no sin where there is no probable suspicion that the penitent has incurred a censure; it is venial where this suspicion is present.[615]

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613. Cf. Lacroix, l. 6, pr. 2, n. 645.

614. Cf. sess. 14, c. 3.

615. St. Alphonsus, n. 430.

3. The word *suspension* must be omitted if the penitent is a layman; and ordinarily it is licitly omitted if he is a cleric constituted in minor orders: for he cannot be suspended from order, and scarcely any such cleric has a benefice or jurisdiction from which he could be suspended.[616]

4. The word *then* is not to be omitted, but must be pronounced, since it pertains to the text of the rubrical form.

Previously the opinion of many was that this word had to be omitted, because, since it was printed in red in several editions of the Roman Ritual, it pertained to the rubric; but in the typical edition of the Roman Ritual it is printed in black, from which it is clear that it pertains to the form itself. And rightly so, because the confessor says that he absolves first from censures, then from sins.

5. The prayer *Passio*, which follows absolution, can licitly be omitted in more frequent confessions,[617] indeed probably in all. Yet because according to the opinion of some this prayer elevates all works of the penitent to the merit of sacramental satisfaction, without necessity it is not entirely to be omitted, but at least, while the penitent withdraws, it is to be added.[618] Nevertheless several deny that these words have any other efficacy than the other prayers which the priest utters in the name of the Church.[619]

Lest the opinion which attributes greater efficacy to these words appear plainly incredible, it must at least be restricted in this way: namely, that by this prayer the works of the penitent acquire no power except of remitting the punishments due for sins remitted in that confession. For the power of the keys which the confessor uses extends only to sins to be destroyed as to guilt and punishment which here and now are submitted to the keys. For this reason, by those words not all the works of the penitent are indefinitely elevated to the power of sacramental satisfaction, but only those which are required for destroying the whole temporal punishment due for sins remitted in that confession.[620]

6. From the prayer *Indulgentiam* up to the prayer *Passio*, the rubric prescribes that the hand is to be raised and that at absolution the sign of the cross is to be formed; and although these can be omitted without sin, nevertheless it is fitting that they always be done.

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238. On the qualities of absolution. Absolution must be vocal, directed to one present, and of itself pronounced absolutely.

1. **Vocal.** Neither the character of judgment nor the character of sacrament demands that the judicial sentence be pronounced by voice; and certainly in other judgments a sentence is pronounced also in writing (and on one absent), and the character of sacrament demands nothing else except that it be sensible. Therefore that the form of absolution in the sacramental judgment must be pronounced by voice for the value of the sacrament is had from the will and institution of Christ. This is established from the perpetual use of the Church, which has never admitted absolution given in writing or by nod as licit, nor recognized it as valid. Indeed the Council of Florence says that the form of this sacrament is the words of absolution which the priest pronounces when he says: *I absolve you*, etc.[621] But it is not necessary that the penitent hear the words of absolution.

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616. Cf. Bucceroni (*Casus consc.*, n. 354), who teaches the same with Reuter, Gobat, and Stoz.

617. Cf. Roman Ritual, tit. 3, c. 2.

618. Cf. St. Alphonsus, n. 430, 507.

619. Lugo, disp. 25, n. 56.

620. Cf. Stoz, l. 2, n. 115.

621. Cf. Denzinger-Bannwart, n. 699; Council of Trent, sess. 14, c. 3.

239. 2. Toward one present. From the will of Christ instituting this sacrament, absolution which is given to one absent is invalid; for valid absolution it is required that the penitent be morally present.[622] Moral presence is judged to be that within which men, although with a somewhat raised voice, can and are accustomed to speak with each other; and according to the judgment of authors this can still happen within about twenty paces, especially if the penitent is seen. For if the penitent is not distant by more than about twenty paces, the words of absolution are still judged by the common judgment of men to fall upon him. But the rule of those seems to be rejected who judge absolutely that the confessor can absolve even a very distant penitent, whom he still sees or perceives by some sense. For since this sacrament was instituted by way of judgment, that presence is rightly required within which a judge absolves or condemns an accused person present, namely that within which he can speak in a human way with the accused.

a. Therefore absolution is not certainly valid if the confessor and penitent are in different rooms which do not communicate with each other. In like manner it is not certainly valid if they are indeed found in the same place, but are distant from each other by more than twenty paces.

b. But when necessity presses, the penitent can and must be absolved as often as he can be perceived by some sense, even if in reality because of an accidental impediment he is not perceived; under condition, however, if he is distant by more than twenty paces. Hence alpha. he who is seen to fall from a roof, to fall into a river, to be submerged in the sea, is to be absolved; beta. a dying man whom the confessor for any cause whatsoever cannot approach must be absolved from the door; gamma. one wounded in a street can be absolved from the window of the nearest house.

c. An entire army can be absolved, provided the whole multitude of soldiers is present to the one absolving; but they are judged present even if the last are distant far beyond twenty paces. But if the distance of the last is so great that conversation with them is not possible even with a somewhat raised voice, they are no longer judged present in order that they can be validly absolved. Therefore great armies are usually divided into several parts and the individual parts are absolved.

d. If the penitent withdraws from the confessor, not yet absolved, and thinks himself absolved, these things must be observed: alpha. if he can conveniently be reached and recalled, he must be recalled so that he may be absolved, unless he is near the confessional: for in this case he can be absolved without being recalled; beta. if he cannot be recalled, he is to be absolved, provided he is certainly morally present, whether he is seen or not seen, but is known certainly to be present among the nearby crowd; gamma. if he is no longer present and is not going to return afterward, nothing is to be done, but the matter is to be committed to God; delta. if afterward he returns to the same confessor, and indeed for making a confession, he is to be warned to grieve for all his sins and then absolved. But if he were to meet the confessor for another end, of itself he would have to be warned outside confession about the defect of absolution. Yet since an admonition of this kind happens to be troublesome to most penitents and very difficult for confessors because of the danger of

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622. Formerly this question was disputed among theologians, whether Christ instituted this sacrament in such a way that absolution could licitly and validly be given even to one absent. But Clement VIII (20 June 1602) proscribed as false, rash, and scandalous this proposition: It is licit through letters or an intermediary sacramentally to confess sins to an absent confessor and from the same absent confessor to obtain absolution. Because absolution imparted to one absent was declared simply illicit, at the same time it was declared invalid: for if it were not invalid, it could not be prohibited in a case of necessity as illicit. And since Paul V (14 July 1605) reprobated each part of this proposition also taken separately, therefore not only the opinion which says that one absent can be absolved who has confessed to a confessor absent, but also the opinion which says that one absent can be absolved, provided he confessed while present, is invalid. In every case absolution which is given to one absent is invalid, whether he confesses while present and is absolved only while absent, or confesses and is absolved while absent. However, it cannot be demonstrated with certainty that absolution is invalid which is given to one present who confessed while absent, e.g., by letters or by an intermediary, especially if it concerns a dying man deprived of senses, whom others (even absent ones) testify to have previously asked for absolution. But absolution given to a penitent who confessed while absent by letters or messenger and afterward, present, only says in general that he confesses his sins already known to the confessor and asks absolution, must in no way be judged invalid.

scandal and infamy, in these circumstances it can be omitted: for the penitent suffers no spiritual damage, since in the following confession he is absolved indirectly from the same sins.[623]

e. Absolution by telephone seems to be invalid: for the sacraments were so instituted by Christ the Lord that those things which are required for their value must be present in a human and natural way. Therefore in the sacrament of penance that presence of the one confessing is required by which he can speak with the confessor in a human and natural way; but conversation by telephone is an artificial mode of speaking with one absent; for it is not the human voice of the one speaking, but a sound artificially produced by this voice, that is heard by telephone. Therefore the Sacred Penitentiary (1 July 1884), to the question "whether in a case of extreme necessity absolution can be given by telephone," responded: nothing is to be answered.[624]

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240. 3. Absolutely. Absolution is ordinarily to be given absolutely; yet since absolution under a condition concerning the present or past is certainly valid, it is also licit from a just cause. The rule according to which the confessor ought to direct himself in this matter is this: absolution under condition can and must be given as often as, if it were not given, notable spiritual damage would threaten, and if it were given absolutely, nullity and irreverence of the sacrament would have to be feared. This rule holds the middle way between the too lax practice of those who judge that conditional absolution can be given from any light cause whatsoever, even when there is any kind of doubt concerning the sufficient disposition of the penitent burdened even with mortal sins, and the too rigid doctrine of those who hold that absolution under condition is not to be granted except in extreme necessity, namely in the highest danger of life.

a. In the following cases there are judged to be just and sufficiently grave causes for granting absolution under condition, of which some are on the part of the confessor, others on the part of the penitent. And so:

alpha. If the confessor positively and prudently doubts whether he has duly absolved the penitent.

beta. If the confessor doubts whether he has jurisdiction over this penitent or over these sins, but the penitent, with absolution denied, would have to remain for a long time in sin.

gamma. In doubt concerning the disposition of the penitent, if absolution cannot be deferred without grave inconvenience.

delta. In doubt concerning the sufficiency of the matter, which cannot be solved, as if the penitent is a child or half-witted. These can sometimes be absolved, lest they remain in mortal sin, if perhaps they have committed it.[625]

epsilon. In doubt whether the penitent who needs absolution and thinks himself absolved is morally present.

zeta. In doubt whether a dying man deprived of senses is capable of the sacrament.

eta. In doubt whether the sick person is living or dead.

b. Absolution in the same act of confession must be repeated not conditionally but absolutely as often as the penitent, after absolution has already been received, brings necessary matter of confession. Therefore if alpha. he confesses a new mortal sin; beta. if he confesses a new circumstance changing the species; gamma. if he confesses a notably greater number, he has not yet been directly absolved from this matter, which is necessary matter; wherefore the obligation lies on the confessor of absolving the penitent, lest he compel him again to confess a sin already declared in sacramental confession. But if the penitent, after absolution

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623. Gobat, *Exper. theol.*, tr. 7, n. 284 f.

624. C. A. Eschbach, *La confession par telephone* (Tournai: Castermann), *Examen* 1887; *Reponse* 1888.

625. Cf. St. Alphonsus, n. 432.

has already been received, accuses a new venial sin, a new absolution can be given, but need not be.[626] Whether in these cases new sorrow must be elicited will be said below.

Question Fourth.

On the remission of sins.[627]

Since the sacrament of penance was instituted for producing the remission of sins *ex opere operato*, it must be treated briefly, so that those things which below must be said concerning this sacrament may be declared more clearly. From these things at the same time the way is known by which the sinner can recover sanctifying grace lost through sin.

Article First.

On the condition required for remission.

241. What it is. 1. An adult man, for obtaining remission of sins, must dispose himself through penance, by which he withdraws from sin and returns to God.

a. From Sacred Scripture of both the Old and New Testament it is established that God grants to men remission of sins only under this condition, that they do penance for the sins committed: *But if the wicked man shall do penance for all his sins... he shall live life and shall not die.*[628] *Be penitent and be converted, that your sins may be blotted out.*[629] *Unless you shall do penance, you shall all likewise perish.*[630]

b. Therefore the Council of Trent teaches: "At every time this movement of contrition was necessary for obtaining pardon of sins,"[631] and the same council enumerates penance among the dispositions necessarily required for obtaining pardon of sins.[632]

c. Although God could absolutely remit sins to a sinful man without a previous act of penance, nevertheless in this order of providence it never happens, and it is altogether consonant with reason that God not reconcile the sinner, who by sin inflicted offense and injury upon him, unless he himself retracts the offense and injury inflicted, which is done through penance. Hence the noted words of St. Augustine: "He who made you without you does not justify you without you... he made you not knowing, he justifies you willing."[633]

alpha. The condition required for obtaining remission of sins is contained in diverse acts to be performed by the sinner with the help of grace. These acts are comprehended under the name of conversion, which from the Council of Trent is completed by these, as it were, steps. The sinner, moved by faith in God and by hope of obtaining pardon of sins through the mercy of God, conceives sorrow for sins committed, with the purpose of sinning no more and of beginning a new life through the observance of the commandments of God and of the Church.[634]

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626. Elbel-Bierbaum, III, pr. 9, nn. 33 and 45.

627. Azor, *Institutiones morales*, l. 4, c. 10; Suarez, *De poenitentia*, disp. 11; Lugo, *De poenitentia*, disp. 9; Sporer-Bierbaum, III, pr. 3, n. 33-47; Tepe, *Institutiones theol. mor. gener.* (Paris: Lethielleux, 1898), II, quaest. 3.

628. Ezech. 18:21.

629. Acts 3:19.

630. Luke 13:5. Cf. Ezech. 18:30; Judith 8:14.

631. Sess. 14, c. 4.

632. Sess. 6, c. 6.

633. Serm. 169, c. 11, n. 13.

634. Sess. 6, c. 6.

beta. The Council of Trent enumerates several acts which ought to precede remission of sins and justification: faith, fear, hope, love (the beginning of love), penance, purpose of a new life, will of receiving the sacrament.[635] Yet by these it does not intend to teach that all these acts are necessary in every justification, but it enumerates those which are ordinarily present in the conversion of a sinner. The absolutely necessary act, and that explicit, is penance or sorrow for sins committed, with the purpose of not sinning for the rest; faith, hope, and desire of receiving the sacrament are indeed themselves necessary, but only implicitly; but perfect charity is not necessary for obtaining the remission of sins through the sacrament, and in like manner servile fear is not required.

2. The penance which is said to be necessary for obtaining pardon of sins in the sacrament is formal penance, namely an act of detestation and sorrow formally elicited; but special penance is not required, for general penance suffices (215).

a. Although the opinion of theologians is not improbable which holds that virtual penance (which is contained in charity) suffices by way of disposition for obtaining remission of sins (even mortal sins), nevertheless it does not suffice by way of sacramental matter. But according to the probable opinion of several, acts of penance constitute the matter of this sacrament.

b. In charity, penance or detestation of sin is contained virtually and in desire: virtually, because he who loves God above all things, by this very fact has hatred of sin; in desire, because he who loves God wills the things that please God; but detestation of sin pleases God.

Article Second.

On the remission itself of sin.

242. Principles. In this order of providence no sin, not even a venial one, is remitted without sorrow for the sin committed; now it is asked whether one sin can be remitted without another, or whether all must be destroyed at the same time.

1. **One mortal sin cannot be remitted without another.**

Since mortal sin is remitted through the infusion of sanctifying grace, but sanctifying grace cannot exist at the same time with mortal sin, to which grace is absolutely repugnant, either all sins which are in the soul are remitted, or none.

2. **Mortal sin can be remitted without remission of venial sins.**

Since venial sins are not repugnant to sanctifying grace, and penance for mortal sins can be had without its also being had for venial sins, it can happen that, a mortal sin having been remitted through the infusion of grace, venial sins are not condoned, if penance does not also extend to venial sins. Thus if someone is sorry for his sins because he has deserved hell or has fallen away from eternal beatitude, the penance does not extend to venial sins.

3. **Venial sin cannot be remitted without remission of mortal sins.**

It is impossible that God be reconciled in a light matter to a man who still has grave enmities with him. Moreover, no venial sin is remitted unless the man has exhibited condign satisfaction to God; but one existing in mortal sin cannot satisfy condignly: for satisfaction is not condign unless it is pleasing and accepted by God; but the satisfaction of a sinful man, since he is an enemy of God, cannot be accepted by God.

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635. Sess. 6, c. 6.

4. **One venial sin can be remitted without another.**

Since penance for one can be had without its also being had for another, and individual venial sins are not repugnant to grace and divine friendship, nothing prevents one from being condoned while another is not remitted. Yet he who truly grieves for all can be freed from all at once, both through his own act of sorrow, if it is of sufficient perfection, and through a remedy instituted for this, e.g., through a sacrament.

Article Third.

On the remission of venial sin.

Since venial sin, equally with mortal sin, induces liability of guilt and liability of punishment, its remission must be explained as to guilt and as to punishment.

1. On remission as to guilt.

Venial sins are sometimes remitted *ex opere operantis* outside the sacraments, and sometimes *ex opere operato* through the sacraments.

243. Ex opere operantis. For venial sins to be remitted *ex opere operantis*, or by man's own acts, does not signify that the dispositions of the penitent man by their own force and efficacy effect their remission, since God alone can remit sins, even venial sins only; but it signifies that the disposition alone of the penitent suffices for obtaining their pardon from God without the intervention of another remedy instituted for this, e.g., a sacrament. Now since the Council of Trent teaches that venial sins can be expiated outside the sacrament of penance "by many other remedies,"[636] it is established that they are remitted also *ex opere operantis*, namely by acts of the penitent himself.

That God himself effects the remission of sins is clear: for sin is remitted by this, that God, putting aside anger and indignation, renders himself propitious and appeased to us, which God alone can do. Moreover, any sin whatsoever, even only venial, is remitted through an infusion of grace, which God alone can infuse.

244. Required disposition. 1. Venial sin is not remitted without an act of penance at least virtual, by which the sinner withdraws from affection for sin and retracts it. For God, speaking of sin in general, i.e., both mortal and venial, promises its remission only under the condition of penance (n. 241).

a. It is not required that penance be formal, but virtual suffices. Formal penance is an act by which we explicitly grieve for and detest the sin committed itself; virtual penance is called an act which is directly contrary to the sin committed. Therefore he elicits virtual penance: alpha. who asks pardon from God; beta. who proposes that he will sin no more; gamma. who exercises an act of the virtue contrary to the sin; delta. who exercises any good work whatsoever with this intention, that he obtain remission of sins.[637]

b. That virtual penance suffices for obtaining remission of venial sins is gathered from this, that penance is the necessary disposition for obtaining remission of sins; but for a necessary disposition nothing else is required except that the will retract affection for venial sin, which is obtained through virtual penance.

c. Therefore venial sins are not remitted through any good works whatsoever of a just man, but only through those in which there is contained at least virtual penance and displeasure for sin, or which are directly opposed to sins. Thus a work of temperance does not suffice for obtaining pardon of a lie, since it contains not even a virtual retraction of the lie. Indeed not every act of charity suffices for obtaining pardon of venial

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636. Sess. 14, c. 5.

637. Sporer-Bierbaum, III, pr. 3, n. 35.

sins, because not every act of charity excludes affection for venial sins. For someone can love God above all things in such a way that he prefers him to absolutely all things which displease him; but he can also love him above all things in such a way that he prefers him to all things which displease him gravely. The former act of charity excludes affection for all sins, both mortal and venial; the latter act of charity can stand with an affection even actual for venial sin.

2. Although attrition suffices for obtaining remission of venial sins outside the sacrament, nevertheless it must be conceived from a more perfect motive.

There is no doubt that perfect contrition which also extends to venial sins suffices for obtaining their remission; but it is not necessary for obtaining this effect outside the sacrament.

a. According to the doctrine of the Council of Trent, venial sins can be expiated outside the sacrament of penance by many other remedies;[638] but if contrition were necessary for obtaining pardon of venial sins, it would have to be called the one means to this end. And certainly the remission of a lighter offense will also be easier; therefore, since mortal sin is destroyed by perfect contrition alone, venial sin can also be destroyed by imperfect contrition.

b. Motives of attrition can be distinguished into two kinds: some more perfect, as if someone grieves for venial sins because they are against obedience and reverence due to God, because they diminish the honor and worship of God, because they delay union with God, etc.; others less perfect, which are taken from the baseness of sin insofar as sin defiles the soul, from fear of purgatory, from fear of temporal punishments. Now if the same attrition sufficed for obtaining pardon of venial sins in the sacrament and outside the sacrament, the sacrament of penance would never destroy venial guilt: for before reception of the sacrament they would already have been remitted through attrition. But that the sacrament of penance never remits venial sins is contrary to the mind of Christ, who instituted penance also for destroying venial sins, and contrary to the sense and practice of the faithful, who confess frequently for this reason, because they are persuaded that through the sacrament of penance they obtain pardon of venial sins.[639]

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245. Ex opere operato. a. In order that venial sins may be said to be remitted *ex opere operato*, three things are required: first, that that through which venial sins are said to be remitted moves God to producing the effect by force of institution, i.e., that the sign itself or instrument instituted for this has the power of producing the effect, namely the remission of venial sins; then, that the effect to producing which God is moved, with the necessary disposition supposed, is immediately the remission itself of venial sins, not the conferral of a supernatural help by which man may dispose himself to obtaining remission; third finally, that sins are destroyed by force of a remedy instituted by God without that disposition which by itself alone suffices for destroying venial sins.

b. The sacraments have the power of remitting venial sins *ex opere operato*. This is certain concerning four sacraments: baptism, penance, extreme unction, and the Eucharist. For baptism and penance were instituted primarily for destroying sins, whether mortal or venial; extreme unction likewise was instituted secondarily for remitting sins; finally, concerning the Eucharist there can scarcely be doubt, since the Council of Trent says: "Our Savior wished this sacrament to be received as an antidote by which we may be freed from daily faults."[640] As to confirmation, order, and matrimony, the matter is less certain; nevertheless several theologians affirm it. For although they were instituted by Christ for producing peculiar effects, nevertheless

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638. Sess. 14, c. 5.

639. Cf. Lugo, *De poenit.*, disp. 9, n. 29.

640. Sess. 13, c. 3.

they agree with the other sacraments in this, that they are remedies for sins; indeed sometimes first grace is also conferred through them and mortal sins are destroyed.[641]

c. Through the sacraments venial sins are remitted without that disposition which by itself alone would suffice for obtaining their pardon. Therefore, in order that venial sins may be remitted through the sacraments, no other disposition is required besides attrition for mortal sins (in the sacraments of the dead) or sanctifying grace (in the sacraments of the living), than the intention and will of receiving the sacrament as a remedy for one's sins without actual affection for any venial sin. For in this intention there is contained a virtual displeasure which is the necessary disposition for obtaining pardon of venial sins through the sacraments.[642]

Whether venial sins are destroyed through sacramentals, and whether through the sacrifice of the Mass, is said in their places, nn. 47 and 170.

Section 2. On Remission as to Punishment.

246. Remission and its modes. 1. While guilt has not yet been remitted, punishment cannot be remitted: for guilt is the cause on account of which a man is worthy of punishment; but, while the cause has not yet been removed, the effect cannot be taken away.

2. When mortal guilt has been remitted, by that very fact eternal punishment is remitted; but when venial guilt has been remitted, by that very fact temporal punishment is not remitted.

The reason for the first: mortal sin is remitted by the infusion of sanctifying grace, by which a right to eternal life is conferred; but in the same man there cannot at once be a right to eternal life and the necessity of undergoing eternal punishment; therefore, when guilt is remitted, eternal punishment is necessarily remitted, or rather eternal punishment is changed into temporal punishment.

By the disposition of the divine will, eternal punishment in this sacrament is not wholly blotted out as in baptism, but is changed into temporal punishment, a thing which will be explained below.

The reason for the second: from the nature of the thing nothing prevents punishment from remaining to be paid after venial guilt has been remitted; but from faith we know that God has so established it, that when mortal guilt is remitted there remains temporal punishment to be paid; from this, moreover, we conclude that when venial guilt is remitted not even all temporal punishment is remitted.[643]

The temporal punishment owed for remitted mortal sin is remitted together with the guilt itself, either wholly or in some greater or lesser part, according to the perfection of the disposition existing in the penitent. Likewise the punishment owed for remitted venial sins is blotted out together with the liability of guilt either wholly or in part according to the penitent's disposition.

3. Temporal punishment can be compensated or paid in three ways:

a. By voluntary satisfaction in this life, whether it is sacramental or extra-sacramental, through works of the virtues, among which the offering and hearing of the holy sacrifice is eminent.

b. By satispassion in purgatory in the other life.

c. By indulgences, by which God accepts the payment made by the Church from the satisfactions of Christ and the saints.

Notes

641. Cf. Lugo, *De poenit.*, disp. 9, n. 53.

642. Cf. Sporer, l.c., n. 42 f.; St. Alphonsus, l. 6, n. 270.

643. Cf. Council of Trent, sess. 6, can. 30.

Chapter II.

On the Subject of Penance.

The subject capable of the sacrament of penance is every and only man who after baptism has fallen into sin, whether mortal or venial. For receiving this sacrament validly and fruitfully there are required the acts of the penitent, namely contrition, confession, and satisfaction. Now these acts, which together constitute both the matter of the sacrament and the disposition of the subject, must be treated in this chapter.

Question I.

On Contrition.

Article I.

On the Nature of Contrition.

247. Definition. Contrition, taken generically, is defined by the Council of Trent as sorrow of soul and detestation concerning sin committed, with the purpose of not sinning henceforth.[644]

Contrition essentially includes both acts, both sorrow and detestation. Sorrow indeed is the act by which the will is saddened and afflicted concerning a present evil, namely concerning sin; but detestation is the act by which it turns itself away from an evil, namely from sin, hates and condemns it, and, if it could be done, would destroy it, that is, it would will the sin not to have been committed. Moreover, in a wayfarer one of these acts is never separated from the other: for he who hates a sin committed also grieves over it, and he who grieves over a sin committed necessarily also detests it; but from the nature of the acts it is clear that sorrow supposes detestation, from which sorrow necessarily follows (n. 215). With the purpose: from this act of detestation and sorrow there follows another act, the purpose of amendment, which purpose of not sinning any more, at least implicit, belongs to the essence of contrition together with detestation and sorrow. Therefore three acts are essentially contained in contrition: sorrow, detestation, and purpose; the former acts regard the past, but the purpose is concerned with the future.[645]

Division. A twofold contrition is distinguished, one perfect, which is simply called contrition, the other imperfect, which by its proper name is called attrition. The former is conceived from the motive of charity and justifies the sinner outside the sacrament; the latter is conceived from another, inferior motive and does not justify the sinner except with the sacrament of baptism or of penance. Therefore contrition and attrition differ from one another in a twofold way: in motive and in effect, and under the same twofold respect contrition is more perfect than attrition.

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248. On contrition. 1. **Definition.** Perfect contrition is defined: sorrow of soul and detestation of sin, because sin offends God loved above all things. Therefore perfect contrition contains in itself, at least virtually and implicitly, perfect charity. Hence the Council of Trent says that contrition is perfected by charity.[646]

A formal act of charity is not necessary for having perfect contrition: for the sinner considers sin as repugnant to the infinite goodness of God, and from this motive detests it; nevertheless perfect contrition obtains greater excellence if before or after contrition a formal act of charity is elicited. But charity is contained virtually in contrition: for the contrite man detests sin because it is repugnant to God, the highest good, lovable and to be

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644. Sess. 14, c. 4.

645. Sporer-Bierbaum III, pr. 3, n. 58 ff.

646. Cf. sess. 14, c. 4.

loved above all things; but by that very fact he virtually and implicitly, indeed very often also formally and explicitly, loves the highest goodness of God.

2. **Motive.** Perfect contrition must proceed from the motive of charity; but the motive of charity is constituted both by the infinite goodness of God, or the complex of all the infinite perfections of God, and also by the several perfections (whether absolute or relative), which, since they are infinite, are not distinguished from the essence of God, but are the very essence of God conceived under some particular aspect. For God is supremely lovable not only because of the infinite fullness of all perfections, but also because of any other perfection, for example power, wisdom, justice, benignity, mercy, etc.

Therefore he who detests sin because it is against the infinite goodness of God to be loved above all things, or because it is against the justice, benignity, mercy, etc., of God, likewise to be loved above all things, elicits perfect contrition.[647]

Note. Although this formula used by the faithful, especially in Germany: *I grieve from my whole heart, that I have so gravely offended the Lord my God*, in the rigor of its terms does not express sorrow from the motive of charity, namely on account of the highest goodness of God, but from the motive of penance, namely on account of the offense or injury brought upon God; nevertheless those who seriously and from the heart utter these words usually elicit true contrition, because those who utter these words piously and seriously apprehend the offense of God not so much as an injury inflicted upon God, but as bitterness and displeasure brought by their sins upon God, their best Father, and from this motive they grieve concerning their sins, which is the motive of charity.[648]

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249. Effects. 1. Perfect contrition justifies a man outside the sacrament, which is clear from Sacred Scripture both of the New and of the Old Testament:

a. *If anyone loves me, he will keep my word, and my Father will love him, and we will come to him and make our dwelling with him.*[649] Charity is everywhere so presented in Sacred Letters that it removes sin: *Many sins are forgiven her, because she has loved much.*[650] What is true of charity is true also of contrition, since it contains charity at least virtually; but charity, according to John, justifies: for he who loves God above all things is loved in return by God, and God dwells stably in him; but these things are not compatible with the presence of sin.[651]

b. *The impiety of the impious shall not harm him, on whatever day he has turned from his impiety.*[652] *When thou shalt seek the Lord thy God, thou shalt find him, if yet thou shalt seek him with thy whole heart.*[653] The conversion spoken of in the cited texts is perfect contrition, which alone can be called conversion from the whole heart; and remission of sins and justification follow upon conversion.

c. Therefore the Council of Trent teaches that through contrition perfected by charity a man is reconciled to God before he receives the sacrament of penance.[654] Nevertheless contrition does not produce justification

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647. Cf. *De praeceptis*, n. 55.

648. Sporer-Bierbaum III, tract. 9, n. 131.

649. John 14, 23.

650. Luke 7, 47.

651. Cf. *De praeceptis*, n. 57.

652. Ezek. 33, 12.

653. Deut. 4, 29.

654. Sess. 14, c. 4.

as its proper effect, but is the final disposition required by God; when this has been placed, sanctifying grace is infused.

2. Perfect contrition in the new law does not justify without the desire of the sacrament: for the act of perfect contrition, which formerly by itself could justify the impious man, after the sacrament was instituted, by the divine will does not blot out sins except in order to the keys of the Church; therefore the obligation remains of subjecting the same sins, if this can be done, to the keys through sacramental confession. And indeed the Council of Trent teaches that reconciliation must not be ascribed to contrition without the desire of the sacrament, which is included in it.[655] It is sufficient, however, that this desire or purpose of confessing be implicit in the act of contrition; it is not required that it be explicit.

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250. On attrition. 1. **Definition.** Imperfect contrition, or attrition, is sorrow and detestation of sin proceeding not from the motive of charity, but from another inferior motive, yet one having relation to God: for without respect to God true attrition, which is conversion to God, cannot be conceived; and for this reason attrition differs from any other detestation of sin insufficient for justification, such as detestation of sin insofar as it harms reputation or health. Therefore every motive of detesting sin on account of God, which is not the proper motive of charity, is a motive of attrition.

2. **Motives of attrition.** By the Council of Trent the motives of attrition are reduced to these three: to the turpitude of sin and to the fear of hell and of punishments; each of these suffices for conceiving attrition, as it is required in the sacrament of penance.[656]

a. By the turpitude of sin the Council of Trent does not understand that by which sin is opposed to rational nature, but that by which sin is opposed to God commanding. But any sin contains in itself manifold turpitude or malice: disobedience, ingratitude, contumely, contempt, etc.; moreover any mortal sin produces most disastrous effects in the sinner himself: it deprives the soul of sanctifying grace and therefore of supernatural life, defiles it before God, and makes it the slave of Satan and hateful to God. But all these motives are comprehended under the name of the turpitude of sin, any one of which is sufficient for conceiving attrition.

b. Fear of hell is fear of supernatural and eternal punishments, which are inflicted by God on account of sin, namely the loss of merits, privation of beatitude, and the punishment of hell.

c. Fear of punishments: by this are understood temporal punishments, whether of the other life or of this life, not insofar as these follow naturally from sin, but insofar as they are inflicted by God offended by sin and as the just avenger of sinners.

251. Effects. Although attrition cannot justify outside the sacrament, nevertheless it sufficiently disposes for obtaining justification in the sacrament. And indeed the attrite man recedes from creatures and now tends toward God, to whom he desires to be reconciled; but for obtaining justification through sacramental absolution this disposition suffices. This is the clear doctrine of the Council of Trent,[657] so that the opposite opinion must be called improbable, but this one certain; hence not even in the article of death is it necessary that he who has received the sacrament of penance with attrition elicit an act of contrition.[658]

Notes

655. Sess. 14, c. 4.

656. Cf. sess. 14, c. 4.

657. Sess. 14, c. 4.

658. Cf. Pesch VII, n. 159 ff.

a. From the doctrine of the Council of Trent it is certain that attrition disposes sufficiently for obtaining justification, whether through baptism or through absolution. Since the same council nevertheless says: those who dispose themselves for justification begin to love God,[659] the question is asked, what is that initial love which is required as a disposition for justification. That initial love, first of all, is not required as the motive of sorrow, but as an act accompanying sorrow, which is always contained in due disposition for justification, whether in hope of pardon, or in purpose, or in the sorrow itself.[660]

In the sorrow: for he who grieves concerning his sins wishes to render God propitious to himself; but by this very fact he already approaches charity. In the purpose: for he who grieves concerning his sins wishes to observe all the precepts, in which is contained also the precept of charity toward God; therefore he has charity toward God in purpose and in desire. In hope: for he who grieves concerning his sins hopes for remission of sins unto obtaining eternal life; but eternal life is the most perfect friendship with God; therefore he has charity as the final end toward which he tends.

b. Since attrition with the sacrament justifies the sinner, that axiom has prevailed: through the sacrament the penitent is made contrite from attrite. This axiom must not be understood formally, as if the act of attrition through absolution became an act of contrition, or the attrite person by force of absolution always necessarily elicited contrition; but effectively, insofar as attrition with the sacrament produces the same effect which contrition alone without the sacrament produces, since it reconciles the sinner to God and restores friendship with God.

Article II.

On the Necessity of Contrition.

252. Whether it is necessary and when. Penance is simply necessary for salvation to a man who has committed grave sin (n. 241); but it alone does not suffice, unless either charity or the sacrament of penance is added. In this place the necessity of perfect contrition must be considered insofar as it is the means of reconciling oneself with God and of obtaining the grace of justification.

1. For a sinner, perfect contrition is necessary by necessity of means and of precept, both natural and divine positive, for obtaining salvation, unless there is an occasion of receiving the sacrament.[661] a. The effect of contrition, namely justification, is simply necessary for salvation for those who are constituted in mortal sin; therefore by the same necessity the means for obtaining the same effect is also necessary. b. The natural law obliges one to use the means necessary for salvation; but in Sacred Scripture penance is expressly commanded many times (n. 241). Nevertheless the precept of perfect contrition obliges only in defect of the sacrament: for in the new law perfect contrition is no longer absolutely necessary for obtaining justification, but attrition with the sacrament of baptism or of penance suffices, and this by the will of Christ the Lord, who by instituting the sacraments of the dead gave men a new means of obtaining eternal salvation. Therefore he who either intends to be justified through the sacrament of baptism or penance, or has already been justified, is not bound by the precept of contrition.

2. Perfect contrition is of itself necessary at death: for if contrition is a means necessary for salvation, it must certainly be used at that time after which it can no longer be used.

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659. Sess. 6, c. 6.

660. Cf. Lehmkuhl II, n. 289 (n. 391).

661. Council of Trent, sess. 14, c. 4.

Therefore he who is in certain or probable danger of death and does not have the opportunity of receiving the sacrament of penance is bound to elicit perfect contrition; yet if he has received the sacrament with attrition, he is not further bound to elicit an act of perfect contrition, since he is now certainly justified. Nevertheless it is expedient that the dying be stirred up, as far as possible, to eliciting acts of perfect charity and contrition.[662]

3. Perfect contrition is of itself necessary when the precept of reconciling oneself with God urges and there is no occasion of instituting confession (n. 217).

4. Perfect contrition is accidentally necessary in these cases: a. if a consecrated minister existing in the state of mortal sin must solemnly administer and confect a sacrament, and there is no supply of a confessor; b. if someone existing in mortal sin must receive a sacrament of the living and either cannot or will not confess; c. if someone existing in mortal sin suffers grave temptations, which he thinks he cannot overcome unless, having been converted to God, he obtains greater helps of grace: for he must employ the means necessary for avoiding sin.

Article III.

On the Qualities of Contrition.

253. The qualities of contrition in this place, with scholastic controversies set aside, must be weighed in such a way that it may be clear what is required for certainly valid absolution. Therefore, in order that contrition, whether perfect or imperfect, may suffice for receiving the sacrament validly, it must be true, supernatural, universal, above all things.

1. **True and formal,** i.e., an act must necessarily be elicited by which the will grieves concerning sin from a sufficient motive and detests it; since contrition at least constitutes the necessary disposition of the sacrament of penance, and therefore must be truly present; moreover, contrition probably constitutes an essential part of the sacrament, wherefore it must be formally present.

a. Because contrition must be true, a mere recitation of the formula of contrition does not suffice unless at the same time affections of the will are present; nor does sorrow merely thought suffice, even if out of invincible ignorance someone thinks that he has sorrow; nor does the desire of sorrow and of absolution suffice; nor finally does sorrow concerning punishment or another evil effect which has followed from sin suffice: but the sorrow itself is required, and that concerning sin by which God is offended. And because contrition must be formal, merely virtual sorrow implicitly contained in another act, e.g., in an act of perfect charity, does not suffice: for although an act of perfect charity has the power of blotting out mortal sins outside the sacrament, nevertheless it does not suffice for obtaining the remission of sins by force of the sacrament, but the proximate matter of the sacrament is required, which is the act of sorrow and detestation concerning committed sins, whether these are mortal or venial.

b. Among the older theologians, especially before the Council of Trent, several thought that supposed contrition, by which the penitent in good faith thinks that he is contrite, sufficed for receiving valid absolution.[663] But this opinion lacks all probability. Supposed contrition indeed preserves the penitent from the sin of sacrilege, but it cannot make absolution valid.[664] Some more recent theologians also (Lugo, Ballerini)

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662. Cf. W. Lerch, *Das letzte Mittel* (Warnsdorf, Opitz); J. von den Driesch, *Die vollkommene Reue, ein goldener Himmelsschlussel* (Koln, Bachem), who discuss the nature of contrition and the way of eliciting it in a manner accommodated to the capacity of the common people.

663. Cf. Ballerini-Palmieri V, n. 33 ff.

664. Ibid., n. 46 note.

maintain that virtual contrition suffices for obtaining valid absolution;[665] but since this opinion does not exceed probability, it cannot be brought into practice without danger of frustrating the sacrament.

c. For practice, however, this must be noted: those who are of timorous conscience and desire to have sorrow, or grieve that they do not grieve, provided they try to elicit it, usually have true sorrow, even if they do not perceive it. Therefore, since it is not so much the sorrow itself but rather the quality of the sorrow, and that quality not necessary for the sacrament, which is lacking, namely intense and sensible sorrow, absolution is not to be denied to those who desire to have sorrow, or say that they grieve because they do not have sorrow, provided they seriously wish to abstain from mortal sins and to fulfill at least grave obligations.

254. 2. **Supernatural,** both by reason of principle and by reason of motive; for sorrow is the disposition necessarily required by the will of God for obtaining justification, which, since it is wholly supernatural, the disposition required for it also must be supernatural.

a. **By reason of principle:** i.e., contrition must be elicited with the supernatural help of God, namely with actual grace moving and assisting unto eliciting the act of sorrow and detestation: for merely natural sorrow conceived by the powers of nature alone does not suffice in the sacrament of penance.

b. **By reason of motive:** i.e., sorrow must be elicited from a supernatural motive, i.e., from a motive which has relation to God, as the motives enumerated by the Council of Trent have it, not from a merely natural motive, such as sin would be insofar as it is opposed to rational nature, brings detriment to reputation, health, etc. There are those who for supernatural contrition require a motive supernatural in this sense, that it must be known from revelation and apprehended through the light of faith; now, although an act of truly supernatural contrition does not require a motive supernatural in this sense, nevertheless in reality a penitent will scarcely ever lack contrition truly supernatural also by reason of motive, because the motives enumerated by the Council of Trent are drawn from faith and are apprehended by penitents by the light of faith.

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255. 3. **Universal,** which either explicitly or implicitly extends itself at least to all mortal sins not yet remitted, even if perhaps they do not occur to memory: for no sin is remitted without penance; but one sin cannot be remitted without another; therefore sorrow must extend itself at least to all mortal sins not yet remitted. But it is not necessary that it be universal explicitly; it suffices that it be universal implicitly, i.e., that it be elicited from a universal motive. Nor is it necessary that it also extend to venial sins not yet remitted, because mortal sins can be remitted without venial sins.

a. **Explicitly:** it can happen in a twofold way that sorrow explicitly extends itself to all mortal sins: first, if the penitent elicits as many distinct sorrows concerning the several sins; then, if by one act of sorrow he repents of all and each of those which he distinctly remembers and actually recalls to memory. Although for obtaining justification, whether in the sacrament or outside the sacrament, it is not required that sorrow explicitly extend itself to all mortal sins, nevertheless of itself it is most useful and very much to be recommended that the penitent call to mind the several sins and detest all and each.

b. **Implicitly:** again, it can happen in a twofold way that sorrow implicitly extends itself to all mortal sins: first, if the penitent knows himself to be in the state of sin, as guilty of several mortal sins, and by an act of sorrow conceived from a universal motive grieves concerning all the things which he thus knows confusedly; then, if he thinks expressly and in species of only one sin and grieves concerning it from a universal motive common to all mortal sins. For by the very fact that from a universal motive he detests

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665. Ibid., n. 52 ff.

one sin, he implicitly and necessarily also detests all other sins committed by himself which deserve to be detested on account of the same motive, even though he does not remember them.[666]

256. 4. **Appreciatively highest or above all things.** Therefore the penitent must esteem mortal sin as a greater evil and for this reason detest it more than any other evil, and must be prepared in soul rather to undergo any other evil whatever than again to commit sin. For sin is the highest evil, since it is contrary to the highest and infinite good. Moreover true contrition must exclude every will of sinning;[667] but unless the penitent detests sin above all things, every will of sinning is not excluded, since he is so disposed that for the sake of avoiding some evil he would wish to commit sin.

a. Nevertheless it is not necessary, indeed ordinarily it is to be dissuaded, that explicit comparisons be made between sin and some particular evil to be undergone (rather to be burned alive, rather to sustain the torments of the martyrs, etc., than to sin again). And if comparisons of this kind either occur spontaneously or are suggested by the tempter, nothing is to be chosen, but all are to be rejected with this pious and firm will: I do not wish to sin any more, and aided by divine grace I hope that I will not sin.

b. It is not necessary that contrition be intensively highest. Contrition would be intensively highest if the very act of the will by which we grieve concerning sin committed were greater and more vehement than the act by which we grieve concerning any other evil, however grave. But neither intensively highest sorrow nor sorrow of a certain and determined degree of intensity is required; rather true and internal sorrow in any degree, even remiss, suffices: for where the essence of contrition is had, a sufficient disposition for the remission of any sin is present; but the essence of contrition is had in any degree of true contrition.

c. From the same reason it is deduced that sufficient contrition does not demand any delay of time: for true contrition can be elicited by the will in an instant; nevertheless it is greatly to be recommended that some time be spent in eliciting sorrow, by which the sorrow may be more certain and more intense.

d. Finally, for contrition which suffices for justification, it is not required that sorrow be sensible, namely that it overflow into the sensitive appetite and into sensible acts, into tender affections of the heart, sighs, and tears; but it suffices that it be spiritual, by which namely the will from a sufficient motive grieves concerning and detests the sin committed. For sensible sorrow of this kind is not in our power, nor does it belong to the perfection of contrition: for it can happen that without sensible sorrow someone grieves more vehemently than another who by his nature is prone to tender affections and tears. Nevertheless signs of this kind, sensible ones, are very often indications of great and vehement sorrow in those who truly and sincerely grieve.

e. By these things it is not denied that contrition must be manifested outwardly by some sensible sign: for according to the probable opinion of many, contrition is an essential part of the sacrament; but the parts of a sacrament must necessarily be sensible. Moreover it becomes sensible through the sorrowful confession of sins, through the devout petition and expectation of absolution, and through other external signs.

Particular Questions. Having explained the qualities of contrition, certain questions which pertain to this matter must be proposed and solved. In treating these questions one must attend to the probable doctrine, namely that the acts of the penitent are essential parts and the proximate matter of the sacrament, lest the sacrament be exposed to danger of nullity.

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666. Sporer-Bierbaum III, pr. 3, n. 88 ff.

667. Council of Trent, sess. 14, c. 4.

257. When sorrow must be elicited. a. It must necessarily be elicited before sacramental absolution: for no one can be validly absolved who is not rightly disposed; but he who does not grieve concerning sins committed is not rightly disposed.

b. Of itself it is not required that it be elicited before confession, although this is greatly to be recommended; but it suffices that it be elicited after confession, whether because the penitent himself only after confession disposes himself to sorrow, or because after confession he is at last disposed by the confessor to detesting sin.

Confession performed without preceding sorrow can indeed seem insufficient for receiving valid absolution, both because it is a simple narration of sins, not a sacramental accusation, and because sorrow which follows confession is manifested by no sensible sign: for ordinarily sorrow becomes sensible only through confession. Nevertheless there is no doubt that in him who truly grieves after confession but before absolution, both are found: sacramental confession and sorrow outwardly manifested. For by the very fact that the penitent has confessed with the intention of obtaining absolution, the confession is sacramental; but sorrow becomes sensible because the penitent, expecting absolution, as it were continues the accusation informed by subsequent sorrow and orders it to absolution: for the confession, the petition for absolution, and the expectation of it morally pertain to confession and constitute and complete it.

c. It is not to be elicited so long before confession that at the time of confession it no longer morally endures. But sorrow is judged to endure morally as long as it has not been revoked and endures virtually, i.e., in some effect, e.g., in the will to confess, in flight from occasions, in more frequent prayers, etc.

1. How long elicited sorrow endures virtually cannot be accurately determined: for intense sorrow and sorrow ordered to confession endure longer than remiss sorrow and sorrow not ordered to confession. Without doubt it can endure for three or four hours, indeed for a whole day or a whole night, and in some circumstances (where namely confession is instituted not from mere devotion or from obligation, but from sorrow conceived concerning sins) even for several days. Moreover, in the opinion of those who affirm that sorrow is only a necessary disposition, it suffices that sorrow endure habitually; but it endures habitually as long as it is not revoked. Sorrow elicited before confession is judged to be revoked through a fall into sin; indeed through mortal sin every sorrow is revoked, but through venial sin at least sorrow concerning that very sin which is committed is revoked.

Therefore he who, for example, prepared himself for confession in the morning, can validly and licitly confess in the evening without a new act of sorrow: for sorrow elicited in the morning in order to confession and not revoked is judged still to endure in the evening, so that by force of that sorrow the confession is sorrowful.

2. Two things must be noted here for practice. First indeed, it must be inculcated to the faithful that they elicit sorrow before confession: for it could very easily happen that that little delay, while absolution is being given, would not suffice for conceiving contrition, and therefore absolution would be frustrated of its effect. Then, it is by no means necessary that confessors induce a penitent whom they could finally move in the confessional to due disposition, so that he outwardly manifest sorrow and refer it explicitly to the sins already set forth, by saying, for example, *I grieve concerning my sins already set forth*, or *I grieve concerning my sins, concerning which I accuse myself again*; rather they can absolve him without a new accusation.

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258. Whether elicited sorrow must be with the intention of confessing. The negative opinion seems to be true and morally certain: for it suffices that the confession be sorrowful; but for this it is not required that the sorrow be elicited from the intention of confessing, provided that afterward, when confession is instituted, the sorrow still morally endures. The reason for this matter is taken from Trent, which, when it accurately describes the contrition required for the sacrament, nowhere demands that sorrow be elicited from

the intention of confessing.[668]

Therefore he who, thinking nothing of confession, has elicited contrition, can approach the sacrament without new sorrow, provided the contrition morally endures. For the explanation of this matter it must be noted that there were authors who, for valid absolution, required not only a moral union between sorrow and confession, but further demanded that sorrow be elicited in order to absolution and be referred to the sacrament through the intention of the penitent: for, they say, the parts of the sacrament (matter and form) must be ordered to the sacrament by intention. But, with the opinion admitted by force of which the acts of the penitent are parts of the sacrament, only those parts which are placed by the minister must be made from the intention of confecting the sacrament. Therefore, since the opinion of those authors lacks every foundation, it does not seem to be probable.[669]

259. Whether one act of sorrow suffices for several absolutions. Nothing prevents one act of sorrow from sufficing for repeated absolution, whether this constitutes a new sacramental judgment or only the complement of the prior absolution, provided the sorrow was elicited previously as universal and endures virtually, because nothing prevents the same sorrow from sufficing for two absolutions.[670]

a. Therefore if the penitent later, for example on the following day, again subjects to the keys sins already rightly accused and remitted, yesterday's sorrow suffices so that valid absolution can again be granted, provided yesterday's universal sorrow still virtually perseveres. Nevertheless renewal is to be recommended.

b. If the penitent immediately or a little after absolution confesses a sin omitted through forgetfulness, it is indeed advisable to renew sorrow; nevertheless it is not necessary, but without new sorrow absolution can be given validly and licitly. For the sorrow previously elicited, as is supposed, was universal and also extended itself to this sin, nor was it revoked. With this opinion the practice of confessors also agrees, who in a case of this kind are not accustomed to warn the penitent about renewing sorrow.[671]

c. If the dying person, who on account of danger of death was absolved after one or another sin at least had been heard, afterward completes the confession, it is not necessary that he renew sorrow before the second absolution, although in these cases it is advisable.

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260. Whether the sacrament of penance can be formless. If someone approaches the sacrament of penance in good faith thinking that he has sufficient attrition, which in reality he does not have, he cannot perceive the effect of the sacrament, because sorrow is absolutely necessary for obtaining remission of sins. Indeed the sacrament not only lacks its effect, but is also invalid: for the act of contrition, at least as disposition, is altogether required not only for receiving the sacrament fruitfully, but also for receiving it validly.[672] Therefore in this case the sacrament of penance cannot be formless. Among the cases about which question can be raised, the principal one is this: if the sorrow of the penitent in good faith is not universal, as if someone guilty of two sins, wholly forgetful of one, grieves concerning the other from a particular motive. Whether in this case the sacrament is valid but formless, or invalid, is a question disputed among scholastics.

The solution of the question depends upon this: whether the sacrament of penance is valid when sorrow concerning sins is not universal but only particular. Therefore the patrons of the opinion denying that there can be a valid but formless sacrament appeal to the positive will of Christ so instituting this sacrament

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668. Cf. sess. 14, c. 4.

669. Cf. Lugo, disp. 14, n. 37 ff.; Suarez, disp. 20, sect. 4, n. 29; Ballerini-Palmieri V, n. 76 ff.

670. Cf. Lugo, disp. 14, n. 24 ff.; Tamburini, *Methodus expeditae confess.*, l. 1, c. 2, n. 8; Ballerini-Palmieri V, n. 81 ff.

671. Dicastillo, tr. 8, disp. 6, n. 165.

672. Cf. Sporer-Bierbaum III, pr. 3, n. 257 ff.; Ballerini-Palmieri V, n. 46 note.

that universal sorrow concerning all mortal sins absolutely should be required for its validity, not only for perceiving its effect. They gather this will of Christ from the Council of Trent, which makes no distinction between the sorrow which is required for a valid sacrament and the sorrow which is required for a fruitful sacrament. But those who affirm that the sacrament can be formless think that in this case the sacrament is valid, since all things are present which are required for the validity of the sacrament: sorrowful confession with absolution; but, they say, that sorrow must necessarily be universal cannot be demonstrated. Nevertheless in this case, for valid absolution the penitent must elicit a universal purpose explicitly: for in sorrow which proceeds from a particular motive there is not contained a universal purpose. Nor should it be said that in the universal purpose of avoiding future sins there is necessarily included detestation of past sins; and therefore sorrow is always universal provided the purpose is universal: for in a universal purpose the particular sorrow is not contained except implicitly; but there can be a universal purpose and particular sorrow.[673]

Note. This controversy has no practical importance. First, indeed, penitents very rarely elicit contrition from a merely particular motive; then still more rarely do they add a universal purpose if they have ever elicited contrition from a particular motive. Therefore, whatever is theoretically disputed, in practice the sacrament of penance will scarcely ever be formless: for either universal contrition is elicited, and then the sacrament is valid and formed; or particular contrition is elicited, and then the sacrament is invalid from defect of a universal purpose.

Article IV.

On Purpose.

261. Definition and necessity. 1. Purpose is the will of not sinning henceforth. It can be twofold: formal and explicit, which is an act distinct from sorrow, by which the penitent determines not to sin any more; virtual and implicit, which is contained in the act of sorrow.

2. For obtaining remission of sins, whether in the sacrament or outside the sacrament, the purpose of not sinning henceforth is required: for purpose belongs equally with contrition to the disposition which is essentially required for obtaining justification.[674]

262. Qualities of purpose are the qualities which purpose must have so that absolution may be valid. Purpose must be:

1. **Firm,** that is, the penitent must be so disposed that in reality he wishes to do what he proposes, namely to avoid sins and rather to suffer any evil or lose any good than to offend God gravely; but firmness of purpose does not demand that the purpose afterward actually obtain its effect. For purpose must be firm affectively or as to the present will, but it is not necessary that it be firm effectively or as to the future event, i.e., the will of the penitent must be such that, if the occasion of sinning were offered now, he would certainly not embrace it but immediately reject it, whatever he may be about to do afterward.

a. Therefore a future fall into the same sin is not of itself contrary to firm purpose: for someone can in the morning seriously wish to abstain from sin and in the evening commit the same sin. If nevertheless the penitent, immediately after confession, falls back into the same sin, he gives suspicion that the purpose was not sufficiently firm: for he who seriously establishes something within himself is not immediately forgetful of his purpose.

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673. Suarez contends that in this case the sacrament of penance is formless (*de poenit.*, disp. 20, sect. 5), whose opinion Lugo also defends (disp. 14, sect. 6), who (n. 88) says: "I do not see an argument by which it can efficaciously be rejected."

674. Council of Trent, sess. 14, c. 4.

b. When penitents sometimes say that they greatly fear, indeed are persuaded that they are going to relapse, it must be noted that there is no doubt about this, namely what they will do afterward; nor is fear, lest they fall again, or persuasion that they think they are going to relapse, or any prevision of future sin of itself contrary to firmness of purpose: for these are acts of the intellect, but purpose is in the will; wherefore a true and firm purpose can stand together with these acts. Therefore, as often as a penitent, on account of his known inconstancy or on account of inveterate habit, judges that he is not going to avoid sin, he is not immediately to be judged as lacking due purpose, but the question must be put to him whether he again wishes to sin; if he denies this, he must be warned to trust in the grace of God, to whom what he cannot furnish by the powers of his nature is not impossible.

2. **Universal,** which extends itself to all mortal sins to be avoided in the future. For this difference exists between sorrow and purpose: sorrow is universal when it extends itself to all sins committed and not yet remitted; on the contrary, purpose is not universal if it does not extend itself to all and each mortal sins possible, even never committed. Hence purpose must always proceed from a universal motive.

a. Nevertheless it is not necessary, indeed frequently it is not advisable, to conceive a special purpose of avoiding the several sins; but a purpose in general, conceived of not sinning any more mortally, suffices. Nevertheless concerning some matters an explicit and special purpose must be required by the confessor, such as concerning the restitution of another's property, the removal of scandal, remission of an offense, avoidance of a proximate occasion, etc.

b. In sorrow conceived from a universal motive there is implicitly contained also a universal purpose, which extends itself to all sins both committed and not committed, to be avoided in the future, because the same motive has force concerning all and each sin.

3. **Efficacious,** namely one which truly moves the will to employing the means which are necessary for avoiding sins in the future, especially to fleeing proximate occasions, to repairing harms inflicted, to pardoning injuries, etc.: for he who absolutely wills the end must also be moved toward the necessary means; hence it is a sign of actual affection for sin if someone is unwilling to leave an occasion, to restore, to remit an offense, etc.

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263. Whether implicit purpose suffices. Virtual purpose, which is always included in true contrition, suffices for obtaining valid absolution, provided the sorrow in which it is implicitly contained proceeds from a universal motive. But if the motive of sorrow were particular, an explicit purpose would plainly be required.

1. From the common opinion of all, virtual purpose can suffice accidentally, namely when the penitent truly grieves concerning sins committed but, not thinking of future life, proposes nothing explicitly; the disputed question is whether explicit purpose is required of itself, or whether even virtual and implicit purpose suffices, namely when the penitent, although he thinks of future life, nevertheless does not elicit the purpose of amendment formally and explicitly.

2. St. Alphonsus, having proposed three opinions about this question (n. 450), finally resolved that opinion which requires explicit purpose, not to lack its probability, and therefore in practice to be followed. Concerning this resolution of the holy doctor, a sharp controversy arose between Fr. Ballerini[675] and the defenders of St. Alphonsus,[676] which finally had this effect: that the opinion which many theologians hold, that tacit or implicit purpose is sometimes sufficient, even directly and certainly, can no longer be attacked

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675. Gury-Ballerini ad n. 462.

676. *Vindiciae Alphons.*, pr. 5, q. 6.

for any reason. Therefore the true opinion must be held, which teaches that for obtaining remission of sins, implicit purpose, which is contained in contrition, whether perfect or imperfect, suffices. And indeed, explicit purpose is not required from the nature of the thing: for for obtaining justification that disposition which includes the will of not sinning suffices; but in any sorrow conceived from a universal motive there is contained the will of not sinning.

Nor is explicit purpose required by positive precept: for the Council of Trent, which promises that it will give exact doctrine concerning the sacrament of penance,[677] in canon 4 enumerates only three acts: contrition, confession, and satisfaction, as dispositions of the penitent required for the essence of the sacrament, but says nothing concerning purpose. The same council, in the same chapter 4, describing the dispositions of the penitent, explicitly indeed mentions purpose, but explicitly mentions also other acts, as trust in the divine mercy and the desire of performing the other things; but from these it does not follow that the council prescribes explicit purpose, just as it does not follow that it requires an explicit act of hope. Therefore the council explicitly mentions purpose so that it may declare that for obtaining remission of sins, that sorrow alone suffices which contains a universal purpose. Although, therefore, the faithful are to be urged that they always elicit purpose expressly and explicitly, nevertheless if they have omitted this, supposing sorrow truly universal, they are not to be disturbed about the validity of the confession.

3. Two things must be noted concerning this matter: a. He who truly grieves concerning past sins is so disposed that, if thought of future life should enter his mind, he would also conceive the explicit purpose of not offending God mortally any more: for no one is judged seriously to grieve concerning an offense against God who with deliberation suspends the expressed act of the purpose of avoiding all grave offenses against God in the future. b. Confessors rightly in practice require explicit purpose from penitents: for they must administer the sacrament certainly only according to the disposition of the penitent; but in those who are guilty of mortal sins, the confessor will scarcely ever be certain concerning the disposition unless the purpose of abstaining from sins in the future is manifested to him.

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264. Whether acts of faith and hope are required for obtaining justification in the sacrament. Besides sorrow and purpose, no other acts of the penitent are required for obtaining valid absolution, neither by reason of matter nor by reason of disposition. Therefore, although it is to be recommended that the penitent elicit acts of the theological virtues before confession, nevertheless this is not necessary: for it suffices that the acts (of faith and hope) which the Council of Trent enumerates[678] as dispositions of the sinner are present virtually and implicitly.[679]

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265. On sorrow and confession of venials. 1. **On sorrow.** a. Sorrow concerning venials must have the same qualities which sorrow concerning mortals has, except only universality, since one venial can be remitted without another.

a. Therefore it must be not only true and supernatural, but also sorrow above all things. For if the penitent were so disposed in soul that he would rather choose venial sin than suffer any temporal evil whatever, he would not be disposed to receiving pardon of that sin. But when the ordinary motives of sorrow concerning venials are suitably considered (because they cause the passion of Christ, the displeasure of God, the punishment

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677. Cf. sess. 14, proem.

678. Sess. 6, c. 6.

679. Suarez, disp. 4, sect. 2, n. 7; Ballerini-Palmieri V, n. 91.

of purgatory), the penitent will detest sins above all things, because these evils are surely graver than all earthly evils.

b. Therefore it is licit to grieve and to conceive a purpose of amendment only concerning those venials which are accused, without this also being done concerning those which are omitted in confession.

c. He who confesses venials alone is bound under grave obligation to grieve concerning some of them, or at least concerning one, and to conceive a purpose of amendment. Therefore he who knowingly institutes a confession of venials without due sorrow commits grave sacrilege, because he renders the sacrament invalid.

Nevertheless, for receiving valid and fruitful absolution, sorrow concerning sins, whether mortal or venial, already remitted in past life suffices, even if sorrow is not had concerning the venials committed since the last confession, provided those sins already remitted are declared in confession at least in a general way.

c. He who confesses venials often repeated and grieves concerning the frequency of the sin and proposes to diminish it, but does not grieve concerning the single sins which he still intends to indulge now and then, although not so frequently, is still validly and licitly absolved. The same must be said of him who grieves and proposes to amend one graver sin of one species, e.g., intemperance, without extending sorrow and purpose to other lighter sins of the same species.[680]

That it can happen that someone grieves concerning the frequency of venials and proposes to amend it without detesting the single sins, and in like manner that someone grieves concerning the graver sins without grieving concerning the lighter, whether of the same or of a diverse species, is clear from this: that the motives of sorrow and purpose are verified more in many sins than in few, more in graver than in lighter sins.

2. **On confession.** a. It is licit to confess some venials while omitting others: for venials are not necessary matter of confession; moreover, one can be remitted without another.

b. Although it is earnestly to be recommended that he who confesses several venials conceive sorrow and purpose also concerning all of them, nevertheless not to grieve concerning some which he accuses is not a sin, provided he grieves sincerely concerning one or another, so that sufficient matter of absolution is present.

It is indeed not becoming that without a just cause other inept matter be mixed with the valid matter of absolution; nevertheless there can be a manifold sufficient reason why this may be permitted. Nor can it be said that he who confesses a venial sin concerning which he certainly knows that he does not grieve deceives the confessor and therefore sins venially:[681] for confessors know that penitents declare in confession not all venials of which they accuse themselves as matter of absolution, but several for other reasons.[682]

Note. To those who ordinarily confess nothing but venials, it can never be sufficiently urged that they conceive sorrow and firm purpose concerning one or another which burdens them more, and that they seriously try to amend it thereafter: for the more universal the purpose concerning venials is, the less efficacious it is. But ordinarily it will be better to abstain from the confession of those things concerning which neither sorrow nor purpose is present.

Question II.

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680. Cf. Ballerini-Palmieri V, n. 60 ff.

681. Cf. Lugo, disp. 14, n. 118.

682. Cf. Mazotta, tr. 6, disp. 1, q. 3, c. 1; Lehmkuhl II, n. 221 (n. 393).

On Confession.

Article I.

On Confession Itself.

266. Necessity of confession. Confession of all mortal sins which have been committed after baptism is necessary for salvation by divine law. For, to obtain remission of mortal sins, by the will of Christ recourse to the power of the keys of the Church is necessary: *Whose sins you shall forgive, they are forgiven them, and whose you shall retain, they are retained*;[683] but through the power of the keys of the Church sins cannot be remitted without confession; therefore by the will of Christ confession of all mortal sins is necessary.[684]

To the major. The power of remitting and retaining sins granted to the apostles must be understood in such a way that remission of mortal sins cannot be obtained independently of this power: for the apostles could retain sins; but the power of retaining sins (the power of refusing absolution so that sins must again be submitted to the keys) would be none if their remission could be obtained independently of the power of the keys.

To the minor. The power of remitting and retaining sins is a judicial power, which is exercised by pronouncing sentence concerning sins; but judicial power cannot be exercised over sins without confession of all sins being made by the sinner himself. a. For a judicial sentence cannot be pronounced unless there is prior knowledge of the case about which it is being dealt with; since, therefore, the case about which it is being dealt with is the sins to be remitted, a judicial sentence cannot be pronounced without knowledge of the sins; but this knowledge cannot be had from any other source except from the confession of sinners. b. Moreover, the power granted to the apostles, since it is judicial, essentially contains the power of punishing sins; but this power cannot be exercised without confession of all sins: for a just punishment must be imposed not according to the judgment of an arbitrator, but according to the magnitude and multitude of the sins. c. Finally the Council of Trent, explaining the words of St. John (20, 23), has this: from the institution of the sacrament of penance the universal Church has always understood and understood explicitly that the complete confession of sins was instituted by the Lord also and is necessary by divine law for all who have fallen after baptism.[685]

267. What confession is sacramental. Sacramental confession is an accusation of sins made to a competent priest in order to obtain their absolution. Therefore three things must concur in order that confession can be called sacramental: a. it must be made to a competent priest, who either is truly such or at least is thought to be such; wherefore a confession which is knowingly made to one who is not a priest, or to a priest who lacks jurisdiction, is not sacramental. b. It must be made with the intention (at least implicit) of obtaining absolution; therefore a confession which is made to a priest indeed, but for the sole cause of counsel, is not sacramental; but he who knowingly confesses without disposition or deliberately conceals sins confesses sacramentally: for he wills absolution, although invalid. c. One true or supposed sin at least must seriously (not fictitiously) be manifested; therefore even a confession begun but not completed is sacramental.

268. Qualities of confession. Among the various qualities of sacramental confession which are usually enumerated,[686] four come under special consideration, namely that confession must be true, secret, vocal, and entire. And indeed concerning the integrity of confession the discussion will be below in the next article; but concerning the other qualities, which are necessary to know, indications are given in this place.

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683. John 20, 23.

684. Cf. dogmaticians, e.g., Pesch VII, n. 176 ff., n. 353 ff.

685. Sess. 14, c. 5. Cf. also ibid., c. 6.

686. Sixteen qualities of confession are assigned altogether by the teachers of the schools; compare St. Thomas, Suppl., q. 9, a. 4.

269. 1. Confession must be **true** or performed without falsehood. a. To lie in confession concerning a grave matter, and one necessarily to be opened in it, is a grave sin of sacrilegious falsehood against truth and against reverence for the sacrament, because a falsehood of this kind alters the sacramental judgment in a grave matter and therefore renders absolution invalid.

a. Therefore he who knowingly denies a mortal sin, or covers it so that it is not understood by the confessor, or deliberately speaks so that the confessor may take venial guilt in place of mortal, commits sacrilege, unless he has a just cause of being silent about the sin: for then, with mental restriction employed, he can deny it.

b. He who knowingly confesses a sin which he has not committed, or more sins than he has committed, sins gravely and renders the absolution null, because he alters the sacramental judgment in a grave matter.

c. If the confessor, in order rightly to administer the sacrament, justly interrogates about a grave matter already accused and remitted, as, for example, he judges about the custom of sinning, and the penitent lies, he sins gravely and renders the absolution invalid, because in a grave matter he fails in the obligation of manifesting the truth.

d. To lie in a light matter, or in a grave matter but one not necessary for confession, e.g., concerning a grave sin already remitted, is of itself a venial sacrilege, because the sacramental judgment is not altered in a grave matter, and therefore the sacrament is not made invalid; and if the confessor interrogates about these things without just cause, they can be denied with restriction employed.

e. If someone lies in confession about a matter which does not pertain to confession, he commits a lie, either grave or light according as the matter itself bears, but by this he does not commit sacrilege, at least grave sacrilege, because he does not alter the sacramental judgment. Thus, for example, in confession he who tells a lie about his neighbor sins gravely, but by lying he does not commit grave sacrilege, although from another reason he may commit grave sacrilege, because namely from defect of disposition he renders the absolution null.

270. 2. Confession must be **secret,** not public with others hearing, but made to the priest alone, and this indeed not from the nature of the sacrament, but from the institution of Christ and from the use of the Church.[687] Therefore, although confession could of itself also be made publicly, nevertheless, for satisfying the precept of confession no one is ever bound to confess publicly, because Christ did not wish to prescribe public confession on account of its great inconveniences. Wherefore if confession which had to be instituted according to precept could only be made publicly, it would suffice to confess by nods or signs.

a. One ignorant of the confessor's language is not bound to confess through an interpreter: for no one is bound to public confession; but a confession which is made through an interpreter is public, although the interpreter is bound to preserve the secret. Therefore it suffices if penitents ignorant of the confessor's language confess through signs in the better way they can, as mutes do.[688]

The decree of St. Alphonsus (n. 479) holds that a dying man, who is doubtful about his contrition, ought to confess at least one venial through an interpreter. But this doctrine supposes something false, namely that absolution is never valid unless at least one sin is declared in species.

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687. Council of Trent, sess. 14, can. 6; Fourth Lateran Council, c. 21, *Omnes utriusque sexus*, has: "Let him confess his own sins alone."

688. Cn. 903. Those who nevertheless wish to confess through an interpreter are not to be prohibited; but interpreters must be warned about the obligation of preserving the secret. Indeed, missionaries should urge penitents whose language they do not know to confess all or at least some sins through an interpreter. But if they are unwilling to do this, they satisfy their obligation by confessing through signs in the better way they can. S. Officium, 28 Feb. 1633.

b. A mute is not bound to confess in writing, even if he can write: for writing goes beyond confession in measure, and, moreover, since it is by its nature perpetual, it of itself supplies an occasion of revelation; but no one is bound to confess with this danger, lest the sins accused be revealed; therefore he is not bound even to write.[689]

c. If those ignorant of the language and mutes confess only generically and seek absolution, they can be absolved only sometimes, three or four times in a year, because only in moral necessity are they excused from the integrity of confession.

271. 3. Confession must be **vocal,** i.e., sins must be indicated by words. From the very sacramental essence, confession could be made by any sign by which sins are sufficiently manifested; nor does any divine precept of confessing by voice exist; nevertheless by the custom of the Church, which has obtained the force of law, it must be done under grave obligation by voice by him who can speak, unless a grave cause excuses from this obligation. But it is not necessary that each and every sin be recounted by voice: for confession is sufficiently called vocal when the penitent concerning his sins, which are already known to the confessor without sacramental accusation, accuses himself by voice in general only with these or similar words: *I accuse myself of the sins already known to thee.*

a. Hence he who without just cause confesses by nods or signs or in writing, when he can confess by voice, indeed confesses validly, but without doubt sins gravely, because he rashly recedes from the perpetual use of the Church. But from a just and reasonable cause it is licit also to confess by nods or signs or in writing alone.

b. In these and similar circumstances confession made in writing can be admitted: a. if someone out of excessive shame cannot explain sins by voice; b. if a sick man from a guttural or labial disease, without great difficulty, could not confess by mouth; c. if the confessor is rather deaf but nevertheless not unintelligent, and the penitent cannot accuse sins without bystanders hearing him; d. if someone thinks that otherwise he cannot confess integrally, whether on account of scruples or on account of temptation to hide sins; e. if a mute wishes to confess in writing. In all these cases, if it can be suggested to him, the penitent before absolution should utter these or similar words: *I accuse myself of the sins which I have written*; yet this is not necessary, because in these circumstances he is excused from confession to be made by voice.

c. Mutes indeed are bound to confession: for the things which are required for the essence of the sacrament they can furnish, since by signs they can in some way manifest sins or at least that they are sinners; but they are not bound to employ the extraordinary means of writing, even if they can.

Article II.

On the Integrity of Confession.

272. Definition and necessity. Confession is entire if it comprehends all sins which by the will of Christ must be declared in sacramental confession.[690]

A twofold integrity of confession is distinguished, material and formal. Material integrity is had when all mortal sins which have been committed and not yet directly remitted are manifested; formal integrity is had when all mortal sins are explained which here and now, considering the circumstances, can and must be accused. Now if those things which can be enumerated are enumerated, in reality all are present, and formal and material

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689. Cf. St. Alphonsus, n. 479.

690. Council of Trent, sess. 14, c. 5 and can. 7. Cf. Pesch VII, n. 176.

integrity are had together; but if one or another sin is omitted from a just cause, the confession will be formally but not also materially entire.

1. **Material integrity** is not always required for a valid confession: for Christ in his goodness and wisdom was unwilling, for valid reception of this sacrament, to demand something which very often is morally or even physically impossible; material integrity is of this kind.
2. But **formal integrity** is altogether required for a valid confession: for the divine precept of declaring all mortal sins committed certainly refers at least to those sins which the penitent here and now can and must declare. Hence he sins gravely who omits some sin which he here and now can and must declare.

Whether it is licit to divide confession. He is said to divide confession who manifests some sins to this confessor and others to another confessor. Now the integrity of confession requires that all mortal sins be manifested to the same confessor, since all are remitted together. Hence divided confession is not licit if through it the formal integrity of confession is not preserved; but if by dividing confession formal integrity is preserved, to divide confession is of itself licit.

a. From a just cause it can happen that someone confesses mortal sins to one confessor and venials to another; thus a penitent can manifest some grave sin unknown to the confessor, and then ordinary venials, in order that, on account of shame, he may more easily and without danger of sacrilege confess to a confessor who is known to him. Likewise if someone here and now is not bound to confess some mortal sin, e.g., one reserved to him who does not have the power of absolving, he can be silent about that to one confessor and manifest it afterward to another.

b. Therefore it is not licit for a superior, because he is occupied by many labors, after hearing only reserved sins, to absolve a penitent and to send him to another confessor so that he may be absolved from non-reserved sins, because he cannot be absolved from reserved sins unless he is absolved from the others; but sacramental absolution cannot be validly and licitly conceded to him who has confessed in divided manner, unless there is present a cause excusing from the integrity of confession. Nor is the lack of laborers a cause excusing from integrity. But a penitent can be absolved by the superior, after hearing only the sins reserved with censure, from the censure and be sent to another confessor so that he may be absolved from the sins, because absolution from censure is not sacramental and therefore does not suppose an entire confession of sins. Once the censure and reservation have been removed, the penitent can be absolved sacramentally from sins by another confessor.

273. What is required for the integrity of confession. In order that confession may be entire, there must be declared all mortal sins committed after baptism and not yet directly remitted or not declared in due manner, according to species and number, and also external acts, but not the effects of sin.

274. 2. **According to species:** namely the lowest moral species of mortal sins must be declared: for according to the Council of Trent, in confession there must be declared all and each mortal sin, i.e., according to the proper sense of these words in species and number.[691]

a. Therefore the divine precept is not satisfied by the confession of sins only in general (I have sinned mortally), nor by confession of them in generic species (I have sinned against justice), but any sin must be declared in its lowest species (I have stolen grave matter from my neighbor).

b. But he who, whether from ignorance or from forgetfulness, cannot declare a sin in its lowest species, is not therefore excused from manifesting the sin insofar as he can manifest it. Therefore he who would know

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691. Council of Trent, sess. 14, c. 5 and can. 7. Cn. 901.

that he had committed mortal sin but would be wholly ignorant of what sort it was is bound at least to say this, that he has sinned mortally; and he who would know that he has offended against justice but cannot further recall by what reason, ought at least to indicate this, that he has sinned gravely against justice. For even a sin which can be declared only generically constitutes necessary matter of confession and sufficient matter of valid absolution. Nevertheless, once this absolution has been obtained, the specific confession of the same sin remains to be supplied if it can later be done.

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275. 3. **According to number:** for from the Council of Trent all and each sins, and from the Code (cn. 901) all mortal sins of which after diligent examination of oneself one has consciousness, must be accused.

a. The integrity of confession demands that, as far as can be done, the certain number of mortal sins be explained; wherefore he sins in like manner, both he who knowingly or from culpable negligence expresses a greater number, and he who expresses a lesser number, and finally also he who, knowing a determined number, indicates only a probable one with the particle *about* added: for all lie in a grave matter and disturb the sacramental judgment, unless scrupulosity, good faith, or zeal for greater security excuses them.

Therefore they do not satisfy the obligation of confessing integrally who confess only the species of sins but not the determined number in this way: *I have blasphemed often or several times; I have often omitted Mass on Sunday; several times I ate meat on days of abstinence*, etc. These indeed are to be instructed by the confessor that they must confess integrally also as to number.

b. When after diligent examination of conscience the certain and exact number of sins cannot be found, the probable number must be expressed, namely that which approaches more closely to the truth, with the particle *about* added. By this particle *about* there is not comprehended a notable excess or defect, but only a modest one, yet one proportioned to the number expressed according to this rule: a modest defect or excess will be, relatively to about five sins, to add or subtract one unit here or there; relatively to about ten, two units; relatively to twenty, three or four; relatively to forty, four or five; relatively to one hundred, five or six. Therefore in the first case the penitent will be judged to have sinned four, five, or six times; in the second, eight, nine, ten, eleven, or twelve times; and similarly in the others.[692]

c. If the penitent afterward finds the exact number of sins, and the sins which he does not remember are certainly more than the number comprehended together with the particle *about* declared in confession, he must afterward manifest the excess in confession, because these sins had in no way been set forth; but he is bound to nothing when he finds that he had expressed a number notably greater: for in the greater number indicated there is already contained and absolved that lesser number, supposing that the penitent did not lie but in good faith exaggerated the number.

But if no number, not even a probable one, can be had, as almost happens in habitual sinners, these things must be noted:

a. St. Alphonsus (n. 466) warns that the confessor ought not to be too anxious in investigating the number of sins where it cannot be indicated: for it suffices that the penitent open the habit of sinning and the delay of time during which he persevered in the state of sinning, and how often in a day, in a week, in a month he was accustomed to sin. From these things the prudent confessor will know the state and conscience of the sinner better than from the probable number which the latter utters more by guessing than by seriously weighing.

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692. Cf. Lugo, disp. 16, n. 97; St. Alphonsus, n. 466.

b. If the penitent could not even know and indicate this, the confessor should induce him to open his state, manner of living, habit and occasions of sinning, and by this reason the state of conscience is sufficiently manifested so that he can be absolved. Wherefore if a penitent of this kind afterward remembers his sins more distinctly, he is not bound to confess them more accurately: for in that confused accusation all things were sufficiently known by the confessor, so that the penitent could have been directly absolved from all of them. Therefore it suffices if, for example, a prostitute says: *For two years I remained in a brothel and as often as there was occasion, even to married men, etc., I gave power of my body*; or if a concubinary says: *For three years I lived in concubinage*; or another: *I desired any women whomsoever I encountered, even relatives, married women, sacred persons*; or: *About most shameful things, whenever any occasion was given, I spoke with any companions*, etc., etc.[693]

Note. If one sinful act contains two malices specifically diverse, as if one having a vow of chastity pollutes himself, the divided sin can be accused in confession thus: *I sinned by pollution; I violated my vow, and that gravely.* Likewise if one sinful act contains two malices distinct in number, as if someone by one theft gravely injured two owners, the divided sin can be accused in confession thus: *I committed grave theft; likewise I committed grave theft against another man.* Those who concede that malices can be divided in confession bring forward as the reason that the penitent explains the sin as to each malice, which suffices in confession. Those who deny this say that the confessor hearing these things conceives that the penitent has committed two sins distinct in number, which is not true. Nevertheless this error of the confessor does not alter the sacramental judgment.

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276. 4. **External acts,** by which internal acts are completed in the ratio of sin: for we must confess sins; but by the name of sin there is properly understood not only the internal act, but also the external one, which is its natural complement.

a. For although the external act does not of itself have its own malice, nevertheless it participates in the malice of the internal act and, with the internal act which by its nature it perfects and completes, constitutes one moral act, namely the sin completed and consummated in its species.

b. If the external act were not declared, the gravity of the injury inflicted upon the neighbor would not be understood, nor the obligation of restitution, censure, irregularity, etc.

c. Finally, the Church has always understood and interpreted the Lord's precept concerning confession of mortal sins in this way; wherefore it does not suffice for him who committed theft to say in confession: *I had the purpose of stealing* or *I wished to steal*, but one must say: *I stole.*

277. 5. **Not the effects of sin.** Namely, there are sinful external actions from which sometimes effects follow which, once the external action has been placed, no longer depend on the will of the agent: if someone, for example, with gravely evil intention gives poison to his neighbor, or gives a girl a means for procuring abortion, sometimes there follows, whether he wishes it or not, death and abortion. Moreover, to declare these effects, even if they followed, is not necessary for the confession to be formally entire: for by divine precept sins alone must be declared; but those effects are not sins, since they are in no way free. Wherefore it suffices to set forth the depraved will and the efficacious action for producing that effect.

Nevertheless it is expedient, and sometimes for another reason plainly necessary, that the effect which followed from the external sin be set forth, namely when the confessor needs to know whether there is an obligation of

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693. Sporer-Bierbaum III, pr. 3, n. 451 ff.

restitution, irregularity, censure, or reservation: for external sins are usually not punished with these penalties unless the effect also followed, lest a penalty so grave be inflicted more often than by itself it ought to be.

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278. Concerning doubtful sins the question is asked whether they are necessary matter of confession. Moreover, a threefold different doubt can be distinguished: a. concerning the sin itself; b. concerning the gravity of the sin; c. concerning the confession of the sin. It is supposed that the doubt is not merely negative, but positive, or resting on a probable foundation. Now, although it is to be advised that penitents confess doubtful sins, nevertheless, from strict obligation, they are not bound to confess them, whatever the doubt may be: for a doubtful obligation is no obligation. Therefore:

1. He who doubts whether he really committed a sin, if the doubt remains after diligent examination, is not bound to confess it: for an obligation is not to be imposed unless it is certainly established. Moreover, from the Council of Trent,[694] mortal sins of which consciousness is had must be accused, i.e., those of which certain knowledge is had; but there is not certain knowledge of doubtful sins.
2. He who doubts whether a sin which he certainly committed is grave, whether on the part of the matter or on the part of consent, is not bound to confess it for the same reasons.

In practice, however, according to St. Alphonsus (n. 476), the two following rules are to be observed:

a. In doubt whether the matter of sin is grave, rather rude penitents ought ordinarily to accuse doubtful sins, both because they cannot of themselves form conscience for themselves and because very often they do not know how to distinguish venials from mortals. Nevertheless scrupulous persons, who are not accustomed to commit mortal sins, must be excepted. But those who are not rude but sufficiently instructed are ordinarily to be gently exhorted, not obliged, to accuse doubtful sins.

b. In doubt concerning full consent: a. if penitents are of timorous conscience and are not accustomed to sin gravely, they are in no way bound to confess doubtful sins, because presumption favors them, which is had from things ordinarily occurring; indeed they must be impeded from this accusation if they seem prone to scruples. b. If penitents keep a middle way between a timorous and a lax conscience, they are not indeed to be obliged, but they are to be induced to declare doubtful consent, because this is profitable for tranquility of conscience. c. If penitents are of lax conscience, generally they ought to declare doubtful sins, because the presumption deduced from things ordinarily occurring, which is against them, reaches moral certitude concerning the sin committed.

3. He who doubts whether a sin certainly committed and certainly also grave has already been confessed is, for the same reasons, not bound to confess it again: for a law which has probably already been satisfied is no longer certain, and therefore cannot beget a certain obligation. In practice indeed confession is to be advised in order to procure tranquility of conscience; nevertheless no strict obligation exists.

He who has confessed a mortal sin as doubtful, which afterward he discovers certainly to have been committed, is not bound to confess the same sin again as certain, because he has already satisfied the precept of confession: for he who confesses a sin according to species and number as it is in conscience, and is directly absolved from it, has already satisfied the precept of confession.[695]

This solution, which more recent authors judge probable[696] against the more common opinion of the older

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694. Sess. 13, c. 7.

695. Cf. Lugo, disp. 16, n. 77.

696. Cf. Ballerini-Palmieri V, n. 226; Lehmkuhl II, n. 318 (n. 422); Gury II, n. 480; Genicot, *Theol. mor. inst.* II, n. 291.

authors,[697] is confirmed from another question which is almost commonly solved by authors from the same principle. He who set forth a doubtful number of sins with the particle *about* is no longer bound in confession to declare the certain number if he later finds it, unless the excess is notable; therefore neither is he bound in this case, since even in a probable number certain sins are declared as doubtful.

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279. On the circumstances of sins. Some circumstances of sins are species-changing, which add to the act a new malice distinct in species from that which the act has by reason of its object; thus the circumstance of a sacred place from which a thing is taken adds to theft the malice of sacrilege against the virtue of religion. Others are aggravating or diminishing, which only increase or diminish the malice of the sinful act within the same species of sin, whether by reason of duration or intensity, mode, time, person, place, etc. These circumstances are either lightly or notably aggravating or diminishing, according as they lightly or notably increase or diminish the malice of the act.

1. **Species-changing circumstances** must necessarily be explained in confession:[698] for unless they are declared, all mortal sins are not accused in their proper species, which is required by divine precept. It scarcely needs to be mentioned that a new malice added to a sinful act must be mortal in order to constitute necessary matter of confession.

Which circumstances change species is declared, with regard to individual sins, in the tractate on the precepts. In this place only a few things must be added. In sins of scandal (induction, cooperation), the circumstance of superiority or office sometimes adds a new malice against piety or justice, as if a parish priest is a scandal to his parishioners, parents to their children, a teacher to a pupil committed to his special care. This obtains when the superior by force of his office is bound, from piety or justice, to care for the spiritual welfare of the subject. Therefore a base sin of a confessor with his penitent, which has relation to confession, takes on the new malice of real sacrilege; but a sin which is not referred to confession does not take on a new malice, because outside confession the confessor is not bound to procure the spiritual welfare of the penitent. Finally, other superiorities or dignities, such as that of a magistrate, priest, master, etc., can increase the malice of a sin committed with a subject, layman, servant, but they do not change the species.[699]

280. 2. **Circumstances only aggravating** do not have to be explained necessarily in confession: for no precept exists which obliges one to declare circumstances only aggravating. Indeed sins alone must necessarily be declared in confession; but circumstances which do not change species do not add a new sin to the sinful act. Hence the Council of Trent, which enumerates all conditions required for the integrity of confession, speaks only of circumstances which change species, with no mention made of circumstances which only aggravate,[700] and the new Code likewise.

a. With all agreeing, no obligation exists of confessing circumstances that are only lightly aggravating or diminishing; today, however, the opinion that there is no obligation of confessing circumstances even if they are notably aggravating has become almost common, especially because the Council of Trent not only is silent about this obligation, but seems positively to exclude it. For where, in the cited place, it accurately declares what must be manifested in confession from the precept of Christ, after it had taught that all and each mortal sins and the circumstances which change the species of sin must be manifested, it adds: "nothing else is to be required of penitents in the Church." As regards the difficulty which the Roman

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697. Cf. St. Alphonsus, n. 478.

698. Council of Trent, sess. 14, c. 5. Cn. 901.

699. Cf. Lugo, disp. 16, n. 309.

700. Sess. 14, c. 5. Cn. 901.

Catechism makes in this question,[701] it is not improbable that its words are to be understood concerning circumstances which change the theological species, namely which cause a light sin to become grave, or a grave sin to become light.[702] Nor does the reason taken from this have force, that otherwise a fitting penance could not be imposed; since it suffices that the penance be proportioned to the specific substance of the sins and their number, but exact equality between penance and the gravity of sin as to circumstances is not required. For if exact equality were required, circumstances notably diminishing would also have to be declared in confession, which nevertheless no one demands.[703] Finally, if these circumstances had to be declared necessarily, an intolerable burden would be imposed on both confessors and penitents, and thence innumerable anxieties and difficulties would arise, since it is very difficult, not to say impossible, to distinguish which circumstances are notably and which are lightly aggravating.

b. Moreover, the faithful ordinarily tend to declare circumstances at least the more notable, which indeed can be recommended to them, because it greatly contributes both to tranquility of conscience, to more abundant fruit of the sacrament, and to more suitable direction. Yet if it concerns circumstances of sins against the sixth precept, penitents are not only not to be questioned about them, but they are not even to be permitted to set them forth, on account of the danger which would thence be created both for the confessor and for the penitent.

c. Nevertheless, when the confessor asks about circumstances only aggravating, the truth must be candidly opened. For the confessor has the right of asking not only those things which are necessary for procuring the integrity of confession, but also several other things, of which kind are: a. aggravating circumstances; b. conditions necessary for incurring censure, irregularity, or a reserved case; c. the habit of sinning;[704] d. relapse; e. a proximate occasion of sin; f. grave obligations; g. the disposition necessary for valid absolution. Hence he who has sinned with several diverse persons satisfies the precept by declaring the species and number of the sin, even if he does not declare that he committed it with several persons; for example, he who has fornicated with three persons satisfies by saying: *I committed the sin of fornication three times*, even if he does not add whether with the same person or with different persons. Nevertheless he must respond to the confessor asking about this matter, because he is more easily kept in proximate occasion who has sinned several times with the same person.[705]

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281. Whether he satisfies his obligation who accuses a recent sin as if committed formerly. Since a sin as to substance is not changed, whether it is said to have been committed at this or that time, or is said to have been remitted or not remitted, he who accuses a recent sin as if already remitted of itself satisfies the obligation of confessing integrally. Therefore he satisfies the obligation of confessing integrally who mixes new sins with old, or who in a general confession does not distinguish from other sins the mortal sins committed since the last confession, even if he does this deliberately in order to disguise the time at which he committed the sin. But if the penitent, being asked about the time, lies and declares a sin committed today to have been done at a remote time, he seems to commit a light sacrilegious falsehood; nor does the opinion of those seem to be approved who think that a penitent of this kind does not satisfy the obligation of confessing.

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701. *De poenitentia*, n. 47.

702. Cf. Ballerini-Palmieri V, n. 209.

703. Cf. Lugo, disp. 16, n. 120.

704. Therefore this proposition (58) was condemned by Innocent XI: We are not bound to confess to a confessor asking about it the habit of some sin.

705. Cf. Lacroix, l. 6, pr. 2, n. 18.

706. Gury II, n. 488 note; D'Annibale III, n. 309 note 60; Bucceroni, *Inst. theol. mor.* II, n. 715. Cf. Genicot, *Theol. mor. inst.* II, n. 288; Lugo, disp. 16, n. 46 ff.

Among more recent authors, several favor the opinion just set forth,[706] since the circumstance of time does not pertain to the necessary matter of confession: for any mortal sin must be declared according to its whole essential and specific malice; but the circumstance of time is external and accidental to a sin considered according to its specific essence. What is usually objected, namely that a sin committed at this time is different from a sin committed at another time, is solved by this distinction: it is another individual sin, but not another specific sin; but it suffices that the species of the sin be declared in confession. Therefore he who by lying denies that he committed the sin since the last confession does not deny the specific sin itself, which must necessarily be declared in confession, but the accidental circumstance of time of the sin, which does not have to be declared necessarily. On the contrary, he wishes to confess and in reality confesses that same sin which he committed, to which through falsehood he adds a false external circumstance (already accused, already remitted, committed at another time), which nevertheless does not change the species of the sin. The confessor thinks the same sin was done at another time or already remitted; and he thinks this either from his own error or from the falsehood of the penitent. But the error of the confessor, whether his own or induced by deceit of the penitent, does not obstruct the validity of the sacrament, provided the confessor rightly judges, or at least can rightly judge, concerning the species or specific essence of the sin, which alone is the necessary matter of confession and the object of absolution. Nor should it be said that the confessor is in this way impeded from imposing a fitting penance: for it is not required for valid absolution that the confessor, through the accusation of the penitent, be in the state of imposing a fitting penance, provided the penitent is disposed to accept and perform a fitting penance.

Article III.

On Causes Excusing from Integrity.

282. Besides physical causes, moral causes also must be admitted which excuse from the material integrity of confession, so that therefore the sacrament of penance can be validly and licitly received, even though the sins which are not declared could absolutely be declared. Yet difficulty internal to confession itself never excuses from the integrity of confession, however grave it may be, such as great repugnance or shame, fear of rebuke, loss of one's own reputation before the confessor; but a great external inconvenience excuses, which by accident renders confession very difficult. Therefore the causes excusing from the material integrity of confession are reduced to these two: a. to physical impotence; b. to moral impotence.

Concerning sins licitly omitted in confession and therefore remitted only indirectly, these things must be noted:

a. The obligation remains of confessing sins licitly omitted; therefore if the cause excusing from integrity should cease, those sins must be declared in confession: for by the divine precept all mortal sins committed after baptism, if it can be done, must be subjected to the keys in themselves and directly remitted.

b. But no obligation exists to confess these sins as soon as possible; therefore their confession can be deferred until the following confession, which is instituted either from devotion or from precept. Nevertheless in the next confession they must absolutely be declared, unless a cause excusing from integrity is again present: for those sins constitute necessary matter of confession; if, therefore, sins previously licitly omitted are not declared in the next confession, this will be sacrilegious from defect of integrity, unless again there is a cause legitimately excusing.

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283. Physical impotence: for no precept obliges to that which is impossible. Examples of physical impotence are:

1. **Extreme illness.** Therefore the dying who cannot confess integrally, whether because they plainly cannot manifest their sins, or because, after one or another sin has been said, they fail, or because there is grave

danger that they will fail, can be validly and licitly absolved, even if their confession is not entire; nevertheless, if afterward they receive strength, they must supply the omissions.

2. **Defect of speech** excuses from the integrity of confession mutes, the deaf, and those ignorant of the confessor's language.

a. **Mutes,** who cannot confess integrally by signs, must express what they can; and when the precept of confession urges, if they can do nothing else, they must at least show by a sign that they have sinned, so that absolution can be given to them.

b. **The deaf** (and the same must be said of the hard of hearing), who have the use of speech, are bound on their part to confess the sins which occur to memory; but the confessor is not bound to interrogate them in order to procure the integrity of confession, on account of the too great difficulty of interrogation and the danger of revelation.

c. **One ignorant of the language,** since he is not bound to confess through an interpreter, when the precept of annual confession urges and in danger of death, is bound only to confess in that manner in which he can, namely he is bound to manifest at least by signs or nods that he is a sinner.[707]

The hard of hearing, who can converse with the confessor in a louder voice, are to be led to a more remote place, in which they may confess integrally without danger of revelation. Nevertheless, because of grave inconvenience, this can licitly be omitted, as if the penitent only with difficulty goes to such a place. If the confessor finally notices the penitent's deafness in the course of confession, let him beware lest he enjoin him in a loud voice to return at another time, because in this way bystanders could judge that the penitent is guilty of graver sin.[708] But those seem too anxious who think that the same suspicion is suggested to bystanders when the confessor, noticing deafness, immediately leads the penitent to the place destined for the confession of the deaf: for in this case the bystanders judge nothing else than that the penitent is deaf.[709]

3. **Defect of time.** If soldiers, with battle imminent, or those sailing, in shipwreck, or those infected by plague in a public hospital, cannot all be heard because the narrowness of time does not permit it, all together can confess that they are sinners and grieve concerning their sins, and then be absolved by one form: *I absolve you*, etc.

4. **Inculpable ignorance or forgetfulness.** If not all sins come into mind, even though diligent examination of conscience is instituted, or if sins known in the examination slip from the mind in the act of confession, this inculpable ignorance excuses from the observance of the law.

a. Therefore he who, after a diligent examination has been made, is ignorant in confession of some sin which he really committed, or, while he confesses, does not remember some sin, is validly and licitly absolved. b. He who from light negligence is ignorant of sins in the examination and omits them in confession is validly absolved: for venial fault impedes neither the validity nor the fruit of the sacrament. c. Finally, if the ignorance here and now is indeed inculpable, but arises from grave fault previously committed, the confession is likewise valid: he, for example, who too long delayed confession even with transgression of the ecclesiastical precept, and for that reason can no longer remember several sins, confesses formally integrally if he accuses those things which occur after diligent examination.

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707. Cf. the decree of the Holy Office, 28 Feb. 1633, which establishes that a penitent who does not wish to use an interpreter can and must be absolved, even if by signs he manifests sins only in general.

708. St. Alphonsus, n. 644.

709. Cf. Lehmkuhl, *Theol. mor.* II, n. 328 (n. 433); Genicot, *Theol. mor. inst.* II, n. 292.

284. Moral impossibility: namely where, without grave spiritual or temporal harm to oneself or to the neighbor, an entire confession cannot be made. Yet in order that sins can be licitly omitted in confession on account of moral impotence, these conditions are required: a. that another confessor cannot be found before whom the sins can be manifested without any inconvenience; b. that confession here and now is necessary and cannot conveniently be deferred to another time; c. that only those sins be omitted which cannot be declared without grave inconvenience. But by the common opinion of authors, confession is judged necessary on account of Easter communion or annual confession, on account of the necessity of celebrating or communicating, on account of danger of scandal or infamy, if otherwise someone would have to remain longer (beyond three days, indeed through one day) in the state of sin with danger of death and eternal salvation. Examples of moral impotence are:

1. **Danger to the reputation of the penitent himself.**

This can happen in a twofold case: a. if the penitent confesses in those circumstances in which others also will hear the sins, as if other penitents are standing near the confessional and cannot be removed, or if in a hospital another sick person lies nearer to one confessing, who will hear his confession. b. If the confession is very long, from which others must suspect many and grave sins. Yet this has force only in those circumstances in which the bystanders must necessarily conclude, from a long confession, to a great multitude of sins, as if confession is instituted while the necessity of communicating or celebrating urges. But in ordinary circumstances it is not licit to conclude to a multitude of sins except by some vague suspicion from a long confession, because there are several other reasons on account of which penitents remain longer with the confessor;[710] but the danger of vague suspicion is not a reason excusing from the integrity of confession.

a. Hence a priest about to celebrate at once and needing a longer confession is excused from integrity if he can neither defer nor omit the holy sacrifice without suffering detriment to his reputation before the bystanders.

b. If a priest carrying viaticum to a sick man discovers that this man has confessed sacrilegiously for a long time, he can and must, after one or another sin has been heard, absolve him meanwhile, and afterward, returning to him, complete the confession, lest suspicion of this matter arise among the bystanders from a longer confession.[711]

c. Likewise, if the confessor discovers that a longer confession is necessary for the penitent, but the penitent can neither institute a longer confession because of defect of time nor abstain from communion because of danger to his reputation, after hearing the sins which he can accuse without danger to reputation, the confessor can meanwhile absolve the penitent and supply the confession another time.[712]

2. **Danger of violation of the seal.** This can happen if the confessor cannot confess integrally without manifesting sins heard in confession. If the penitent deservedly fears that a sin will be revealed by the confessor, e.g., because in the confessional he speaks in too high a voice, so that bystanders could hear him.

3. **Danger of scandal or fall,** both on the part of the penitent and on the part of the confessor.

a. If the penitent, on account of the known very great fragility of the confessor, fears danger of sin from the manifested sin, he can omit it. b. If the penitent, on account of his own fragility known to himself, fears lest by thinking long in examination about certain sins he may fall, he can examine himself only in passing, even though by defect of examination certain things are omitted. c. The same holds of the confessor who, by interrogating about shameful matters, fears danger of sinning for himself or for the penitent.

Notes

710. Ballerini-Palmieri V, n. 249.

711. St. Alphonsus, n. 484.

712. Cf. Bucceroni, *Casus conscient.* 5, n. 125.

4. **Grave spiritual or temporal harm,** whether one's own or another's.

If the penitent from the manifestation of a sin reasonably fears unjust persecution, deprivation of office or support, he can be silent about that sin meanwhile. The scrupulous are rightly prohibited from repeating past confessions, even if they had omitted some sins through forgetfulness; likewise they are prohibited from examining themselves longer, even if there is danger of failing in integrity: for lest they suffer grave harm from their anxieties, they can neglect the integrity of confession.

And these causes indeed excusing from the integrity of confession are admitted by all; two others remain, concerning which the opinion of doctors was not always the same.

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285. On a sin which cannot be explained without manifestation of the accomplice. This question is whether there is an obligation of confessing a sin which cannot be explained without manifestation of the accomplice, or whether danger of defaming another before the confessor excuses from the integrity of confession in the same way as the danger which the penitent himself incurs of losing his reputation before others excuses.

a. The penitent is certainly bound, if he conveniently can, to seek another confessor to whom the accomplice is unknown, so that he may confess integrally and at the same time preserve the reputation of the accomplice, even if he must defer confession. Therefore he sins against justice who confesses to a confessor to whom the accomplice is known, when he can have another confessor without great inconvenience, before whom the unknown accomplice is not defamed.

The causes excusing from the obligation of seeking another confessor to whom the accomplice is unknown are almost the following: a. if danger of death or the precept of annual confession urges; b. if it is grave for the penitent to omit confession or communion; c. if someone with difficulty opens his conscience to another confessor; d. if someone otherwise must remain in sin even for one day, and this is grave for him; e. if someone otherwise is deprived of the benefit of an extraordinary indulgence; f. if before the confessor to whom the accomplice is known, there is had better direction or notably greater consolation.[713]

b. It is not licit to confess a sin which is not necessary matter of confession if it cannot be accused without defamation of the accomplice. Much less is it licit to name the accomplice in confession of those sins which can be sufficiently accused without manifestation of the accomplice; hence if the confessor notices that the penitent wishes to name the accomplice where there is no necessity of naming, he must prohibit it.

Therefore, if the penitent cannot confess a venial sin without manifesting the accomplice, for example light touches admitted by a brother, he must omit it. But if the penitent either without just cause confessed before a confessor to whom the accomplice is known, or without necessity manifested the accomplice in confession, he would scarcely sin gravely: for to reveal the crime of another to one prudent man ordinarily is not grave defamation.

c. Now if another confessor, to whom the accomplice is unknown, cannot be approached without inconvenience, and confession cannot conveniently be deferred, the opinion of those who with St. Alphonsus (n. 489) teach that danger to reputation, which the accomplice suffers before the confessor, does not excuse the penitent from the obligation of confessing integrally seems altogether to be preferred; accordingly he must accuse the sin even with the defamation of the accomplice.

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713. Gury, *Theol. mor.* II, n. 500.

And just as the penitent can and must manifest his sin even with the defamation of the accomplice, so also the confessor can freely and licitly interrogate the penitent about those things which are necessary for him to know, as about circumstances which change the species (whether the accomplice in a base sin is married, whether he is bound by vow), or about the proximate occasion of sinning (whether he lives in the same house, etc.), although from the responses he comes to knowledge of the accomplice.

And indeed the opinion which in this case excuses from the integrity of confession, so that the reputation of the accomplice may be spared, is founded on this single argument: the natural law of not injuring the reputation of the neighbor is to be preferred to the positive law of confessing integrally. But: a. the natural law forbids only that the reputation of the neighbor be injured without just cause; but the precept of confessing integrally seems to be a sufficiently just and grave cause permitting this injury, especially since the injury can scarcely be called grave. b. There is added the common practice both of penitents, who everywhere accuse circumstances of this kind, and also of confessors, who freely interrogate penitents about circumstances from which they can come to knowledge of the accomplice.

If the penitent cannot confess a sin without manifestation of the accomplice, several teach that it is not licit for the penitent to omit that sin entirely, but only the circumstance which he cannot manifest without detriment. If, for example, incest cannot be manifested, fornication, or at least a sin against chastity, must be declared. Nevertheless de Lugo judges that the whole sin can be omitted: for since the confessor ordinarily will immediately ask about those things which are necessary for knowing the lowest species of the sin, the detriment which the penitent fears will scarcely be able to be avoided in that way.[714] This doctrine seems all the more to be approved, because no one is bound to confess the same sin twice; but the penitent, in order to complete the integrity of confession, would have to confess the same sin twice.

d. Nevertheless, since the opposite opinion, which teaches that a sin which cannot be manifested without harm to the accomplice must be kept silent, does not lack at least external probability, the confessor can follow it in practice; and a penitent who has knowledge of this opinion and of its probability, and wishes to institute his confession according to it, cannot be compelled to open the sin with harm to the accomplice.

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286. On the multitude of penitents. There were those who taught that a multitude of penitents excuses from the integrity of confession, namely when on the day of a great feast a multitude of penitents come together, several of whom could not be heard if all had to confess integrally. Nevertheless it must be said that, according to the mind of the Church, the multitude of penitents alone never excuses from the integrity of confession, even if they have come from afar and would have to lack communion or indulgence.[715]

Besides the fact that this spiritual harm is not judged to be so great that on account of it the obligation of confessing integrally ceases, the great danger which would follow if this excusing cause were admitted must also be noted: for confessors would too easily, on account of a gathering of people, absolve penitents after only part of their sins had been declared, and penitents would choose days of gathering in order to confess, lest they have to confess integrally. Wherefore in a case of this kind either the penitent who needs a longer confession must be dismissed, or, if he cannot defer confession and omit communion without scandal or infamy, it must be permitted that several of the faithful on that day lack the holy sacraments and the indulgence.

287. On asking the name of the accomplice. a. The confessor inquires after the name of the accomplice formally when he intends to know the accomplice himself, and he inquires materially when he intends to

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714. Cf. *De poenit.*, disp. 16, n. 528.

715. This proposition (59) was condemned by Innocent IX: It is licit to absolve sacramentally those only half-confessed on account of the great gathering of penitents, such as can happen, for example, on the day of some great feast or indulgence.

know the sin or state of conscience of the penitent, even if by accident at the same time he also knows the accomplice.

b. The name of the accomplice is inquired after formally not only by him who expressly asks the name of the accomplice, but also by him who rashly and without just cause asks about circumstances which designate the person of the accomplice.

1. Formal inquiry after the accomplice is of itself prohibited under grave obligation, whether it is instituted from curiosity or from a good end, for example, to correct the accomplice; but material inquiry is not prohibited, indeed sometimes it must be instituted, namely where the circumstances from which the accomplice is known by accident are necessary to know either for procuring the integrity of confession or for directing the conscience of the penitent by suitable remedies.

a. Concerning this matter there exist three constitutions of Benedict XIV,[716] which the holy pontiff issued both to protect the right which others have in their own reputation and to preserve the sanctity of the sacrament; Pius IX confirmed them in the constitution *Apostolicae sedis*.

b. He who inquires after the name of the accomplice commits grave sin, not indeed because without just cause he induces another to detract, but because he renders the sacrament of penance odious and acts against the severe prohibition of the Church.[717]

2. It can happen that the confessor rightly demands, even under penalty of absolution to be denied, that the accomplice be manifested to himself or to a superior by the penitent or by another. Namely, if the common good requires denunciation of the accomplice, the confessor must compel the penitent to make the denunciation to the superior of the community. But if the penitent should wish to manifest the name of the accomplice to the confessor rather than to the superior, without doubt the confessor can licitly receive this name. In this case, however, it is expedient that the denunciation be made and received outside confession.

Article IV.

On the Means of Procuring Integrity.

Section 1. On Examination of Conscience.

288. On the necessity of examination. Examination of conscience is required of itself under grave obligation: for he who is bound to the end is also bound to employ the means necessary for obtaining the end.[718] But accidentally it can happen that examination is not necessary, namely when there is no danger that, with examination omitted, a grave sin will be omitted.

a. Therefore those who confess frequently and indeed only venials are not strictly bound to examination of conscience: for they have moral certitude that they have not committed mortal sin, and if they had committed it, it would not escape them even without examination. Wherefore, for valid reception of the sacrament on this part, nothing else is required of them except that they subject certain and determined matter to the keys. Nevertheless a brief examination of conscience must be recommended also to these, so that they may know their venial defects better and perceive more abundant fruits from confession.

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716. Constitution *Suprema* (1745) to the bishops of Lusitania; constitution *Ubi primum* (1746); constitution *Ad eradicandum* (1746).

717. Cn. 838, 2.

718. The Council of Trent, sess. 14, c. 5, says that penitents must recount in confession all mortal sins of which, after diligent examination of themselves, they have consciousness.

b. When the penitent, from gravely culpable negligence in performing the examination, omits one or several mortal sins, the confession is invalid and must be wholly repeated, and at the same time the sacrilege of that grave negligence must be accused; but if the negligence was light and only venial, the confession is not invalid (n. 283, 4). But so that it can be discerned whether negligence in examining was grave or light, this rule is to be attended to: he who after instituted confession finds that he omitted more mortal sins than he said must be held guilty of grave negligence; he who confessed many more than he omitted must be judged not to have committed grave negligence.[719]

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289. On diligence in examination. 1. It is not required that the diligence in examining conscience be the highest, such as any most cautious person is accustomed to employ in a matter of the highest importance: for this would be too difficult and would render so necessary a sacrament odious; but it suffices that it be moderate and ordinary, such as prudent men are accustomed to employ in a matter of great importance. For the examination must be instituted in a human manner, i.e., in a manner accommodated to the infirmity of men, lest the sacrament be rendered too grave and burdensome.

a. No one is bound to note his sins in writing, even if on account of weak memory he forgets some of them in the act of confession; in like manner no one is bound to confess immediately after sins have been committed, even if by lapse of time certain sins slip from memory: for these are extraordinary things, which the precept of confessing integrally does not oblige one to employ.

b. He who after diligent examination thinks that perhaps several mortal sins would occur to him if he were to inquire longer and more diligently is not bound to inquire further: for if he were bound to greater diligence, he could never be at rest and would be driven to the highest diligence. And if, after confession instituted with serious and good will, sins omitted in confession occur to someone, he can and must judge that they were omitted inculpably. Therefore it suffices to accuse these alone in the next confession, nor is the whole confession to be repeated.

c. From these things it also follows that there is no obligation of thinking further about past life; but he who has made his confessions with good will should be persuaded that he has satisfied in confession; and if a sin occurs concerning which he doubts whether it was expressed in confession, he can and must presume that it was already accused with the others, and only where it is certain that satisfaction has not yet been made to the law of confession is he bound to accuse it.

2. The same diligence in examination of conscience is not required from all, but greater or lesser according to the diverse quality of penitents. a. He who has not confessed for a long time must examine himself more diligently than he who confessed a short time before; b. learned and instructed men must examine themselves more accurately than the rude and little cultivated; c. those who are exposed to many dangers of sinning must examine themselves more diligently than those who lead a uniform life more remote from dangers.

If penitents who are sufficiently instructed come to confession unprepared, they can be dismissed so that, after examining their conscience, they return, especially if it is a matter of a longer confession: for it is impossible that someone suddenly interrogated should immediately remember all things. Moreover, penitents are of themselves bound to examination of conscience; only the judgment concerning the sufficiency of the examination pertains to the confessor. Nevertheless, if the circumstances suggest otherwise, especially if it is to be feared that, once dismissed, they will not return to the confessor, it is better to help them at once in examining conscience. But if the penitents are rude, they are not easily to be dismissed so that they may

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719. Sporer-Bierbaum III, pr. 3, n. 367.

examine their conscience themselves; rather the confessor should take upon himself the burden of examining them. For by a few interrogations the confessor will obtain more than they themselves, if left to themselves, could furnish by a long examination. But the confessor should notice that he is not bound to procure greater integrity than they themselves could obtain by examining themselves.

Section 2. On the Repetition of an Invalid Confession.

From an invalid confession must be distinguished an incomplete confession, in which from a just cause a mortal sin was omitted. A valid but incomplete confession does not necessarily have to be repeated, but only the defect must be supplied, by this, that sins not yet accused are subjected to the keys, so that by force of absolution they may be directly remitted.

290. Necessity of repetition. 1. A confession certainly invalid must always be repeated wholly, because sins declared in an invalid confession have not yet been duly remitted through the keys of the Church. But if the confession was only probably invalid, repetition is to be recommended, but cannot be strictly imposed: for an obligation is not to be imposed unless it is certainly established; but a law which has probably already been satisfied is no longer certain.

2. When the repetition of an invalid confession is made before another confessor, without doubt the whole confession must be repeated, because he must judge sacramentally concerning sins not yet remitted. But if it is made before the same confessor, it does not necessarily have to be repeated, but it suffices to accuse oneself in general concerning all things already said before, adding in particular those things which had formerly been omitted, provided the confessor either still has a confused knowledge of the state of the penitent or now acquires it by suitable interrogations.[720]

If the penitent repeats before the same confessor confessions invalid on account of defect of sorrow, after this general confession has been made: *I accuse myself of sins already confessed before*, he can be validly and licitly absolved, even if the confessor does not distinctly remember the sins themselves or the penance imposed, provided he still has a confused knowledge of the state of the penitent, or now acquires it, so that he knows that he has already judged sacramentally concerning the sins and imposed penance. For although the knowledge of sins which the confessor now has is very imperfect and confused, nevertheless that knowledge joined with the former, which was distinct, seems to suffice so that absolution can be granted validly and licitly, if the confessor can now judge the penitent disposed: for the sacramental judgment previously begun distinctly is now completed by valid absolution.

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291. Causes of invalidity. Confession can be invalid on account of a defect which is found either on the part of the confessor or on the part of the penitent.

1. **Defects on the part of the confessor:** a. if he lacks jurisdiction; b. if he substantially changes the form; c. if he does not intend to absolve; d. if he understands no sin, so that he does not have matter from which he may absolve.

a. The confessor must judge sacramentally concerning the individual sins declared in confession and concerning their theological and moral species, and also concerning their number. Nevertheless a confession which in good faith is made to a confessor who cannot discern between mortal and venial, between species, between unity and plurality of sins, or who judges some mortal sin to be venial, is valid, provided the penitent faithfully sets forth his sins: for the penitent on his part in reality subjects all sins to the keys. But

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720. Lugo, disp. 16, n. 636; Ballerini-Palmieri V, n. 276.

on the part of the confessor, for the licit administration of the sacrament, it is required that, as far as can be done, he judge rightly concerning the gravity, species, and number of sins; for the validity of the sacrament, however, it is not required that he truly judge concerning these things. But he who deliberately seeks an unlearned confessor so that his sins may not be understood by the confessor as is fitting, sins against the precept of confessing integrally and, from defect of disposition, confesses invalidly and must revalidate the confession.

b. Sins which the confessor did not understand, concerning which therefore he did not judge sacramentally, are not remitted by force of absolution. Nevertheless, a confession which in good faith is made to a confessor who, on account of deafness, sleep, or distraction, does not rightly understand sins, even mortal ones, is valid and therefore does not necessarily have to be repeated, provided the confessor perceived one or another mortal sin. And if after the confession has been completed the penitent indeed knows that certain sins were not understood by the confessor, but does not know which they are, a distinction must be made. If the confession was long, no obligation exists of confessing them again, because it is probable concerning each one that it was rightly understood; but if the confession was brief, it must be repeated, because probability cannot be had concerning each one that it was rightly understood.[721] Likewise, if the penitent knows which sins the confessor did not perceive, he is bound to explain them in the following confession, because those sins not perceived were not subjected to the keys nor directly remitted. In this case also this must be added: if the penitent deliberately seeks a confessor of this kind, he sins against the precept concerning the integrity of confession, and therefore from defect of disposition he is invalidly absolved and must repeat the confession.

2. **Defects on the part of the penitent:** a. if he lacked true sorrow and purpose; b. if he knowingly kept silent about a mortal sin; c. if he lied in a grave matter, falsely promised amendment; d. if in examining conscience he sinned gravely from negligence.

a. Penitents who fear that they have confessed invalidly for a long time, yet do not know a certain foundation for the fear, ought to repeat nothing, especially if they are of timorous conscience and are accustomed to employ diligence in confessions.

b. Those who admit that they omitted a sin committed in youth or boyhood are to be asked whether then, when it was committed, they knew that it was a sin and indeed grave, or whether only afterward did they finally come to know this: for what, when it was committed, they thought was a light sin or no sin does not afterward necessarily have to be declared, and much less must the other confessions made up to this point be repeated, since they were valid.

c. He who admits that he knowingly kept silent in confession about a sin which he regarded as mortal, or culpably omitted the number or a circumstance necessarily to be declared, is not bound to repeat the intervening confessions made in good faith and rightly performed, and therefore valid. Therefore he must be asked whether he knew that to conceal a mortal sin in confession was a grave sin, and that a sin concealed in confession was to be declared in the following confession; and whether in the following confessions he thought about the omitted sin and about declaring it: for if he omitted the sin either from ignorance or from forgetfulness, the intervening confessions were valid.[722]

Article V.

Notes

721. Ballerini-Palmieri V, n. 269.

722. Concerning general confession, see the appendix at the end of this volume.

On the Absolution of the Dying.

292. In absolving the dying, of itself the same rules must be observed which are established concerning the absolution of others; wherefore it is not licit to absolve a dying person who with moral certitude is judged indisposed, as if he refuses to fulfill a grave obligation, because it is not licit knowingly to frustrate a sacrament. Yet since in absolving the dying a threefold difficulty especially is usually encountered, on account of defect of entire confession, on account of defect of disposition, and on account of defect of sensible accusation, these matters must be treated in particular.

1. The dying are excused from the precept of integrity on account of either physical or moral impotence: for no one is bound to the impossible.

Hence a. if the dying man, after one or another sin has been said, fails or is deprived of the senses, he is meanwhile to be absolved. b. Likewise, if the sick person cannot institute a longer confession without grave detriment to health or without great difficulty, after the sins which he can accuse without too great difficulty have been heard, he is to be absolved. c. If the sick person on account of weakness of the head cannot institute a more accurate examination of conscience, after those things which he can declare without examination have been heard, he is to be absolved. d. Indeed, if only in general, either by words or by other signs, he can declare that he has sinned, he is to be absolved, and indeed absolutely, unless for another reason a condition must be added; nevertheless, in all these cases the omitted things must afterward be supplied, if this can be done.

293. 2. As regards disposition, this is always supposed in the dying deprived of the senses unless it is certain that it is lacking. Therefore under condition are absolved: a. not only those who lived as Christians, even if before they were deprived of the senses they gave no sign of penance; but b. also those who lived not very Christianly; indeed c. even those who in the very act of sin, e.g., in a duel, in theft, from suicide, etc., were deprived of the senses. For it can happen that they have lucid intervals, in which they know their state and the danger of eternal damnation, and, after an act of sorrow has been elicited, desire to be reconciled with God through absolution. If, therefore, they can morally be sufficiently disposed, in this extreme necessity it is licit to absolve them.

Therefore those cannot be absolved at death in whom an act of penance can be supposed by no reasonable foundation; or, as the Roman Ritual has it, the "impenitent and those who die in manifest mortal sin" are not to be absolved.[723] Of this kind are, first, those who up to that time at which they were deprived of the senses expressly rejected the minister of the Church and its sacraments; then also those who lived so impiously that they knowingly persevered in sin and impenitence up to the extreme moments of life, although they did not reject the sacraments of the Church which had not been offered to them. For with no probability, not even a slight one, can these be presumed disposed, unless God converts them to himself by an extraordinary miracle of grace; but extraordinary miracles of grace are neither to be presumed nor can they be the norm in administering the sacraments.

294. 3. Finally, as regards sensible accusation, it is licit to absolve not only the dying who manifest before the confessor by words or other signs the desire of confessing, but also dying persons deprived of the senses who signified the desire of confessing through others, for example by asking for a confessor, who testify this to the confessor; indeed also those who manifested the desire of confessing outwardly by no sign: for this is held by the common practice received today in the Church.

a. Absolution is to be given absolutely if the dying person, whether by himself or by another, manifested the desire of confession; and it is to be given conditionally if he gave no sign of confession and sorrow.[724]

Notes

723. Roman Ritual, tit. 5, c. 1, n. 8.

Moreover, since according to a probable opinion it suffices that the condition be added virtually and implicitly, and anyone who administers the sacraments according to the mind of the Church adds it thus,[725] it is not necessary that the confessor be very anxious about conditional absolution.

b. The greatest difficulty of this matter is in explaining the validity of absolution which is given to a dying man who shows no external sign of sorrow and confession: for if the acts of the penitent outwardly manifested are said to be either an essential part of the sacrament or a necessary condition of valid absolution, it does not appear by what reason a dying man of this kind can be validly absolved.

For this reason the older authors commonly declare this absolution invalid and illicit.[726] Nevertheless, in the course of time the number of authors who called this absolution licit so increased that Lacroix could call their opinion common,[727] and St. Alphonsus could call the same the more common.[728]

The authors try to explain that such absolution is valid in a twofold way. Some say that it can be piously and not imprudently presumed that the dying man manifests outwardly, by sighs, anxious respirations, and other movements of the body, the desire of confessing inwardly conceived, since he cannot do it otherwise. But others say that a man who lived piously, indeed also one who, even if he did not live piously at all, nevertheless did not depart from the Church, by the very fact that he lived piously, or at least remained in the Church, manifested the desire that he wished at death to be reconciled with God through the sacrament of penance.

But each explanation is pressed by great difficulties. The first, indeed, because it does not appear by what right physical movements, which of themselves signify only distress of the body, can be held as signs of sorrow and confession. But the other, because it cannot be applied at least to those dying persons who are deprived of the senses in the act of sin: for "it would be ridiculous," says de Lugo, "that today someone would wish to accuse himself of a sin to be committed tomorrow, so that tomorrow he may be absolved from it by force of this accusation."[729] Wherefore some recent authors, with Ballerini leading, think that no external sign of sorrow and confession is required so that a dying person deprived of the senses can be validly and licitly absolved. For the acts of the penitent have only the ratio of necessary disposition; therefore a dying person deprived of the senses can be validly and licitly absolved, who by a certain slight probability can be presumed to have elicited an act of attrition concerning his sins either before or after he was deprived of the senses (n. 233).[730]

Note 1. From physiological experiments it seems to be established that real death, i.e., the very separation of soul and body, does not occur at the same time at which the vital functions of respiration and circulation cease, but that life after the last expiration still continues latently for some time. How long life still endures latently after apparent death depends both on the quality of the disease and on the constitution of the dying person. In sudden death life can be prolonged beyond a day (some think through three days), in ordinary death beyond a half hour (others think through a day). From these things it is gathered that to a man who by common estimation is already judged dead, if he died from a long illness, within a half hour, but if he died from sudden disease or a sudden accident, within two, indeed several, hours, the necessary sacraments ought to be administered under condition; but the non-necessary sacraments can be administered under condition,

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Notes

724. Roman Ritual, tit. 3, c. 1, n. 24.

725. Cf. Gury, *Theol. mor.* II, n. 206.

726. Laymann, l. 5, tr. 6, c. 8, n. 4; Suarez, disp. 23, sect. 1, n. 13; Coninck, disp. 7, dub. 10, n. 96; Lugo, disp. 17, sect. 3.

727. Lacroix, l. 6, pr. 2, n. 1162.

728. St. Alphonsus, n. 482.

729. L.c., n. 39.

730. Cf. Ballerini-Palmieri V, n. 240 ff.

because he probably is at least still living.[731] And indeed extreme unction is administered in the briefest way, i.e., with one form and one anointing on the forehead, because there is the greatest danger in delay. Nor is it necessary that in this case, besides the prayers placed in the Ritual, anything afterward be supplied, since there is no further doubt concerning the sacramental validity conferred in this way.

Note 2. As regards the manner of acting with dying persons of this kind, it helps to note these things. Because it is established by experience that the dying apparently deprived of the senses sometimes have the use of reason and hearing, before the sacraments themselves are administered they are to be warned about the sacraments which are administered to them, and acts of contrition and also of the theological virtues are to be recited very briefly at their ear.

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295. Whether absolution can be granted to heretics in the article of death, whether they are in possession of their senses or deprived of them. Authors have diverse opinions in this question. St. Alphonsus with very many others denies that absolution can be granted to them (n. 483), unless they expressly ask for it, because they manifest no desire of absolution; rather they must be judged to abhor it. Nevertheless there are several authors (such as Gobat, Lacroix, Reuter, Elbel, etc.) who judge that absolution can be granted to them, because in those who are in possession of their senses an implicit desire of absolution can be stirred up by suitable warnings; but in those who are deprived of the senses that implicit desire is supposed with at least slight probability.

a. A dying non-Catholic still in possession of his senses, who on account of peculiar circumstances cannot be warned about conversion to the Catholic Church, after the things to be premised have been premised, can licitly be absolved secretly under condition, provided he is prudently judged to be a material heretic who lives outside the Catholic Church in good faith.

Before absolution, let the confessor take care to elicit with the dying man acts of faith, hope, charity, and perfect contrition; of faith indeed explicit in the absolutely necessary articles, but implicit in the others; that he declare himself a sinner before God and the priest; and finally that he show that he desires to be helped by the priest, as far as this one can, in attaining eternal life, or at least that he wishes to perform all things which by the precept of Christ are necessary for salvation. For the absolution which is given to a heretic of this kind can be invalid either from defect of intention or from defect of sorrowful confession; now, both implicit intention and sorrowful confession made in general are contained in those acts.

b. A dying non-Catholic deprived of the senses, after the acts mentioned above have been premised at his ear, can secretly be absolved under condition if by at least slight probability he can be held disposed. But whether in a heretic, even a material one only, the desire of absolution can or cannot be supposed with slight probability, others judge otherwise. St. Alphonsus indeed denies it.

c. But outside the article of death it is not licit to absolve a heretic (or schismatic), even if only material and existing in good faith, if he intends to persist in heresy, because this could not be done without scandal to others: for heretics would be confirmed in error and Catholics would conceive horror of the matter.[732]

d. If in a dying heretic there exists a doubt concerning the validity of baptism, or only a light doubt, he himself, after the necessary acts have first been premised, must secretly be baptized under condition.

Notes

731. Cf. Villada, *Casus conscientiae*, pr. 3, p. 235 ff.; Ferreres, *La morte reale e la morte apparente* (Rome: Typograph. Salesiana, 1905); Antonelli, *Medicina pastoralis* 3 (Rome: Pustet, 1909), II, n. 979 ff.; Ferreres-Geniesse, *Der wirkliche Tod und der Scheintod* (Coblenz: Central-Auskunftsstelle, 1908).

732. Holy Office, 20 July 1898. Cn. 731, 2.

Question III.

On Satisfaction.

Article I.

On the Nature of Satisfaction.

296. Definition. Satisfaction generally is compensation of an injury inflicted upon another; and satisfaction for sins is compensation of the injury inflicted upon God through sins. Hence satisfaction is made by a voluntary punishment of oneself, by which the sinner intends to repair the injury inflicted upon God through sin and to move God so that, content with this punishment, he may not punish. Satisfaction for sins is of two kinds: one sacramental, which is imposed by the confessor in the sacrament of penance; the other non-sacramental, which the penitent either assumes himself or voluntarily accepts as sent by God. Sacramental satisfaction is usually defined: a penal work imposed by the confessor in the sacrament of penance for compensating the injury inflicted upon God through sins.

Penal: by this alone can we compensate and avenge the offense and injury inflicted upon God through sin, namely that we perform some good work, indeed pleasing to God, but troublesome and afflictive to us: for sacramental satisfaction by its nature is chastisement. But every good work of fallen nature is in fact penal and laborious. **Imposed by the confessor:** for although other works of penance, which are assumed by one's own will or sent by God, have satisfactory merit, nevertheless they are not sacramental satisfactions, and therefore they do not produce the proper effect of these.

297. Division of sacramental satisfaction. 1. Satisfaction is distinguished into satisfaction in desire, which is the will of accepting and fulfilling the penance to be enjoined by the confessor; and satisfaction in reality, which is the actual execution of the enjoined penance.

The former is an essential part of the sacrament, or at least a necessary disposition of the penitent; it must precede absolution, and, if it were lacking, it would render the sacrament invalid. The latter is an integral part of the sacrament, is usually subsequent to absolution, and, if lacking, does not render the sacrament invalid, but only integrally imperfect and incomplete.

2. Satisfaction is divided into vindicative, which tends to punishing sins, and medicinal, which tends to preventing relapses. Sacramental satisfaction always intends both ends: it must punish sins themselves and heal them; nevertheless its proper and primary end is punishment or expiation of sins.

Because satisfaction by its nature is vindicative, it must contain at least some chastisement for sins committed; and because it is medicinal, it must contain a suitable remedy against relapse. In reality every good work which is enjoined conduces in some way to obtaining both ends: for every good work is not only penal and therefore vindicative, but also meritorious of graces and therefore medicinal.

298. Effects of satisfaction. 1. Sacramental satisfaction produces the remission of temporal punishment owed for remitted sins *ex opere operato*: for satisfaction is an integral part of the sacrament of penance instituted by Christ, so that through the sacrament sin may be remitted fully also as to punishment. Therefore the Council of Trent teaches that it is by the institution of Christ that temporal punishment is pardoned.[733]

Therefore works of sacramental penance obtain a twofold satisfactory effect: one *ex opere operato*, which comes to them by force of sacramental absolution; the other *ex opere operantis*, which they have equally with the other good works of a just man.

Notes

733. Cf. sess. 14, c. 8 and can. 15.

2. In order that sacramental satisfaction produce its effect, it must be performed by the penitent in the state of grace: for in the state of sin man is not capable of receiving remission of temporal punishment. Nevertheless the penitent who fulfills the satisfaction enjoined on him by the confessor in the state of sin satisfies the precept, because he places the whole work enjoined upon him, although he does not attain its end.

a. If the penitent who performed the penance in the state of sin afterward recovered the state of grace, it is not improbably held that, with the obstacle removed, he obtains the effect itself, because sacramental penance produces its effect not from the merits of the penitent, but *ex opere operato*.[734]

b. To fulfill penance in the state of sin is, by the agreement of all, not a grave sin; indeed most affirm that it is no sin, because to place an obstacle only to the remission of punishments without fault seems to lack fault.

c. He who in paying the penance commits venial sin, for example by voluntary distraction, does not by that very fact impede the effect of sacramental satisfaction, because venial sin does not impede the remission of temporal punishment owed on account of other sins already remitted.

Article II.

On Imposing Satisfaction.

299. Obligation of imposing penance. The confessor of himself is bound under grave obligation to impose satisfaction on the penitent: for as minister of the sacrament he is bound, as far as lies in him, to procure not only those things which pertain to the essence, but also those which pertain to the integrity; but satisfaction is an integral part of this sacrament. Moreover the Council of Trent prescribes this in explicit words: *Therefore the priests of the Lord must enjoin satisfactions.*[735] Hence the confessor would certainly sin if, without an excusing cause, he imposed no penance at all.

a. This precept admits smallness of matter. Therefore, although the confessor is bound under grave obligation to impose penance for mortal sins, he is bound only under light obligation for venials: for he does not sin gravely who deprives a sacrament of a complement of light moment, just as a judge does not fail gravely in his office who omits imposing a light penalty.[736]

b. Since the obligation of completing the sacrament always urges, there is no case in which the confessor is not bound to impose some penance, unless the penitent is incapable of furnishing satisfaction, as a dying man deprived of the senses, who can perform no penance. Wherefore even to the gravely sick some very slight work is usually enjoined, as a brief ejaculatory prayer, invocation of the most holy names, kissing the crucifix, etc.

c. The confessor imposes penance by way of precept, although he can also impose it by way of mere counsel without any obligation in conscience. Hence it is not necessary that grave satisfactions for mortal sins always be imposed under grave obligation; rather, from a just cause, even grave satisfactions can be imposed under light obligation.[737]

300. Quality of the penance to be imposed. 1. The confessor is also bound of himself under grave obligation to impose a penance suitable to the quantity and quality of the crimes and to the faculty of the penitent;

Notes

734. Suarez, disp. 38, sect. 8, n. 5.

735. Sess. 14, c. 8, reads: "Therefore the priests of the Lord, as spirit and prudence shall suggest, ought to enjoin salutary and suitable satisfactions according to the quality of the crimes and the faculty of the penitents; lest, if perhaps they wink at sins and deal too indulgently with penitents by enjoining certain very light works for the gravest offenses, they become participants in others' sins." Cn. 887 agrees.

736. Cf. Lugo, disp. 25, n. 49.

737. Cf. Suarez, disp. 38, sect. 3; St. Alphonsus, n. 518; Ballerini-Palmieri V, n. 303.

therefore he is bound to impose grave penance for mortal sins, light penance for venials. Indeed, where the Council of Trent declares the precept of imposing penance, at the same time it declares that penance must be proportioned to the sins and to the faculty of the penitents.

Therefore the confessor who without a just cause imposes a very light penance for grave offenses undoubtedly sins. But since this sacrament was instituted more for procuring the salvation of men than for satisfying divine justice, if both ends cannot be obtained, the secondary must be neglected so that the salvation of the penitent may be obtained.

2. The quantity and quality of the penance to be imposed cannot be determined by a general rule, but is left to the prudence and judgment of the confessor, who in determining penance must attend to these things: a. for grave offenses not only must grave penance be enjoined, but the more numerous and graver the sins are, the graver the penance must be. Therefore, of itself, for several grave sins it does not suffice to enjoin a simply grave penance, e.g., a rosary. Nevertheless it is not required that the quantity of penance be mathematically commensurate with the gravity of sins, so that, for example, for one hundred grave offenses a hundredfold greater penance be enjoined, which is impossible; but it suffices that, the graver the offenses are, a morally graver penance also be imposed. b. In order that the penance may be suitable to the quality of the sins, the Ritual warns that penances contrary to the sins be enjoined: for the greedy, for example, alms; for the lustful, afflictions of the flesh; for the slothful, exercises of devotion, etc.[738] This must not be understood as if another penance must be enjoined for each single sin, but so that for the sin into which the penitent more often relapses, as far as can be done, a contrary penance may be enjoined. But since penitents usually cannot bear satisfactions congruent with the quality of their sins, in fact scarcely anything else can be enjoined than prayer. Moreover, as Ballerini notes, fervent prayer is medicine or obtains medicine for any moral evil.[739]

What penance is grave. From the present practice of the Church, a penance is judged grave which corresponds to a work enjoined by the Church under grave obligation, or which would oblige under grave obligation if it were prescribed. Hence it will be grave satisfaction to hear Mass, to fast, to recite five decades of the rosary, the Little Office of the Blessed Virgin, the litanies of the saints with prayers, reception of the sacraments, an alms not small according to the condition of one's state, and similar things. But a grave penance is not judged to be the psalm *Miserere* or only six *Our Fathers* and *Hail Marys*.

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301. Causes of diminishing penance. The causes on account of which the confessor can impose a moderate penance for grave sins are almost the following:

a. If the penitent is sick in body or very weak in mind, so that he can fulfill a just penance for sins only with difficulty and hardship.

b. If it must be feared that the penitent will not complete a greater penance, or will be turned away from confession on account of a heavier one.

Hence, if at some time a heavier penance must be imposed, it will be advisable to ask the penitent whether he can fulfill the enjoined penance; and if he cannot, it must be changed or diminished. It is better, however, to indicate to the penitent the cause on account of which a lighter penance is imposed. Moreover, without danger of turning the penitent away from the sacraments, a heavier satisfaction can be enjoined on him if, with a light supererogatory work, there is imposed a grave work already otherwise owed, e.g., the prescribed Mass.

Notes

738. Roman Ritual, tit. 3, c. 1, n. 19. Cn. 887.

739. Ballerini-Palmieri V, n. 322.

c. If the penitent seems very contrite: for vehement contrition is of such great power that it blots out either all temporal punishment or a great part of it; or if the penitent is otherwise intent on good works by which he satisfies for sins.

d. If there is occasion of gaining an extraordinary indulgence: for through this satisfaction is already made to the owed punishment; or if the penitent is diligent in gaining indulgences, even non-plenary ones, as happens almost in those who are enrolled in confraternities and diligently perform the prayers and prescribed works.

e. If the confessor intends to furnish satisfaction for the penitent: for it is established that one can satisfy for another, the due conditions being placed.

302. When penance is to be imposed. Penance is ordinarily to be imposed before absolution, because thus the order of judgment is better observed, which requires that the accused first pledge satisfaction before he is absolved. Yet since there is no necessity of this order, penance can be enjoined without sin even after absolution, and it absolutely must be enjoined after absolution if the confessor previously enjoined none.[740]

If the penitent after absolution accuses a new sin omitted through forgetfulness, it is not necessary that the confessor impose a new penance. Others indeed hold the contrary, because a work already owed under the title of satisfaction cannot be imposed as penance. But since this absolution is not a new sacramental judgment, but only the complement of the prior one, it is not necessary that a new penance be imposed, just as it is not necessary that a new sorrow be elicited (n. 259). Namely, the confessor, granting and completing absolution, by that very fact extends the penance already imposed also to the new sin.[741]

303. Works which can be enjoined as penance. Generally, all good works can be imposed as penance, whether prayer or works of religion, or fasting or works of penance, or alms or works of charity. In species, however, let these things be noted:

1. Since for man in this state of fallen nature even an internal work is penal, mere internal acts can also be enjoined as penance, such as acts of faith, hope, and charity, meditations, examinations of conscience, acts of contrition, etc. Nevertheless external works, such as vocal prayers, visits of churches, etc., are to be preferred to them, both because they are more laborious and therefore, other things being equal, more satisfactory, and because, since they are sensible in themselves, they are more suited to the sacrament, which by its nature is a sensible sign.

2. A work already owed from another source can be enjoined: for although it is already owed, nevertheless through the keys of the Church it can be elevated to the merit of sacramental satisfaction.

a. Ordinarily indeed it is altogether fitting that supererogatory works be imposed; nevertheless sometimes on account of the fragility of the penitent it is advisable to impose a work already otherwise prescribed. For example, on a penitent who does not observe the precepts of the Church, it can usefully be enjoined that until the following confession he hear Mass on feast days, observe abstinence and fasting, etc. But if nevertheless he omits these enjoined works, he commits a twofold sin: one against the precept of the Church, the other against the precept of the confessor or against the virtue of penance.

b. If the confessor enjoins a work which is prescribed otherwise, as if he enjoins the hearing of Mass or fasting, an unprescribed work is always understood, unless from the words of the confessor or from the circumstances something else is clear.

Notes

740. Cf. Suarez, disp. 38, sect. 3; Sporer-Bierbaum III, pr. 3, n. 576.

741. Cf. Ballerini-Palmieri V, n. 293.

3. The confessor can impose as satisfaction the good works of the penitent which he is going to do at a determined time (this week, this month, this Advent, this Lent), e.g., daily prayers, accustomed alms, etc. This is especially expedient in those on whom, because of fragility or other occupations, a penance worthy of the sins cannot be imposed.

4. The confessor can impose as penance prayers or works to which indulgences are attached, so that the penitent, if the confessor has imposed such a work, by the same act fulfills both the penance and the condition required for gaining the indulgence, since penance and the gaining of an indulgence do not mutually exclude each other.

Concerning this matter, formerly disputed among theologians, after the recent declaration of the S.C. of Indulgences (14 June 1901) and cn. 932, there can no longer be doubt. Nevertheless it is not fitting that in place of a grave penance there be enjoined a work light in itself, to which either a partial or plenary indulgence is attached: for according to the Council of Trent and the new Code cited, works of penance proportioned to the sins must be enjoined of themselves.

5. The confessor can enjoin good works to be offered by the penitent for the dead. If this is done, there is applied to the dead that satisfactory fruit which the enjoined work has *ex opere operantis*; but the fruit which the work of penance has *ex opere operato* remains in the penitent.

In like manner, if a work is imposed to be offered, for example, for the Church, for the conversion of sinners, for the dying, etc., the intention is that the impetratory value of the work come to another; but the whole satisfaction remains for the penitent.

6. Some penance can also be imposed, at least probably, under the condition of relapse, e.g., if you blaspheme again, you will say a brief prayer; if you become drunk again, you will fast. For in this case the penance is as it were disjunctive: either you will employ an entirely great effort to resist temptation, or you will fast. Nevertheless it is expedient that at least a moderate penance be imposed absolutely.[742]

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304. Unsuitable penances generally are penances involved in several and various works, too long-lasting and too grave, both on account of the danger that they will be omitted and because they render confession odious. In species, the following are rejected:

a. **Public penances,** especially penances which cannot be fulfilled without revelation of confession following. For it is not licit to impose a public penance for occult sins; and although for public sins a public penance could absolutely be imposed, nevertheless from present practice the confessor must abstain from enjoining it if it is not necessary. But it will scarcely ever be necessary: for it could be necessary only for repairing public scandal; but public scandal can be repaired by another reason, namely by a truly Christian life and good example, which may be for edification to others.

b. **Fasts** for children, peasants, workers who are wearied by continual labor, for children of a household, who by fasting would stir up the wonder, perhaps even the offense, of parents. Long prayers, pilgrimages, or alms for women who are constituted under the power of a husband.

c. **Penances repugnant to nature,** as to sign a cross on the ground with the tongue, to visit enemies. It is also imposed imprudently on children that they seek pardon from parents or from others on account of disobedience or on account of theft, because it is to be feared that the enjoined work will be omitted and confession will be rendered odious to them.

Notes

742. Sporer-Bierbaum III, pr. 3, n. 560 ff.

d. Likewise unsuitable are penances consisting in merely external works, e.g., that one which the Greeks greatly love and call *metanoia*, which consists in fifty deep inclinations immediately succeeding one another. Indeed in the West not even then would *metanoia* be to be recommended, if it were joined with fitting internal acts.

Article III.

On Accepting and Fulfilling Satisfaction.

305. Obligation of accepting and fulfilling penance. 1. The penitent of himself is bound under grave obligation to accept the penance imposed by the confessor, unless it is irrational. For to the obligation of the confessor of imposing penance there corresponds in the penitent the obligation of accepting it; but from Trent the confessor of himself is bound under grave obligation to enjoin penance.

a. **Unless it is irrational:** a penance not reasonable, i.e., one justly graver or more difficult than the discipline received today in the Church, the penitent is not bound to accept or fulfill. Therefore if the penance enjoined on the penitent by the confessor is manifestly unjust, he can ask the confessor to impose another, and there will scarcely be found a confessor who would not wish to acquiesce in the desire of the penitent. But if the confessor refuses to do this, the penitent can either depart without absolution and confess his sins to another priest, or accept the penance so that he may receive absolution; but he is not bound to fulfill the accepted penance. For the confessor does not have the power of imposing an irrational and unsuitable penance, and therefore the penitent has no obligation of accepting it.

b. From an irrational penance, such as, for example, a public penance, entrance into religion, fasting on bread and water, a penance involved in many and various works, must be distinguished a penance great and difficult but nevertheless just; this indeed the penitent cannot refuse. But if he should be unwilling to fulfill such a penance, in order to act licitly he must have the will of seeking commutation of the imposed satisfaction, and nevertheless of fulfilling it if he has not obtained commutation.

2. The penitent is bound under grave obligation to fulfill a just satisfaction imposed by the confessor, if the due conditions concur: for by the fact that an accepted penance is not paid, the sacrament remains integrally incomplete; but the obligation of completing this sacrament through real satisfaction is grave in a grave matter, light in a light matter. If for light sins a grave penance is enjoined, the penitent is bound to fulfill it only under light obligation.

a. The penitent is not bound to fulfill the penance when the absolution was invalid: for then the sacramental sentence was null, and therefore there is no sacrament to be completed; moreover he would be bound to satisfy twice for the same sins.

b. Therefore he who knowingly omits a grave penance, either wholly or in a notable part of it, sins gravely; and he who omits a light penance, whether imposed for light or for grave sins, or a non-notable part of a grave penance, sins venially. It is clear that a penitent who has become impotent is not bound to fulfill the penance.

c. He who has forgotten the imposed penance: a. is bound to approach the confessor, whom he thinks still remembers it, if he conveniently can, because fulfillment of the penance is still morally possible; b. when this cannot be done, the penitent is not bound to repeat the confession in order to receive another penance, whether he has forgotten it culpably or inculpably, because to confess again sins directly already remitted would be too grave a burden. Therefore the obligation of penance ceases, since its fulfillment has become morally impossible. c. Moreover, if the penitent, forgetful of the imposed penance, from devotion had furnished a work enjoined by the confessor, he would have satisfied the obligation (n. 308).

3. The penitent himself must fulfill the penance enjoined by the confessor: for the precept of penance requires a personal action, which cannot be fulfilled through another. And indeed the actions which are required for constituting the sacrament, whether essentially or integrally, must be performed by the very one receiving it; just as, therefore, contrition and confession cannot be performed through another, so neither can satisfaction.[743]

306. Three conditions are required so that the penitent is bound under grave obligation to fulfill the penance:

a. That the matter, or the penance itself, be grave: for light penance is not capable of grave obligation.

b. That it be imposed for grave sins not yet remitted: for venials and for mortal sins already remitted, a penance cannot be imposed under grave obligation, although it is notable.

c. That the confessor wished to oblige under grave obligation. Although the confessor can impose a grave penance under light obligation, nevertheless he is rightly presumed to wish to impose a grave penance under grave obligation and a light one under light obligation, unless he himself declares otherwise.

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307. When it must be paid. 1. Penance can be fulfilled both before and after absolution. But if the penitent who fulfills the penance before absolution is in the state of mortal sin, the work of penance already performed obtains sacramental efficacy and produces the sacramental effect by the absolution itself by which the mortal sin is blotted out.[744]

Penance is ordinarily fulfilled after absolution. Yet sometimes it happens that the confessor immediately fulfills with the dying person the small penance which he imposes on him, and afterward grants absolution. Likewise confessors sometimes enjoin certain works of piety on penitents to whom they defer absolution, by which they may be better disposed to receiving absolution; now, if they enjoin these prayers as salutary penance, afterward, when absolution is granted, it will suffice to impose only a small penance.

2. If a definite time was fixed by the confessor for fulfilling the penance, it must also be fulfilled at that time. He who does not pay the penance at the determined time is not released from obligation, because the time is not determined for ending the obligation. Nevertheless delay of the prescribed term is not a mortal sin, provided the enjoined penance is paid: for the precept of the confessor primarily regards the thing itself to be furnished, and only secondarily the circumstance of time.

3. Penance enjoined without a fixed time must be fulfilled as soon as conveniently can be done. Any delay whatever of a light penance is never a grave sin; but delay of a grave penance is a grave sin in a threefold case: if impotence of fulfilling it afterward is foreseen; if danger of forgetfulness is imminent; if the substance of the prescribed work is notably diminished.

a. They dispute much about what delay of penance is a grave sin. Some say a delay of eight days, others of six months, others of one year is grave.[745] But delay of penance seems grave not of itself, but only accidentally, namely where, because of delay, the very substance of the work is omitted either wholly or in a notable part.[746]

b. It is greatly to be recommended to all that they become accustomed to pay the penance immediately after confession has been completed, because penance is an integral part of the sacrament, which must not be

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743. This proposition (15) was condemned by Alexander VII: The penitent by his own authority can substitute for himself another who may fulfill the penance in his place. Cf. cn. 887.

744. Cf. Suarez, disp. 28, sect. 2, n. 5.

745. Cf. St. Alphonsus, n. 521.

746. Cf. Ballerini-Palmieri V, n. 308.

deferred for too long; but it is by no means necessary that it be paid before communion,[747] nor that it be paid when the penitent again approaches confession.

308. How it must be paid. a. Penance must be paid in the manner in which it was imposed by the confessor to be paid; if therefore certain circumstances have been added, for example that the prayer be made on bended knees or in church, these circumstances also must be fulfilled. How great a sin the omission of these circumstances is depends on their gravity.

He who is ordered to recite the rosary on bended knees before an image of the Blessed Virgin and neglects this circumstance of position and place does not seem to sin gravely; but he who is ordered to recite the rosary with arms extended and neglects this circumstance is judged to sin gravely, because the omission of this circumstance, but not of that one, notably changes and diminishes the penance.[748]

b. The penitent can pay the enjoined satisfaction even while he fulfills another prescribed work; for example, while he hears Mass on a feast day, he can recite the rosary enjoined as penance, because one work does not impede the other.

c. Enjoined prayers must be paid in the manner in which the same or similar prayers are usually paid from the practice of the Church: for the confessor is judged to enjoin prayers according to that manner, unless he has declared otherwise.

Therefore prayers which are usually recited alternately, such as psalms, litanies, rosaries, can be recited with a companion. Prayers which are usually recited vocally by the faithful, such as psalms, litanies, etc., it does not suffice to run through with eyes and mind only from a book.

d. No intention of paying the penance is required except that which the penitent had in accepting the penance; hence he who fulfills the work imposed by the confessor, even if he does not think about the penance to be paid, provided he does not order it to another end, satisfies his obligation.

Article IV.

On Commuting Satisfaction.

Two things must be noted beforehand: a. commutation which happens in another confession is not made by revocation of the prior sentence, but by a new sacramental judgment of either the same or another confessor. By this judgment another work is substituted for the work previously enjoined, and when this has been done the prior obligation is extinguished.[749] b. For commutation to be made licitly a just cause must be present, of which kind is any spiritual utility of the penitent. But when commutation is made from a just cause, the penance can be changed not only into another equal one, but even into a lesser one.

309. Who can commute it. The penitent himself cannot commute the penance imposed by the confessor, not even into one evidently better: for he cannot elevate the penance to the merit of sacramental satisfaction. But both the confessor who imposed it and any other confessor can commute it: for the penitent can freely and licitly subject again to the judgment of either the same or another confessor sins from which he has already been absolved, so that, with another penance imposed in place of the former, he may again be absolved by him.

Notes

747. This proposition (22) was condemned by Alexander VIII: They are to be judged sacrilegious who claim the right of receiving communion before they have done a suitable penance for their offenses.

748. Cf. Lacroix, l. 6, pr. 2, n. 1280.

749. Cf. Suarez, disp. 38, sect. 10, n. 7.

They dispute whether a penance which had been imposed on account of reserved sins can be commuted by a confessor not having power over reserved matters. Those who deny this power to the confessor say: just as the sins are reserved, so also the punishment imposed for them is reserved, or, an inferior can do nothing against a law made by a superior. But those who concede the power to the confessor teach: once reservation has been removed by the prior absolution, any confessor can judge concerning the sin and enjoin penance for it; and since there is present a just cause of commuting the penance, the consent of the superior to the commutation to be made is rightly presumed, even if the penance had been imposed for reserved sins.

310. How it can be commuted. 1. The confessor who imposed the penance can commute it even outside the sacrament, and indeed not only immediately after absolution, before the penitent departs, but also as long as the change is morally united with the sacramental judgment and constitutes one judgment with it. And the confessor can do this even if he no longer remembers the sins: for he acquires knowledge of them, as far as is necessary, from the gravity and quality of the penance imposed.

a. But the question is asked: how long does the commutation cohere morally with the prior absolution? St. Alphonsus (n. 529) judges that only the commutation which is made immediately after absolution, before the penitent departs, constitutes morally one judgment with it. But Lugo thinks that commutation even after a long time still coheres with the prior absolution. "For the satisfaction itself fulfilled after a long time integrates one judgment with the preceding parts; therefore, as long as the satisfaction has not been placed, that judgment is still understood as incomplete and as it were suspended, and the judge still has the right of urging the execution of the sentence; therefore he will still be able, with the consent of the penitent, to change or diminish the prior sentence, so that it can better be put into execution."[750]

b. But if the commutation no longer coheres morally with the prior confession, the commutation must be made in another confession. Yet a repetition of the prior confession is not required; rather, it suffices that the confessor still remembers the state of the penitent confusedly, or, if he does not remember, that he receive a confused knowledge of it, whether from a generic confession or from the penance imposed in another confession.

2. But another confessor cannot commute the penance outside the sacrament, because he has no sacramental power over the penitent except in the tribunal of penance, while he exercises the power of the keys. But he can change it in the sacrament, even if the penitent does not repeat the confession of the sins for which it was imposed, provided he acquires a confused knowledge of the matter of the sins, such as he can draw either from a generic accusation or from the quality of the penance imposed by another confessor. For he does not have to pronounce judgment concerning the individual sins, since they have already been declared and remitted before, but only concerning the difficulty of fulfilling the satisfaction and concerning a penance in some way proportioned to the sins; and for this a distinct knowledge of the sins is not required. It is clear that this change, which is instituted in another confession, can be made at any time whatever, since a new sacramental judgment independent from the former is instituted.

Question IV.

On Indulgences.[751]

The most efficacious means of satisfying God for sins already remitted, besides sacramental penance, is constituted by indulgences. Since these complete sacramental satisfaction in their own way, moral theologians

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750. Lugo, disp. 25, n. 112. Cf. Ballerini-Palmieri V, n. 318.

751. Beringer-Hilgers, *Die Ablasse, ihr Wesen und Gebrauch* 14 (Paderborn: Schoningh, 1915). There on p. 1 several works pertaining to this question are cited.

are accustomed to treat in this place several practical questions both concerning indulgences in general and concerning certain indulgences in species.

Article I.

On the Nature of Indulgences.

311. Definition. An indulgence is defined as the remission, through the power of the Church, granted outside the sacrament, of temporal punishment owed to God for sins already remitted as to guilt.

a. Through indulgences not guilt, nor eternal punishment, but temporal punishment only is remitted; but the punishment remitted is that which, after guilt and eternal punishment have been blotted out, still remains to be paid to divine justice either in this life or in the other. Therefore the formula by which indulgences are sometimes granted by way of the remission of all sins was always so understood in the Church that by the name of sins there were designated the punishments of sins.

b. The Church grants indulgences by this, that by force of the power of the keys it applies to the faithful the satisfactions of Christ and of the saints from the treasury of the Church. In the sacraments indeed and in the sacrifice of the Mass the satisfactions of Christ alone are applied to the faithful; but indulgences are granted from the satisfactions of Christ and of the saints.[752]

c. The treasury of the Church is the accumulation of the satisfactions of Christ and of the saints existing in the knowledge of God, from which the Church can grant indulgences. For Christ offered his infinite satisfactions to God the Father for us. Then there are many saints who either did not need the satisfactions performed by themselves, as the Blessed Virgin Mary, or performed more than were required for blotting out the temporal punishments owed for their sins. Those superabundant satisfactions together with the satisfactions of Christ constitute the treasury which the Church can dispense for the benefit of the faithful.[753]

312. Nature. Dogmaticians teach that the Church has power of granting indulgences both to the living and to the dead; but one is the reason of the grant which is made to the living, and another that which is made to the dead: for to the living they are granted by way of absolution, but to the dead by way of suffrage.[754]

a. Since in the present order of salvation there is no remission of guilt or punishment without condign satisfaction, indulgences therefore cannot be granted without an equivalent payment which is offered to God for the punishment remitted. But this payment is made through application of the satisfactions of Christ and the saints, whose treasury has been deposited in the Church and committed to Blessed Peter and his successors to be dispensed among the faithful. Therefore, as often as the supreme pontiff grants an indulgence, he applies the satisfactions of Christ and the saints from the treasury of the Church to the faithful, both living and dead: and to the living indeed by way of absolution; but to the dead by way of suffrage. For the living are subject to the jurisdiction of the pontiff; therefore by force of the power of the keys he can absolve them from punishments, and while he absolves them, he at the same time offers to God payment from the treasury of the Church. Therefore an indulgence granted to the living is essentially an absolution having an attached payment from the treasury of the Church. But the dead are not subjects of the pontiff; wherefore he can apply an indulgence to them only by this, that he offers to God the satisfaction of Christ and the saints and piously asks and expects that God by his mercy and liberality will accept them.

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752. This proposition (60) of Baius was condemned: Through the sufferings of the saints communicated in indulgences our offenses are not properly redeemed. Denzinger-Bannwart, n. 1060.

753. Cf. Pesch, *Praelectiones dogm.* VII, 484 ff.; Beringer-Hilgers, *Die Ablasse* 14, p. 22 ff.

754. Cf. Pesch, l.c., n. 491 ff. Cf. cn. 911.

Therefore an indulgence granted to the dead is essentially payment made by offering a price to God for their debts.

b. Therefore the grant of an indulgence is an act of ecclesiastical jurisdiction, for whose exercise, however, the power of order is not required; therefore the supreme pontiff and bishops can grant indulgences even before consecration.

Whether indulgences can be applied to the living. We cannot apply indulgences to the living, because the supreme pontiff does not grant the faculty of applying indulgences to the living. By law indeed and from the nature of the thing nothing prevents anyone from gaining an indulgence not only for himself, but also for another living person, if the supreme pontiff, on whose will the whole matter depends, grants this. But in fact he grants that very many indulgences can be applied to the dead, but never grants that an indulgence can be applied to other living persons.

Cn. 930 decrees: "No one can apply indulgences for other living persons; but all indulgences granted by the Roman Pontiff are applicable for the souls in purgatory, unless something else is clear." The reason why indulgences can be applied either to the living or to the dead only from the positive grant of the supreme pontiff is this: because the effect which a work produces *ex opere operato* can be given to another, not according to the choice of the one working, but only from the grant of him who attaches the effect to the work. But the reason why the supreme pontiff does not grant that indulgences be applied to the living is this: because it is not expedient to assist those who, although they themselves can, do not care to gain indulgences for themselves.[755]

313. Effect. Indulgences granted to the living, the conditions prescribed by the Church having been placed, have a certain and infallible effect: for the Church absolves them by its own authority. But indulgences applied to the dead, all required conditions having been placed, indeed have an infallible effect insofar as God accepts them for the dead; but they do not have an infallible effect insofar as he applies them to the determined soul for whom they are offered, or in that measure according to which they are offered. This application depends on God's good pleasure.

The reason for the first is that the supreme pontiff grants indulgences to the dead by apostolic authority; but if God gave him authority of applying the treasury of the Church for the benefit of the dead, he also accepts the application made. The reason for the second is that, on the one hand, there exists no promise by which God has affirmed that he will accept indulgences offered for certain dead persons; on the other hand, it can happen that the order of divine providence prevents the indulgence from being applied to a determined dead person, either wholly or even only in part. Nevertheless one may piously hope that God will not only accept the indulgences which are offered for the dead, but ordinarily at least will also apply them to those very persons for whom they are offered.[756]

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314. Division. 1. Indulgences are divided into **personal**, **real**, and **local**.

a. **Personal indulgences** are those which are immediately attached to a person, whether physical or moral, as to a confraternity or also to the whole body of the faithful, independently of a certain object or place for pious works to be performed.

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755. Cf. Palmieri, *An lucratus indulgentiam possit eam ex arbitrio in alterum conferre* (Rome: *Analecta eccles.*, 1895); Behringer-Hilgers, p. 32. The S.C. of Indulgences, 22 Aug. 1906, granted to the O.F.M. that the plenary indulgence attached to general absolution to be imparted on certain days through the year to religious men and nuns of the same order could be applied not only for the dead, but also for the living. Namely, previously only the dead could gain this plenary indulgence; but now it has been granted to the O.F.M. that the brothers can apply or gain the same also for themselves, therefore for the living. Cf. Hilgers, *Linz. Quartalsch.* 1914, pp. 794, 497 ff.

756. Cf. *Zeitschrift f. k. Th.* XVII, 1893, p. 297 ff.

The faithful who have been lawfully enrolled in a confraternity are not deprived of the indulgences granted to it because they do not observe the statutes of the confraternity, either in part or in whole, provided they fulfill the works enjoined for gaining the indulgences.[757]

b. **Real indulgences** are those which are immediately attached to some portable thing, as to a rosary, medal, etc.

c. Real indulgences can be applied only to solid things: iron, wood, lead, also leather bound in glass or covered with glass; but not to those things which can easily be broken or torn, as paper, glass not encased in something solid,[758] although these can be blessed.

Real indulgences cease if the objects to which they are applied physically or morally perish and lose their form, as if the image of a crucifix is broken into two parts, if most of the beads of a rosary are lost at the same time, etc.

Medals to which indulgences are applied must bear the image of some saint; nor is the image of some blessed or venerable man sufficient, unless there is at the same time the image of a saint.[759]

If an indulgence is applied to a cross bearing a crucifix, the subject of the indulgence is the crucifix, which therefore can be transferred to another cross without the indulgence being lost.

Indulgences attached to a rosary or to other such things cease then only when the rosary or the other things cease to be destined for sale.[760]

Therefore rosaries: a. do not lose indulgences if the cord is broken and the beads are strung again, for the beads are the subject of the indulgence; b. they do not lose them if a few beads only (four or five) are lost and others are substituted; c. if, however, anyone sells a blessed thing endowed with an indulgence, he acts against the prohibition of the Church and causes the indulgence to perish, although the price is in no way increased on account of the indulgence.

b. If anyone receives something for a rosary or another thing under the title of alms, the indulgence attached to it does not seem to cease, because the thing is not sold.

c. To one and the same thing or place several indulgences from various titles can be attached (to the same rosary, apostolic indulgences, those of St. Bridget, of the Preachers, of the Crucigers); but by one and the same work to which indulgences are attached from various titles several indulgences cannot be acquired, unless the required work is confession or communion, or unless something else has expressly been provided.[761]

d. **Local indulgences** are those which are immediately attached to a pious place, as to a church, or to a thing (altar, cross, image, etc.) which has been placed in a determined place, and whose visitation is numbered among the conditions for gaining the indulgence.

Local indulgences cease if the church or oratory to which they are attached is entirely destroyed, unless within fifty years it is again built in the same or almost the same place and under the same title.[762] In order that a

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757. *Decreta authentica S. C. Indulgentiarum* (Ratisbon: Pustet, 1883), n. 298.

758. S. C. Indl., 29 Feb. 1820, n. 249.

759. S. C. Indl., 22 Dec. 1710, n. 32.

760. Cn. 924, 2. Nevertheless rosaries, crosses, etc., do not lose indulgences if anyone buying them entrusts to the seller himself the care of having them blessed in his name, even if he finally pays the price and the expenses of transmission when the things already blessed are delivered to him. S. C. Indl., 10 July 1896.

761. Cn. 933.

762. S. C. Indl., 9 Aug. 1843, n. 323. Cn. 924, 1.

church be judged to have been restored in almost the same place, it is necessary that the new building stand only a little distant from the old, for example, twenty or thirty paces.[763]

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315. 2. Indulgences are divided into **plenary**, by which, from the intention of the one granting, the whole temporal punishment is remitted; and **partial**, by which only a determined part of that punishment is remitted.

a. Although every plenary indulgence, so far as regards the one granting it, can destroy the whole temporal punishment, nevertheless not all gain it fully, but very many gain it only in part: for in those who have no guilt, not even venial guilt, all punishments are destroyed; but in those who still have some venial sin, the punishments due for faults already blotted out are indeed remitted, but not those which are due to the fault still remaining.

They are not to be listened to who teach that those gain nothing of a plenary indulgence who do not gain it fully; for in this matter everything depends on the will of the one granting it; but Cn. 926 manifests the will of the one granting: "A plenary indulgence granted is understood in such a way that, if anyone cannot gain it plenarily, he may at least gain it partially according to the disposition which he has." The theoretical reason of this affirmation is that the effect of an indulgence is by its nature divisible; therefore he who does not gain the whole can gain a part of it.

b. Partial indulgences were formerly granted by this formula: remission of half or of a third part of sins, i.e., of temporal punishments; now indulgences are granted of so many days, years, quarantines; these formulas are not to be taken as though by these indulgences just as much punishment of purgatory were relaxed, but they signify only that as much canonical penance is remitted, which in ancient times was customarily imposed for sins, and consequently only so much punishment owed to God, or of purgatory, is remitted, as would be blotted out through those penances if they were actually performed. Therefore by an indulgence of seven years so much punishment owed to God is relaxed as is equivalent to a canonical penance of seven years. The measure of this remission, as in ancient times it depended on the fervor of the penitent, so now depends on the greater or lesser devotion with which the conditions prescribed for the indulgence are fulfilled.

c. An indulgence of forty days is called a **quarantine**, by which so much punishment is remitted as would have been blotted out by a fast of forty days, tolerated according to the ancient penitential canons during the time of Lent on bread and water alone.

d. In this formula: an indulgence of six or seven years and just as many quarantines, the name quarantine does not signify a Lenten fast which must be observed within those seven years themselves, so that an indulgence of seven years would signify just as much as an indulgence of seven years and seven quarantines; but it signifies quarantines added to the seven years, so that an indulgence of seven years and seven quarantines signifies a more ample indulgence than seven years alone.[764]

Whether on the same day we can gain the same indulgence more than once. Cn. 928 solves this question in this way: "A plenary indulgence, unless something else has expressly been provided, can be acquired only once in the day, even if the same prescribed work is performed several times.[765] But a partial indulgence can be acquired several times in the day, unless the contrary is expressly noted." With respect to plenary indulgences

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763. S. C. Indl., 29 March 1886.

764. Beringer, "Bedeutung der 'Quadragenen' in den Ablassverleihungen" (*Quartalschr. Linz*, 1900), p. 928.

765. Therefore priests who binate gain the indulgence for the prayer *En ego* only once. S. C. Indl., 29 June 1892.

an exception from this rule is admitted only rarely.[766]

"A plenary indulgence which has been granted as daily to those visiting a church or oratory is to be understood in such a way that it can be acquired on whatever day, but only once in the year," Cn. 921, 3.

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316. Who Can Grant Indulgences. Indulgences can be granted by him who has proper or delegated power for this.

1. The **supreme pontiff**, and he alone, can grant by proper right to the faithful of the whole world indulgences both plenary and partial, for the living and for the dead: for to him alone have the keys of the treasury of the Church been granted with the fullest power of dispensing from it to the faithful. Those who have obtained from the supreme pontiff general grants of indulgences, under penalty of nullity of the grace obtained, are bound to bring a copy of the concession made to the Sacred Penitentiary.[767]
2. **Cardinals** can grant indulgences of 200 days, even to be gained *toties-quoties*, in places or institutes and for persons of their jurisdiction or protection; likewise in other places, but to be gained only by those present on each occasion.[768]
3. **Bishops** can grant an indulgence of 50 days in places of their jurisdiction.[769]

But all inferiors to the Roman Pontiff cannot:

a. delegate to others the faculty of granting indulgences;

b. grant indulgences applicable to the dead;

c. attach other indulgences to the same thing or act of piety or sodality to which indulgences have already been granted by the holy see or by another, unless new conditions to be fulfilled are prescribed.[770]

Article II.

On the Conditions for Gaining Indulgences.

317. Required Conditions. 1. In order that one be **capable** of gaining an indulgence,[771] he must be:

1. baptized;
2. not excommunicated: an excommunicated person does not become a participant in indulgences, Cn. 2262;
3. a subject of the one granting: for the grant of an indulgence is an act of jurisdiction, which cannot be exercised except over a subject;

Indulgences granted by bishops, however, can be gained both by subjects outside the territory, and by pilgrims,

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766. There are now ten plenary indulgences which the faithful can gain *toties-quoties*: a. the very celebrated indulgence which is called the Portiuncula (2 Aug.); b. on the feast of the Most Holy Rosary (first Sunday of Oct.); c. on the feast of Blessed Mary of Mount Carmel (16 July); d. on the feast of the Sorrows of the Blessed Virgin Mary (third Sunday of Sept.); e. on the feast of B. V. M. de Mercede (24 Sept.); f. on the commemoration of all the faithful departed (2 Nov.); g. on the last Sunday of June in churches in which during the month of June devotions toward the Most Sacred Heart of Jesus have been held solemnly with daily preaching, or at least in the manner of spiritual exercises for an octave; h. for those who at Rome ascend the holy stairs on their knees, praying and piously meditating on the Passion of the Lord; i. on the feast of the Most Holy Trinity; k. on the feast of the Most Holy Body of Christ. Which persons, and under what conditions, can acquire these indulgences, Hilgers teaches, *Die Ablasse*.

767. S. C. Indl., 19 Jan. 1756, n. 205, 371. Cn. 920.

768. Cn. 239, 24.

769. Cn. 349, 2.

770. Cn. 913, 3.

771. Cn. 925, 1.

wanderers, and all exempt persons dwelling in the territory, unless something else is apparent from the grant.[772]

4. in the state of grace at least at the end of the prescribed works: for temporal punishment cannot be remitted while guilt and eternal punishment have not yet been remitted. If several works are prescribed for gaining an indulgence, it suffices that the last be completed in the state of grace, because the indulgence is acquired in the very instant in which the works prescribed by the one granting are completed.

a. The Church indicates this condition by granting indulgences to the contrite of heart or to those who, with at least a contrite heart, have performed a determined work: for these words signify nothing other than that the state of grace is required for gaining an indulgence, and that, if it is not present, it must be obtained through contrition; wherefore one who already exists in the state of grace does not necessarily have to elicit an act of contrition in order to gain the indulgence.[773]

b. For gaining a plenary indulgence **fully**, the state of grace is not sufficient, but in addition there is required immunity from every venial sin, and such immunity indeed that even affection or adhesion to venial sin has been removed: for guilt not yet blotted out cannot have remitted the punishment owed for that same guilt. Therefore the greater one's immunity from venial sins, the fuller the indulgence which can be acquired.

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2. In order that one **really gain** an indulgence.[774]

3. He must have at least a general intention of gaining it: for a benefit is not given except to one who wills it; but a habitual intention is sufficient, i.e., one had at some time and never retracted. Therefore one who elicits a general intention of gaining all indulgences which are attached to the works placed by him gains them, even if he does not think about the indulgence when the work is placed, indeed even if he does not know that an indulgence is attached to the work which he performs. Nevertheless it is very much to be recommended, although it is not necessary, that every morning the intention be elicited of gaining all indulgences which can be obtained through works done during the day.

4. He must fulfill the **enjoined works** at the stated time and in the stated manner. For these works have the character of a condition under which indulgences are granted; therefore he who does not fulfill the condition integrally does not gain the indulgence, and neither error nor any good faith excuses in this matter. Wherefore if a notable part of them is omitted for any cause whatever, even a reasonable one, the indulgence is not acquired; but the effect is not impeded if a slight part of the enjoined work is omitted, e.g., in the rosary one Our Father and Hail Mary, because the work is nevertheless completed as to substance.

a. If several works are prescribed for gaining an indulgence, it is indifferent in what order they are performed. Thus if confession, communion, and visitation of a church are required, the visitation can be made both before and after the other works, even if in the concession of the indulgence it is said: Those who, confessed and refreshed with holy communion, shall have visited.[775]

b. For gaining partial indulgences, works already due under sin from another title do not avail, unless he who grants the indulgence has expressly established otherwise (n. 303, 4), because by one action one cannot satisfy several obligations, each of which demands singular actions.[776] Therefore we cannot gain the indulgences attached to Cruciger rosaries by reciting, for example, a Hail Mary which pertains to the

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772. Cn. 927.

773. S. C. Indl., 17 Dec. 1870, n. 427.

774. Cn. 925, 2.

775. S. C. Indl., 19 May 1759, n. 214.

776. S. C. Indl., 29 May 1841, n. 291. Cn. 932.

divine office or has been enjoined for penance; nor can the obligation of reciting prayers prescribed for gaining indulgences be satisfied by the canonical hours; nor by performing a work owed from a vow can we at the same time gain the indulgence attached to the same work by the supreme pontiff. But by paschal communion we can gain indulgences for whose gaining holy communion is prescribed;[777] likewise through works which are performed from the statutes or customs of religious communities, if they do not oblige under sin, indulgences attached to those same works can be obtained.

c. Nevertheless he who performs a work enjoined upon him as sacramental penance and perhaps enriched with indulgences can at the same time both satisfy the penance and gain the indulgences.[778]

318. Conditions Required for Gaining an Indulgence for the Dead: a. The grant of the pontiff by which the indulgence can be applied to the dead: for by his own will no one can apply an indulgence to another, neither living nor dead.

b. At least a habitual intention of applying them to the dead: for the supreme pontiff only grants that they can be applied; he himself does not apply them to the dead. They can be applied either to a single soul, or to several, or to all the souls of the faithful existing in purgatory.

c. Whether he who applies an indulgence to the dead must be in the state of grace in order that it profit them is not clear; nor did the Congregation of Indulgences, when asked about this matter, wish to define the controversy.[779]

On this question these things must be noted: a. From the nature of the thing nothing prevents even one who is in the state of sin from being able to gain an indulgence, not indeed for himself, but for the dead: for the works by which he gains the indulgence do not have satisfactory value from the dignity of the one working, but from the grant of the Church. b. Those who think that even a sinner can gain indulgences for the dead say that it is not required that he who gains an indulgence for the dead first acquire it for himself and then transfer it to the dead, but it suffices that he place the conditions prescribed by the Church, and when these have been placed the indulgence will come to the dead according to the mind of the supreme pontiff.[780] g. But those who hold that only the just can gain indulgences for the dead think that no one can apply to another what he has not first made his own.[781] d. Nevertheless this seems certain: that a priest who celebrates Mass in the state of mortal sin at a privileged altar (whether the privilege is local or personal) gains the indulgence of this altar for the soul for whom he offers the sacrifice.[782]

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319. Works which are ordinarily prescribed by the Church for gaining a plenary indulgence are: a. confession; b. communion; c. certain prayers to be said according to the intention of the pontiff; to these sometimes is added, d. visitation of a church.

1. **On confession.** a. If confession is not expressly required for gaining an indulgence (as for the indulgences of the Way of the Cross), it is not necessary; but if confession is enjoined in the grant of the indulgence, it is necessary even for those who do not have mortal sins, although absolution is not necessary for them.[783]

Notes

777. S. C. Indl., 10 May 1844, n. 327.

778. Cn. 932.

779. The S. C. Indl., 20 Aug. 1822, answered: postponed; on 22 Feb. 1847 it answered: let approved authors be consulted.

780. Suarez, disp. 53, sect. 4; Bellarmine, *De indulgent.* l. 1, c. 14; Ballerini-Palmieri V, n. 791.

781. S. Alphonsus, n. 534.

782. S. C. Indl., 12 March 1855, n. 366.

783. S. C. Indl., 15 Dec. 1841, and 6 May 1852, n. 295 and 359.

b. Confession perhaps required for gaining indulgences can always be made within the eight days preceding the day to which the indulgence is attached, or even within the whole subsequent octave.[784]

c. Confession and communion required for gaining an indulgence granted for exercises or missions can also be made within the octave which immediately follows the completed exercise.[785]

d. The faithful who are accustomed, unless lawfully impeded, to approach confession at least twice in a month or to receive holy communion daily, although once or twice during the week they abstain from it, can gain all indulgences even without an actual confession which otherwise would be necessary for gaining them, excepting indulgences of the ordinary and extraordinary jubilee or in the manner of a jubilee.[786]

Therefore for gaining indulgences occurring during the week, for those who communicate almost daily, confession is no longer required: not that which is made every other week, nor that which is made every month, indeed not even that which is made every half-year or every year.[787]

320. 2. **On communion.** a. Communion can always (except in the jubilee) be received on the day before that day for which the indulgence has been granted, and through the whole octave; but the other works must be performed at the determined time.[788]

b. If for gaining an indulgence the visitation of a determined church is prescribed, holy communion need not necessarily be received there; but if holy communion is received in that church, it is not necessary that another visitation be made in addition, provided the time determined for gaining the indulgence is observed and the prescribed prayers are recited.

c. Excepting the indulgence of the jubilee, paschal communion avails for gaining indulgences which require holy communion.[789] Moreover, one and the same communion (as also confession) suffices for gaining several indulgences granted for the same day, each of which requires communion (and confession), provided the remaining works are performed as many times as there are indulgences which one is going to gain on that day.[790]

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321. 3. **On the visitation of a church.** a. If visitation of a church is prescribed indeterminately, the visitation of some church or public oratory is required and suffices; here it must be noted that semi-public oratories are in reality private oratories, and therefore their visitation does not suffice for gaining indulgences without a special indult.[791]

An indult has been granted that the faithful of either sex who live a common life in religious communities, institutes of education, and hospitals erected with the consent of the ordinary, and those serving them, if they lack a church or public oratory, can visit the chapel of their own house, in which they can satisfy the obligation of hearing Mass, as often as for gaining indulgences the visitation of some church or indeterminate public oratory is prescribed.[792] Therefore if they have a church or public oratory, likewise if the visitation of a determined church is prescribed, the indult does not avail.

Notes

784. Cn. 931, 1.

785. Cn. 931, 2.

786. Cn. 931, 3.

787. S. C. Indl., 14 Feb. 1906.

788. Cn. 931, 1.

789. S. C. Indl., 10 May 1844, n. 327.

790. S. C. Indl., 29 May 1841, n. 291.

791. S. C. Indl., 22 Aug. 1812, n. 310.

792. S. Officium, 14 Jan. 1909. Cn. 929.

b. The visitation of a church or oratory can be made from noon of the preceding day until the midnight which closes the day established.[793]

c. He is said to visit a church who enters it with the intention of worshiping God; but if one about to visit the church cannot enter it because of some impediment, e.g., because of too great a multitude of people or because of closed doors, a moral entrance suffices, by the fact that he recites the prayers near the doors of the church.[794]

d. For making the visitation of a church which is instituted processionally, it is not sufficient if the clergy and people pass through the church praying, nor if the clergy with some from the procession enter the church and recite a common prayer while the others stand outside the church; but it is required that all who can be contained in it enter the church, and there recite a common prayer.[795]

e. For gaining several indulgences for which the visitation of a church is prescribed, it does not suffice to repeat the prayers as many times as there are indulgences to be gained; rather, as many visitations must be made as there are indulgences to be gained, i.e., it is necessary to go out of the church and enter the church again as many times.[796]

322. 4. **On the prayers to be recited.** a. If prayer is prescribed for gaining indulgences, mental prayer does not suffice, but at least some vocal prayer is required, which ordinarily is not determined, but is left to the judgment of each one. But it cannot be demonstrated by any argument that five or six Our Fathers and Hail Marys are required, or another prayer equivalent to these; on the contrary, it cannot be doubted that from the new Code one Our Father suffices for gaining the indulgence.[797]

b. Prayers must be recited according to the intention of the supreme pontiff, whose intention is the exaltation of holy mother Church, the extirpation of heresies, the propagation of the faith, the conversion of sinners, and peace among Christian princes. An explicit intention is not required, but this implicit intention suffices: according to the intention of the Roman pontiff, or according to the due intention, which all have who recite prayers for gaining an indulgence.

c. If special prayers have been assigned for gaining indulgences, they can be recited in whatever language, provided the faithfulness of the version is clear either from a declaration of the Sacred Penitentiary or of the ordinary of some place where the language into which the prayer is translated is vernacular. Indulgences cease on account of any addition, subtraction, or interpolation.[798]

d. It suffices to recite the assigned prayers alternately with a companion, or to follow them mentally while they are recited by another.[799]

e. In order that deaf-mutes and mutes can gain indulgences for obtaining which vocal prayer is prescribed, these things are established: a. if public prayers are prescribed, they must join themselves to the people and pray mentally; b. if prayers are to be recited privately, they can pour them forth by signs or mentally,

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793. Cn. 923.

794. Cf. Behringer-Hilgers, p. 117.

795. S. Penitentiary, 18 Oct. 1901.

796. S. C. Indl., 29 Feb. 1864, n. 399.

797. S. C. Indl., 13 Sept. 1888. Cn. 934. Cf. Bremer, *Linz. Quartalsch.*, 1919, p. 586.

798. Cn. 934, 3.

799. Cn. 934, 3.

800. S. C. Indl., 18 July 1902. Cn. 936.

or merely read them without any pronunciation;[800] nevertheless, if the visitation of a church is prescribed, they are bound to visit it.

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323. Various Decrees. From those things which have been established concerning indulgences by the Sacred Congregation of Indulgences, these should be noted:

1. Although partial indulgences which extend to an extraordinarily great number of years must be regarded as suspect, nevertheless indulgences of this kind have sometimes actually been granted; however, by a general decree of 26 May 1898 all indulgences of a thousand or of several thousands of years which are said to have been granted up to this time, or have been granted, are revoked.
2. The words by which indulgences are sometimes granted: **in the form accustomed by the Church**, signify that they are granted to the truly contrite, i.e., to those who, absolved from sins, exist in the state of grace; and if indulgences are granted **under the accustomed conditions**, there are understood, besides the state of grace and the intention of gaining the indulgence, confession, communion, and prayers to be said according to the intention of the supreme pontiff.
3. If the faculty is granted of applying indulgences to certain objects in the form accustomed by the Church, these words signify that the application must be made with intention and by forming the sign of the cross over the thing to be blessed, without there being need to pronounce some formula or sprinkle the thing with holy water.[801]
4. Indulgences attached to feasts or sacred processions or novendial, septenary, and triduan prayers, which are performed before or after the feast or even during its octave, are understood to be transferred to that day to which feasts of this kind are lawfully transferred, if the transferred feast has an office with Mass without solemnity and external celebration, and the transfer is made in perpetuity, or if the solemnity and external celebration is transferred either for a time or in perpetuity.[802]
5. Confessors can commute pious works enjoined for gaining indulgences into other works for those who, detained by a lawful impediment, cannot perform the same.[803] Commutations which occur in the matter of indulgences must be made in the act of sacramental confession, unless it is expressly granted that they can be made outside confession.[804]
6. He who obtains from the apostolic see diverse faculties, e.g., of a personal privileged altar, of erecting stations of the Way of the Cross, of blessing crosses, medals, etc., must exhibit to the Ordinary the faculty of erecting stations, even if in the grant of this matter no mention has been made; but he need not exhibit the other faculties unless this is prescribed in the grant.
7. With respect to the clause concerning the consent of the Ordinary of the place, which is customarily inserted in rescripts by which the faculty of blessing rosaries, crosses, etc., with application of apostolic indulgences and those of St. Bridget is granted, it has been declared: a. that in order validly to exercise this faculty, it is required that the priest be approved for hearing confessions (at least of men); b. that in order to exercise it licitly, the consent of the Ordinary of the place in which one wishes to use it is required. Although it is to be desired that this consent be express, nevertheless tacit or implicit consent also suffices, and if in practice it cannot be done otherwise, even prudently presumed consent.[805] g. For religious who do not use this faculty

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801. S. C. Indl., 7 Jan. 1843, n. 313.

802. Cn. 922.

803. Cn. 935.

804. Benedict XIV, const. *Convocatio*, 25 Nov. 1749.

outside their own religious house, the permission of the regular Superior suffices, even if in the rescript it is said: with the consent of the Ordinary of the place.[806]

8. The prayer *Sacrosanctae* (with Our Father and Hail Mary), from the grant of Leo X, has this effect: that defects and faults contracted from human frailty in paying the sacred office are indulgenced. To obtain this end it suffices that the prayer be said once at the end of the whole office.

It is not necessary that it be recited immediately after the sacred office; the indulgence is acquired even if some interval of time (several hours) intervenes between the sacred office and this prayer. Nevertheless it must be said on bended knees, except in the case of illness or of a graver impediment. Therefore any reasonable cause does not suffice.

Note. To obtain the fruit of indulgences the conditions under which they are granted must be fulfilled integrally and exactly; and in like manner, in establishing confraternities or congregations, the prescribed formalities must be accurately observed, so that the faithful may gain the indulgences attached to them. Knowledge of these matters can be drawn without difficulty from the work cited above, especially very useful to pastors: Beringer-Hilgers, *Die Ablasse*, etc.

Article III.

On the Indulgence of a Privileged Altar.

324. On the Privilege of the Altar. 1. A **privileged altar** is called that altar to which this special privilege is attached, by force of which the priest can apply a plenary indulgence to the soul of that dead person for whom he celebrates at that altar. Therefore the privilege of the altar, or the indulgence of a privileged altar, consists in this: that the supreme pontiff from the treasury of the Church applies to a certain dead person a plenary indulgence, or so many satisfactory merits as are required and suffice for immediately freeing him from the punishments of purgatory.

a. A twofold privilege of the altar is distinguished, **local** and **personal**. The local is fixed to a determined place, namely an altar; all who celebrate at that altar can enjoy this privilege. The personal is granted to certain priests requesting this privilege, who therefore can apply the indulgence of a privileged altar wherever they celebrate.

b. He who has obtained a personal privilege of the altar can also use the privilege of the altar which he possesses from another title, e.g., as a member of a congregation or confraternity, unless this is expressly prohibited in the indult.

2. The effect of this indulgence is not infallible. For the supreme pontiff indeed offers to God from the treasury of the Church as much as suffices for immediately freeing a soul from all punishments of purgatory; but because God is not bound to accept that price, both the acceptance itself and the measure of acceptance depend on the good pleasure of divine mercy.

Hence anniversaries and perpetual legacies to be discharged at a privileged altar are admitted by the Church, and the practice has become established that several Masses be said at a privileged altar for the same dead person.

3. Between this indulgence and others which are applied for the dead there exists no other difference, except that the indulgence of a privileged altar is more certainly applied and obtains its effect. For on the one hand,

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805. S. C. Indl., 14 June 1901.

806. S. C. Indl., 4 June 1888.

this indulgence supposes no other condition or disposition besides the offering of the sacrifice; on the other hand, the sacrifice itself offered for the same dead person has the power of placating divine justice and therefore of removing impediments, if any are present, which would prevent the indulgence from being applied perfectly and fully to this soul.

In ancient times the privilege of the altar was granted very rarely and only to more distinguished churches; in the last century the Church at length began to act more benignly in this matter.

Benedict XIII (in 1724) granted to all patriarchal, metropolitan, and cathedral churches of the whole world a daily and perpetual privileged altar to be designated once by the ordinary.

Clement XIII (in 1759) extended this same grant to all parish and collegiate churches of the whole world for seven years, at the end of which the bishop must have recourse for confirmation; then he will communicate the granted confirmation with the pastors. Indeed it can happen that in the same church there are several altars privileged from other titles, e.g., by reason of a confraternity or congregation.

The altar to which the privilege is granted must be fixed; a portable altar or simple stone does not suffice. Therefore by the name of a fixed altar in this question is not understood a fixed altar in the strict liturgical sense, but an altar suffices which cannot be moved from its place, even if it is wooden and not attached to the wall.[807]

Nevertheless the privilege inheres not in the stone, "which one can substitute for another," but in the altar. Moreover it inheres in the altar so exclusively that it cannot be transferred to another altar without faculty.[808]

4. All altars are privileged a. on the day of the commemoration of all the faithful departed; b. on those days on which the supplication of forty hours is performed in the church.[809]

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325. Conditions Required for Gaining This Indulgence. 1. Since the indulgence of a privileged altar cannot be separated from the application of the Mass, the indulgence must be applied to the soul of that dead person for whom the sacrifice is offered, not indeed from the nature of the thing, but from the will of the Church.[810]

Not only he who celebrates for the living, but also he who offers the Mass for the living and at the same time for the dead, cannot apply the indulgence of a privileged altar.[811]

2. The indulgence of a privileged altar (even on the day of the commemoration of all the faithful departed) cannot be applied except to one dead person; therefore he who offers for several or for all the faithful departed must determine the soul to whom he intends to apply the indulgence. But if he offers the sacrifice for only one dead person, the indulgence also is applied to the same; nor is the intention of the celebrant necessarily required for this, although it is advisable that he intend to apply not only the Mass but also the indulgence.

3. On days on which it is permitted by the rubrics, it is indeed fitting, for the sake of piety toward the dead, that a Mass of Requiem be said, or of the feria or vigil with the proper prayer of the dead person (in the penultimate place); but this is no longer required under penalty of nullity.[812]

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807. S. C. Indl., 18 July 1902.

808. S. C. Indl., 27 Sept. 1843, n. 324, and 20 March 1846, n. 334.

809. Cn. 917.

810. S. C. Indl., 25 Aug. 1897. By this same decree to the question: How is the inscription to be understood which is found on some altars: *A privileged altar for the living and the dead*? it is answered: It is to be interpreted in such a way that both for the living, if it is applied at that altar for the living, and for the dead, if it is applied for these, a plenary indulgence is understood to have been granted.

811. S. C. Indl., 23 Jan. 1901.

Therefore now for gaining the indulgence of a privileged altar it suffices that the Mass of the day be said, or even a votive Mass, if it is allowed by the rubrics, with the intention of applying the indulgence.

4. The indulgence of a privileged altar applied to the dead does not prevent the priest, through holy communion which he receives in the Mass, from being able to gain one or several other indulgences and apply them to himself or to the dead.

5. He who enjoys the privilege of the altar from several titles cannot, by one and the same sacrifice of the Mass, apply several plenary indulgences according to the number of titles which he enjoys, but only one.[813]

326. On the Gregorian Altar. The altar of St. Gregory on the Coelian Hill at Rome is truly and properly privileged; but Gregorian altars *ad instar* are no longer granted.[814]

Namely, from ancient times even to these times the faithful ask that at the altar of St. Gregory in the church of the same saint on the Coelian Hill the sacrifice of the Mass be offered for the dead, piously trusting that each Mass offered at this altar will be of such efficacy that the soul for whom it is offered is immediately freed from the punishments of purgatory. The S. C. of Indulgences (15 March 1884) declared this trust "pious and approved in the Church." Moreover the same privilege which belongs to the altar of St. Gregory on the Coelian Hill was sometimes granted by the supreme pontiff also to other altars throughout the world, which therefore were called: Gregorian altars *ad instar*. Therefore a Gregorian altar is a privileged altar in such a way that two things are added which cause the indulgence granted by the supreme pontiff to be applied more certainly and securely, namely, the intercession of St. Gregory and the authority of the Church, by which that altar has been specially deputed for this, that through the sacrifice offered on it souls may be freed from the punishments of purgatory.

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327. On Gregorian Masses. By the same decree the S. C. of Indulgences also approved the Masses which are called Gregorian, or the Gregorian tricenary. By this name are meant thirty Masses which are celebrated for thirty continuous days after the example of St. Gregory at any altar whatever. The faithful, who from ancient times have arranged for Gregorian Masses to be celebrated, are led by this trust: that those Masses, from the good pleasure and acceptance of divine mercy, through the intercession of St. Gregory, will be so efficacious that the soul for whom they are applied is freed from the punishments of purgatory.

a. It is not necessary that the Masses be said by the same priest, but only that they be celebrated without interruption. Therefore a priest can and must substitute another for himself if he himself is impeded from celebrating the due Mass. If within the thirty days on which the Gregorian Masses are celebrated the last three days of Holy Week occur, it is lawful to interrupt the series of Masses for this triduum and, when it has elapsed, to continue them.[815] Nor is it necessary that a Mass of Requiem be said on those days on which it is permitted by the rubrics.[816]

b. If an interruption of the tricenary has been made, the essential condition is lacking. But if this happens inculpably, the priest is bound to begin the tricenary again if he accepted an extraordinary stipend, because one accepting such a stipend is judged to bind himself to this; if he accepted only an ordinary stipend, he does not seem to be bound to begin the celebration again, because he did not bind himself to undergo so

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812. S. Officium, 20 Feb. 1913.

813. Cf. Beringer-Hilgers, p. 550 ff., where you will find communicated an excellent dissertation on this matter and several decrees which refer here.

814. S. Officium, 11 Dec. 1912, ad 7.

815. Benedict XIV, *Instit. eccl.*-instit. 34, n. 22.

816. S. Officium, 11 Dec. 1912, ad 5.

great a burden because of an inculpable defect. It suffices if he completes the number of thirty Masses and celebrates at least one of them at a privileged altar.[817]

c. What the foundation of this pious trust is, or whence is derived the efficacy which is attributed by the faithful both to the tricenary of St. Gregory and to a Mass celebrated at a Gregorian altar, the Church has nowhere declared. But the opinion of those theologians seems to be approved who judge that St. Gregory obtained this grace from God: that, by his intercession, the soul of him for whom the Masses are offered in the manner explained above be freed from purgatory. Moreover the reason why it is piously believed that this grace was granted by God to St. Gregory is a certain wondrous fact which the saint himself narrates in *Dialogues* l. 4, c. 55.[818]

d. In some regions of Austria and Upper Germany there is found the custom of arranging that for a determined dead person six Masses be applied on continuous days, which likewise are called Gregorian. But of this custom, however pious, there is neither explicit approval of the Church, nor is a similar fact concerning six Masses narrated in the life of St. Gregory.[819]

Article IV.

On the Indulgence in the Article of Death.

328. On This Indulgence Itself. 1. Pious mother Church grants to the dying a plenary indulgence to be gained in the article of death, so that the faithful, after the course of mortal life, freed from the punishments of their sins, can pass immediately to eternal blessedness. This indulgence is **one**, nor can it be applied to the dead;[820] but there are various titles from which it can be obtained, of which four are personal, one is universal, known to all by the name of general absolution. Several titles of this kind exist, although there is only one indulgence, so that the faithful may gain it more securely and more easily, by exactly observing the conditions of at least one title.

a. There are certain prayers and pious exercises which, performed during life under the due conditions, give the faithful the right of gaining a plenary indulgence at death. Thus those who often in life recite the well-known little prayer *Angele Dei*, or who frequently in life elicit acts of the theological virtues, can gain a plenary indulgence in the article of death.

b. Some sacred things (crosses, medals, rosaries, etc.) have been enriched with indulgences which are called papal; but one who possesses such a sacred thing and keeps it with himself at death gains a plenary indulgence in the article of death.

c. Members of almost all confraternities, and in like manner those who wear some scapular approved by the Church, gain the indulgence in the article of death.

d. The apostolic or papal blessing in the article of death is a special privilege by which the supreme pontiff grants a plenary indulgence for the article of death either to determined persons or to their blood-relatives.

e. To these is added the papal blessing which is carried about under the name of General Absolution and is not to be confused with the preceding. Namely Benedict XIV, through the bull *Pia Mater* (5 April 1747),

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817. *Monitore eccl.* XIII, p. 40.

818. Cf. C. Eberle, *Der Tricenarius des hl. Gregorius* (Regensburg: Pustet, 1890).

819. Cf. Schuch, *Handbuch der Pastoraltheologie* 15 (Innsbruck: Rauch, 1910), p. 568 f.

820. Whether he who has made the heroic act gains for himself or for the dead the indulgence granted in the article of death cannot be defined, but must be committed to divine providence. The S. C. Indl., when asked about this matter on 23 Jan. 1901, declined decision, answering: it is not to be discussed; perhaps according to his choice he can either reserve it for himself or apply it to the dead.

grants to all bishops of the world requesting it the faculty of applying to the dying the apostolic blessing with plenary indulgence.

2. Between the personal titles and the universal title this difference intervenes: that the indulgence from a personal title can be acquired without the ministry of a priest applying it; for anyone can apply it to himself, or rather anyone gains it in the article of death without application by the very fact that he has fulfilled the conditions necessary for obtaining it, wherefore it is customarily called an indulgence **given**. On the other hand, the indulgence to be obtained from the Benedictine privilege must be applied through the ministry of a priest, whence it is called an indulgence **to be brought**.

329. On General Absolution. 1. **To whom it can be applied.** This indulgence can be applied to all who, placed in danger of death, are capable of sacramental absolution: therefore a. even to those who are destitute of the senses, even if they have not received the last sacraments through their own fault; b. to children who are capable of sin, even if they have not received holy communion; c. to those condemned to death who repent of their crime, and to soldiers before battle, therefore also to those who are brought into danger of death from an external cause.[821]

2. In order that a priest can validly apply this indulgence, two things are required:

a. Delegation or power of applying it. Through the Code of Canon Law this power is now conferred by the law itself upon all priests assisting the sick: "The pastor, or another priest who assists the sick, has the faculty of granting the apostolic blessing with plenary indulgence in the article of death according to the form handed down by the liturgical books."[822]

b. The formula prescribed by Benedict XIV, which must always be used, and this under penalty of nullity. It is found in the Roman ritual, in the breviary, in the diurnal hours, etc.

3. In order that the dying person can gain this indulgence, besides the universal conditions (intention and the state of grace) two others are required:

a. that he accept death with an equal and willing mind from the hand of God;

b. that he devoutly invoke the most holy name of Jesus with the mouth, if he can; if not, with the heart.[823]

4. **When the apostolic blessing is to be imparted to the sick.** a. In any illness connected with danger of death, even if death is not yet proximately imminent, the apostolic blessing can be given. But it is customarily given after the sacraments of penance, Eucharist, and extreme unction, although these sacraments need not precede the apostolic blessing. The dying person, however, gains the indulgence in the very article of death.[824]

b. It is not lawful to repeat the apostolic blessing in the same illness, even if in a long illness a new danger of death returns, so that extreme unction can be repeated. This holds even if the sick person received it in the state of mortal sin or destitute of the senses, or if afterward he has fallen into grave sin or has received extreme unction again.[825] For repeated application of this indulgence is useless, because the sick person can gain it only once in the very article of death, for which an application once made suffices.[826] Nevertheless

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821. S. C. Indl., 18 Dec. 1885.

822. Cn. 468, 2.

823. S. C. Indl., 23 Sept. 1775, n. 237, and 22 Sept. 1892.

824. S. C. Indl., 23 Sept. 1675, n. 9.

825. S. C. Indl., 19 March 1855, n. 362.

826. S. C. Indl., 20 June 1836, n. 257.

it can be repeated if the sick person recovers and then for any cause whatever falls into a new danger of death.[827]

Article V.

On the Indulgence of the Jubilee.[828]

330. Definition and Division. 1. A **jubilee** is called a solemn plenary indulgence granted by the supreme pontiff with attached faculties.

2. A distinction is made between the ordinary jubilee, or the greater jubilee, which recurs every 25th year; and the extraordinary, or lesser jubilee, which the supreme pontiff grants in particular circumstances.

a. A jubilee differs from another plenary indulgence only accidentally, namely by reason of the solemnity and the faculties which are attached to it.

b. The ordinary jubilee has already been received by custom in the Church from the year 1475. It is customarily granted first to the City alone; it lasts through an entire year, which is called the holy year; then it is extended to the whole world for a shorter time.

c. The supreme pontiff grants an extraordinary jubilee after his own exaltation, and in addition according to his judgment, either on certain greater solemnities or in particular necessities of the Church. An extraordinary jubilee is customarily celebrated at the same time at Rome and in the whole world.

d. During the course of the holy year, several faithful who cannot travel to Rome, as nuns, the sick, those detained in prisons, etc., can gain at home the indulgence of the ordinary jubilee. Moreover those who during the passing holy year, either at Rome or at home, have gained the jubilee, can again gain it in the following year, in which it is extended to the whole world.[829]

e. For the ordinary jubilee only three conditions are customarily prescribed: confession, communion, and visitation of churches; for the extraordinary jubilee there are required besides these fasting and alms. The faithful can gain the ordinary jubilee in the City as often as they perform the prescribed works; but in the World generally only once. Sometimes, however, the power has been granted of gaining it twice, once for oneself and once for the dead. With regard to an extraordinary jubilee there is no rule; therefore it must be learned from the bull whether it can be acquired once or several times.

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331. Conditions Required for Gaining the Jubilee, concerning which the rule must be noted: works already owed from elsewhere do not suffice for gaining the jubilee.[830]

1. **Confession and communion.** a. Confession must be made within the time established for gaining the jubilee; therefore a confession made on the vigil of the jubilee does not profit, but a confession made after first vespers of that day on which the jubilee begins does profit. For the ordinary jubilee in the City, according to ancient custom, is customarily begun from first vespers.

Notes

827. S. C. Indl., 12 Feb. 1842, n. 300.

828. Bellegambe, *Enchiridion theologico-practicum de iubilaeo*; Pasquatigo, *Theoria et praxis magni iubilaei atque etiam extraordinarii*; Theodorus a Spiritu Sancto, *Tractatus historico-theologicus de iubilaeo*; Bellarmine, *De indulgentiis et iubilaeo*; Beringer-Hilgers, *Die Ablasse* 14, pp. 569-589 f.; Patr. Bastien, *De iubilaeo anni sancti* (Rollarii flandr.: De Meester, 1901). For solving questions which arise concerning the jubilee, the constitutions of Benedict XIV must be consulted, especially *Convocatis* (25 Nov. 1749) and *Inter praeteritos* (3 Dec. 1749). From the declaration of the S. C. Indlg. (15 March 1852, authentic decree n. 353), in both the ordinary and extraordinary jubilee all the rules of Benedict XIV are to be observed which are not opposed to the bull of the jubilee.

829. Benedict XIV, constit. *Benedictus Deus.*

830. Constit. *Inter praeteritos*, n. 53.

b. Confession already owed by another title, e.g., from the precept of the Church, and paschal communion do not suffice for gaining the jubilee without a special concession; but viaticum does suffice for gaining the jubilee.[831]

c. He who, after confession has been made but before he has placed the last prescribed work, has fallen into mortal sin, must repeat confession (it does not suffice to elicit perfect contrition); but he is not bound to repeat the other works already performed.[832]

2. **Visitation of churches.** Which churches must be visited and how often, at Rome the supreme pontiff designates, outside Rome the bishop designates; and in them, according to the intention of the pontiff, five Our Fathers and Hail Marys, or equivalent prayers, must be recited.

a. In places where there is only one church, the bishop can grant that all visitations can be made in it.[833] But visitations which are made in the same church must be so distinguished from one another that on each occasion it is necessary to enter it and go out of it.

b. The bishop can also designate a public oratory to be visited, provided Mass is habitually celebrated in it.[834]

c. Excluding a special privilege, religious cannot gain the jubilee by visiting their own church. But if they cannot visit the churches designated by the ordinary, each one must request a commutation from his own confessor.[835]

d. If several churches must be visited once in the day, all must indeed be visited on that day; however, the day can be computed not only according to the civil manner, but also according to the ecclesiastical, namely from first vespers until twilight of the following day.[836] Hence it can happen that, when today's visitations have been completed after first vespers of the same day, the visitations of the following day can already be instituted either wholly or in part.[837]

e. If the same church must be visited several times, the visitations can be made either on the same day or on distinct days, unless something else is established in the bull.[838]

f. Because works already owed from elsewhere do not suffice for gaining the jubilee, it does not suffice for the prescribed visitation to recite prayers for the jubilee while one is assisting at Mass by precept; but it suffices to recite prayers for gaining the jubilee before or after Mass.

g. Each person can perform the prescribed visitations either in his own domicile or elsewhere, provided he visits the churches designated in the place where he has determined to perform the visitations.[839]

3. **A fast of three days**, namely Wednesday, Friday, and Saturday, with abstinence from meats.

a. In the last jubilees Leo XIII, by the words "using only fasting foods," had prescribed a strict fast, by which abstinence also from eggs and milk-products is required; Pius X, on the other hand (in 1904), prescribed

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Notes

831. S. Poenitent., 28 March 1900.

832. Constit. *Convocatis*, n. 47.

833. S. C. Indl., 14 March 1852, n. 353.

834. S. Poenit., 15 Jan. 1886.

835. S. Poenit., 24 April 1886.

836. Constit. *Inter praeteritos*, n. 8, 11, 13.

837. S. Poenit., 20 Feb. 1900.

838. S. Poenit., 15 Jan. 1886.

839. S. Poenit., 14 May 1879.

only one day of fasting and granted to bishops the faculty of permitting eggs and milk-products in those places where it is difficult to use fasting foods.[840]

b. It is not lawful to observe the fast prescribed for gaining the jubilee on a day on which a fast has already been commanded by the Church, unless this is expressly permitted in the bull.

c. The three prescribed fasts must be observed in the same week, unless the bull permits something else.

d. The fast prescribed must be observed also by those who by reason of age are either not yet or no longer bound to fast, likewise all who otherwise are excused or dispensed from fasting. But if they cannot perform this, the confessor can commute the fast into other pious works.[841]

4. **Alms** are prescribed either indeterminately: according to the judgment or devotion of each one, or more determinately: according to the faculties of each one; but it is not necessary that money be given, but some other thing estimable in price can be given.

a. For gaining the jubilee even the poor must give the prescribed alms; but it suffices to give a small coin.

b. If only some alms is prescribed indeterminately, any quantity suffices; but if it is prescribed according to the faculties of each one, the quantity which suffices for a poor person does not suffice for a rich person, but some proportion must be present between the alms and the faculties of the giver.

c. Alms can also be given through another, provided it is done with the knowledge of those very persons for whom it is distributed. Therefore the father of a family can give the prescribed alms for his wife and children; a religious superior for his subjects; a rich person for a poor person, provided it is distributed with their knowledge. Moreover religious and the poor can request the commutation of this work from their own confessor.

Notes. 1. No certain order is required in fulfilling these conditions, provided the last work is performed in the state of grace.

2. Formerly they thought that the works prescribed for gaining an extraordinary jubilee had to be performed in the same week;[842] but now it is certain that this is not necessary.[843]

3. It is not necessary that the works be performed in one's own diocese; but either all or some of them can be performed in another diocese, provided the prescriptions of that bishop in whose diocese the works are done are observed.[844]

If someone changes domicile after he has already begun the prescribed works in the place of the prior domicile, he can perform the remaining works in the new domicile.

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332. Special Faculties which are customarily granted to confessors during the jubilee:

1. **Of absolving even regulars**; nevertheless nuns strictly so called can be absolved only by confessors approved for nuns; but nuns of simple vows can once choose for themselves a confessor simply approved.[845]

Notes

840. S. Poenit., 23 March 1904.

841. S. C. Indl., 10 July 1869, n. 425.

842. S. Alphonsus, n. 537.

843. S. Poenit., 6 March 1865.

844. S. Poenit., 15 Jan. 1886.

845. S. Poenit., 17 Jan. 1900.

Since by the Code of Canon Law the power of absolving religious of either sex has now already been granted by the law itself to all confessors, this faculty is superfluous for future jubilees.

2. **Of absolving from all sins and censures** reserved to the bishop or to the Roman pontiff, even in a special manner.

Exceptions are: a. the cases reserved by the constitution *Sacramentum poenitentiae*, namely absolution of an accomplice, if the crime has been committed three or more times,[846] and calumnious denunciation of a priest for the crime of solicitation. b. The absolution of those who have been excommunicated, suspended, interdicted, or publicly denounced as bound by censure by the Roman pontiff or by another prelate by name. In the last jubilees the faculty of absolving these persons (named in the latter place) was granted, if they had satisfied the competent authority, or, if during the time of the jubilee they could not satisfy, provided they had promised that they would do this as soon as possible.

3. **Of dispensing from an irregularity** contracted through violation of a censure, provided it is occult.

4. **Of commuting vows** (not excepting a vow not to seek commutation), even sworn vows and vows reserved to the supreme pontiff.

a. Exceptions are: a. vows of perpetual chastity and of entrance into religion; b. vows made in favor of a third party and accepted by him, unless he has renounced his right; g. penal vows emitted for removing the danger of sin, unless the commutation is made into a work which is equally useful for removing the same danger.

b. He who, in a confession instituted for gaining the jubilee, has forgotten either to confess a reserved sin or censure, or to ask for commutation of vows, can afterward, even after the time of the jubilee has already elapsed, obtain absolution or commutation from any confessor: for the reservation has been removed through the confession instituted for gaining the jubilee, and through that confession he has acquired the right for obtaining the commutation.

c. For commuting vows a special cause is not required, but the very reason of the jubilee suffices. Nevertheless it must be noted that the faculty of simply commuting vows is granted, not merely of commuting them by dispensing.[847]

5. **Of commuting for a just cause the prescribed works** into other works not otherwise owed and of almost the same nature, with the exception, however, of confession, communion, and the prayers to be recited according to the intention of the supreme pontiff.

a. A commutation which is made without a just cause is invalid. Therefore if, for example, fasting were changed into another work only because of the penitent's repugnance toward fasting, the commutation would not be valid: for it is required that the penitent be in physical or moral impossibility of fulfilling the prescribed work. If, however, the confessor in good faith judged a cause insufficient in itself to be sufficient, the commutation would be valid.

b. Because the faculty of dispensing is not granted, it is necessary that the substituted work not be notably less than that which was enjoined by the supreme pontiff, unless perhaps the penitent were very weak.

c. For children who have not yet been admitted to holy communion, the prescribed communion can be commuted into another pious work, unless through the bull of the jubilee the faculty is granted of simply

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Notes

846. Leo XIII grants the faculty of absolving from the crime of absolution of an accomplice admitted twice by the constitution *Temporis quidem*, 1900.

847. S. Poenit., 1 Nov. 1899.

dispensing them from communion; but only in the act of sacramental confession.[848] Marc (n. 1738) judges that holy communion can also be commuted for those suffering from a chronic illness, who for that reason cannot receive holy communion, something which because of the recent dispensation from fasting granted to sick persons of this kind is no longer necessary.

d. If it is granted that the faithful can gain the indulgence of the jubilee more often, the prescribed works can also be commuted more often.[849]

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333. On the Use of These Faculties.

1. Confessors cannot use these faculties without a special concession except in sacramental confession.[850]

2. They can use them only once for the same penitent, even if the indulgence can be acquired several times; but it is not necessary that all the faculties be applied in the same confession or that all be applied by the same confessor. The commutation of the prescribed works is excepted, which can be made several times where it is lawful to gain the indulgence several times.

Therefore to him who, the first time he gains the jubilee, has used the granted faculties, they cannot be applied again, even if the indulgence can be acquired more often; but to him who did not need the granted faculties when he gained the jubilee the first time, they can afterward be applied, provided the jubilee can be acquired more often and he repeats the prescribed works for gaining the jubilee. Whether a penitent to whom the granted faculties have been applied when he confessed can again be absolved by force of the jubilee if he falls into a censure before he has fulfilled the prescribed works or not is not certainly clear. Lehmkuhl (n. 555, 695) probably affirms it, and the holy see confirmed his opinion for the jubilee of the year 1901.[851]

3. Confessors cannot use these faculties except with penitents who have a sincere will of gaining the jubilee, and therefore of fulfilling the prescribed works, and who approach confession with this intention.[852]

a. If a penitent who has approached confession with this disposition has been absolved from censures and has obtained commutation of vows, but afterward does not fulfill the works prescribed for gaining the jubilee, he can enjoy the faculty once granted, but he commits sin, which nevertheless does not exceed venial sin.[853]

b. Through a sacrilegious confession reservations and censures are not removed; for the penitent does not bring the disposition which is a necessary condition in order that the privileges of the jubilee can be applied to him.[854]

334. Suspension of Graces. In order that the faithful may be more strongly attracted to undertake the Roman pilgrimage and to gain the jubilee in the City, during the holy year indulgences are suspended everywhere, with few exceptions, and in the World also the faculties of confessors, which revive when the holy year has elapsed. Namely:

1. **Indulgences**, both plenary and partial, granted by the Roman pontiff; but these are not suspended:

Notes

848. S. Poenit., 30 Jan. 1886.

849. S. Poenit., 18 March 1886.

850. Constit. *Inter praeteritos*, n. 63.

851. S. Poenit., 25 Jan. 1901.

852. Benedict XIV, const. *Inter praeteritos*, n. 62 and 86.

853. S. Alphonsus, n. 537.

854. Benedict XIV, *Inter praeteritos*, n. 62. S. Alphonsus, ibid.

a. Indulgences applicable to the dead; indeed all indulgences which otherwise could be acquired only by the living the faithful can gain for the dead in that year;[855]

b. the indulgence granted in the article of death;

c. indulgences granted for the prayer *Angelus Domini*;

d. the partial indulgence granted for visitation of the most holy sacrament solemnly exposed, when the adoration of forty hours is being made;

e. the indulgences granted to those who accompany the most holy sacrament, carrying a candle, when it is borne to the sick;

f. the indulgence of the Portiuncula of Assisi to be gained (outside Assisi we can gain this indulgence, like the others which can be acquired *toties-quoties*, only for the dead);

g. indulgences granted by a prelate inferior to the pope, whether habitually or transiently.

2. **Faculties** granted by the holy see, and indeed:

a. the faculty of absolving from cases and censures reserved to the Roman pontiff;

b. the faculty of commuting vows, whether the commutation is made simply or by dispensing;

c. the faculty of dispensing in irregularities;

d. the faculty of dispensing in impediments, even of marriage, granted either to private persons or to communities.

Therefore during the holy year the faculties of dispensing in abstinence and fasting do not cease, nor the faculty of attaching papal indulgences to rosaries, crosses, medals, etc., nor the faculty of giving the papal blessing at the end of missions, and other faculties of this kind which do not pertain to the four headings enumerated above.

Moreover, from the faculties themselves suspended by the bull of the jubilee some are excepted which remain in their force; ordinarily the following are excepted:

a. Faculties granted by the Sacred Penitentiary to missionaries, which are exercised in mission places and on the occasion of missions.

Some understand by missionaries only those who labor in regions of infidels; others probably extend this exception also to missionaries who in our regions devote themselves to giving missions.

b. Faculties granted to bishops either by the Council of Trent through c. *Liceat*, or by common law, or by special privilege for particular cases.

c. Faculties granted to regular superiors for their subjects.

Chapter III.

On the Minister of Penance.

Question I.

On the Minister and His Power.

Notes

855. S. C. Indl., 16 Dec. 1749, n. 182.

Article I.

On the Minister and His Power in General.

335. Minister of Penance. The priest alone is the minister of the sacrament of penance: for Christ said to the apostles alone and to their successors in the priesthood: "Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them."[856] Therefore the Council of Trent condemns with anathema those who say that priests are not the sole ministers of absolution.[857]

From these things it follows: a. He who has been invalidly ordained a priest cannot absolve from sins. b. The Church cannot grant the power of absolving from sins to one who is not a priest, because the Church cannot change the things which have been instituted by Christ. c. It is false that deacons ever, from a grant of the Church, had the power of absolving from sins.[858] d. A sinner in no case whatever is bound to confess his sins to one who is not a priest, because he cannot be absolved by him.

336. Power Required in the Minister of Penance. For valid absolution in the minister of penance there are required: the power of order or sacramental power, and the power of jurisdiction or judicial power, whether ordinary or delegated, over the penitent, Cn. 872.

a. The **power of order** is required because penance is a sacrament which, from the will of Christ, can be administered by priests alone.

b. The **power of jurisdiction** is required because the remission of sins in this sacrament is produced through a judicial sentence; but jurisdiction is necessary for passing judgment.

The power of order necessary for validly absolving is of divine law; the power of jurisdiction is of natural law. The priest receives the power of order in ordination itself, which power is indeed the true power of remitting and retaining sins, but it cannot yet be exercised by the priest unless jurisdiction is added. The power of jurisdiction is conferred outside the sacrament of order through the external grant of the ecclesiastical superior.

Article II.

On Jurisdiction.

337. Definition. Division. 1. **Jurisdiction**, as it is taken here, is the power of remitting or retaining sins for subjects in the sacrament of penance.

a. The conferral of jurisdiction is an act of the will by which moral power over a subject is conferred. To him to whom jurisdiction is conferred, by that very fact there are at the same time determined the subjects over whom he can exercise jurisdiction.

b. Ordinaries and religious superiors are warned not to grant jurisdiction except to those who have been found suitable through an examination, or whose doctrine they have ascertained from elsewhere. But if they later doubt about this matter, they can require a new examination.[859]

c. Suitability for hearing confessions embraces two things, namely doctrine with prudence, and holiness of morals, such as is required in the vicar of Christ administering this sacrament.

Notes

856. John 20:22, 23.

857. Sess. 14, c. 6, can. 10. Cf. on this dogmatic question Pesch, VII, n. 410 ff.

858. On non-sacramental confession made to deacons, cf. Benedict XIV, *De synodo* l. 7, c. 16, n. 4 ff.; Pesch VII, 415 ff.; Gillmann, *Zur Frage der Laienbeicht* (*Katholik*, 1909), p. 435.

859. Cn. 877.

2. Jurisdiction is either ordinary or delegated: a. ordinary is called that which by the law itself is attached to an office; delegated is called that which has been committed to a person.[860]

b. Ordinary and delegated jurisdiction differ in this, that ordinary jurisdiction can be exercised everywhere even over one's own subjects outside the territory; but delegated jurisdiction cannot be exercised outside the territory.[861]

Hence bishops and pastors, who have ordinary jurisdiction, validly absolve the faithful committed to them outside the diocese, without needing the jurisdiction of the bishop of that place where they hear confessions; but chaplains and others having delegated jurisdiction need the jurisdiction of the bishop of the place in which they hear confessions in order validly to absolve the faithful of their own diocese outside the diocese.

338. On the Manner of Delegating Jurisdiction. 1. Jurisdiction can be delegated: a. **expressly**, when the superior manifests the grant by some sensible sign; and **tacitly**, when the superior knows jurisdiction is being exercised and does not contradict it, although easily, if he wished, he could impede its exercise.

b. **Directly**, when the power of absolving is immediately committed to the priest himself; and **indirectly**, when the penitent is granted the faculty of choosing a priest for himself as confessor; to the priest elected in this way the superior confers jurisdiction in the election itself.

2. Jurisdiction is said to be delegated directly in a twofold manner: a. **by man**, when one having ordinary jurisdiction commits jurisdiction to someone by word or writing or another sign manifesting consent; b. **by law**, when through a constitution of the supreme pontiff the power of absolving is granted to certain persons.

3. Jurisdiction is said likewise to be delegated indirectly in a twofold manner: a. **by man**, if from a special grant of the supreme pontiff or bishop the faculty of choosing a confessor is granted, as is customary during the time of jubilee, when this faculty is granted to all; b. **by law**, if through a pontifical disposition the faculty of choosing a confessor for oneself is granted, as belongs to cardinals, bishops, and exempt prelates.

Cardinals can choose for themselves and their households a confessor who, if he lacks jurisdiction, obtains it by the law itself, even with respect to reserved sins and censures, excepting those reserved in a most special manner and those attached to the revelation of the secret of the Holy Office.[862]

Bishops are granted the same privilege, also with respect to cases reserved to the ordinary of the place.[863]

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339. Assertions. 1. Jurisdiction, since it is a power over a subject, cannot be exercised except over a subject;[864] but now, if we set aside the supreme pontiff, whose subject one becomes by entering the Church of Christ, someone can become the proper and ordinary subject of some ecclesiastical superior in only two ways: by domicile and by cooptation.

a. **Domicile** or quasi-domicile within the limits of the territory in which the ecclesiastical superior exercises jurisdiction is the chief manner by which almost all those who are subject to one having ordinary jurisdiction (pastor, bishop) are subjected.

Notes

860. Cn. 197.

861. Cn. 881, 2.

862. Cn. 239, 2.

863. Cn. 349, 1.

864. Cn. 201, 1.

b. **By cooptation** into a certain family, regulars, religious novices, boarder pupils, and domestic servants of monasteries are subjected to religious superiors.

Note. With respect to the exercise of sacramental jurisdiction, according to the new law all penitents are considered and treated as inhabitants of the place in which they make confession, and therefore by the very act of confession they are subjected to the confessor and become his subjects.

2. For validly hearing confessions there is required ordinary or delegated jurisdiction, and that granted expressly by writing or by words.[865]

a. Therefore tacit conferral of jurisdiction does not suffice, nor does presumed jurisdiction suffice, even if it is foreseen that it certainly would be granted if it were sought: for it must be granted expressly. Moreover it is not lawful to presume a condition on which the validity of an act depends.

b. Therefore also for absolving from venial sins and from mortal sins already remitted, jurisdiction is required, since the remission of venial sins also in the sacrament of penance is made in the manner of a judgment. Moreover no jurisdiction is granted in ordination itself, but only outside ordination through an act of the will of the ecclesiastical superior.

3. He who has jurisdiction, whether ordinary or delegated, can in that territory absolve all who approach, whether seculars or religious, whether pilgrims or wanderers, or the faithful of Oriental rites.[866]

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340. To Whom Ordinary Jurisdiction Belongs. The following have ordinary jurisdiction for absolving:

a. The **supreme pontiff** for the universal Church, who receives the fullness of jurisdiction immediately from Christ the Lord.

b. **Cardinals** for the universal Church by the disposition of the new law.

c. The **ordinary of the place** for his own territory, and his vicar general.

Under the name of ordinary of the place there come, each for his own territory, the residential bishop, the Abbot or Prelate nullius and their vicar general, the Administrator, Vicar, and Prefect Apostolic, and likewise those who, when the aforesaid are lacking, meanwhile succeed in governance.[867]

d. The **pastor** and those who are in the place of the pastor and act in his stead, likewise for their own territory.

e. In themselves, indeed, pastors by force of their office are approved and furnished with ordinary jurisdiction only for their own parish. But to avoid difficulties it is customary that pastors, indeed also chaplains, receive delegated jurisdiction for the whole diocese, unless the contrary is expressly established somewhere.

f. In the place of a pastor are: a. the vicar oeconomus (*Pfarrverweser*), whom the ordinary establishes to govern a vacant parish; b. the substituted vicar, who holds the place of an absent pastor, provided he has been lawfully substituted; g. the assistant vicar, who supplies the office of a pastor who, because of a permanent cause (old age, defect of mind, lack of skill, etc.), is unequal to performing his functions.

g. The **canon penitentiary** of both cathedral and collegiate church.

He can absolve also from sins and censures reserved to the bishop, from these both strangers within the diocese

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Notes

865. Cn. 879.

866. Cn. 881.

867. Cn. 198.

and diocesans outside the diocese.[868]

f. **Superiors of an exempt religion** over their subjects according to the norm of the constitutions.

341. On Delegated Jurisdiction. 1. He who has ordinary jurisdiction can delegate it to others, unless this is expressly prohibited by law.[869]

Cardinals,[870] pastors,[871] and penitentiaries[872] of cathedral or collegiate church cannot delegate jurisdiction, although they enjoy ordinary jurisdiction.

2. Delegated jurisdiction is territorial, i.e., outside the territory for which it has been granted it cannot be exercised validly.

3. Delegated jurisdiction for absolving, in relation to all penitents, both seculars and religious, is conferred upon all priests, both secular and religious, even exempt, by the Ordinary of the place in which confessions are heard.[873]

a. Therefore by the new law delegated jurisdiction for absolving in relation to all penitents in any diocese descends at least cumulatively from the ordinary of the place. At least cumulatively: because the superior of exempt religious also can grant jurisdiction for absolving exempt religious.

b. Religious priests are warned not to use the jurisdiction granted to them by bishops without at least the presumed permission of their superior,[874] except in the case in which a religious would wish to make his confession for the peace of his conscience. Nevertheless absolution granted without the permission of the superior would not be invalid.

c. It is enjoined upon ordinaries of places not to grant jurisdiction for absolving habitually to religious who are not presented by their own superior; but they should not deny it without grave cause to those who are presented, with the right preserved of subjecting them to an examination by which they may be proved suitable.[875]

4. Delegated jurisdiction, or the permission of the superior, can be granted circumscribed by certain limits. Nevertheless ordinaries or superiors are warned not to restrict it too much without a reasonable cause.[876]

5. It is enjoined upon ordinaries and religious superiors not to revoke or suspend jurisdiction or permission except for a grave cause.[877]

6. It is not lawful for a bishop, without consulting the holy see, to take away jurisdiction all at once from all the confessors of some formed religious house.[878]

Notes

868. Cn. 401, 1.

869. Cn. 199, 1.

870. Cn. 874, 1.

871. Cn. 874, 1. The Commission for the Interpretation of the Code declared on 16 Oct. 1919 that a pastor cannot delegate jurisdiction to priests, nor extend it, when already approved, beyond the limits of place and persons within which it had been circumscribed.

872. Cn. 401.

873. Cn. 874, 1.

874. Cn. 874, 1.

875. Cn. 874, 2.

876. Cn. 878, 2.

877. Cn. 880, 1.

878. Cn. 880, 3.

342. On the Cessation of Jurisdiction. 1. Ordinary jurisdiction ceases: a. by loss of office, whether by resignation or privation or removal or transfer or lapse of the predefined time; b. after a declaratory or condemnatory sentence of excommunication, suspension from office, or interdict.[879]

2. Delegated jurisdiction ceases: a. by revocation, and that directly intimated to the delegate; b. by the lapse of the time or by exhaustion of the number of cases for which it had been granted; c. by change of territory; d. by lapse of the mandate.[880]

a. An absolution which has been conferred inadvertently after the time has elapsed or the number of cases has been exhausted is valid.[881]

b. Jurisdiction does not cease when the office ceases through the removal or death of the one delegating, if it had been granted without limitation; but it does cease if it had been granted for some particular person[882] and confession has not yet been begun, or with the clause *at our good pleasure*.[883]

343. On Jurisdiction over Those Sailing at Sea these things hold. 1. Any priests whatever making a sea journey, through the whole time of navigation, can hear the confessions both of all who are sailing and also of the faithful not sailing who, during the journey, if the ship stops, board the ship, and can absolve them even from cases reserved to their bishops, even if the ship passes or, during the journey, remains for some time in places subject to the jurisdiction of different ordinaries, provided the priests have received the faculty of absolving either from their own ordinary, or from the ordinary of the port in which they board the ship, or from the ordinary of the port through which they pass in the journey.

2. If during the journey they go down to land for a time, they can hear the confessions both of those sailing and also of those not sailing who request it, and can absolve them validly and licitly even from cases reserved to the ordinary of the place.[884]

Article III.

On the Jurisdiction Which the Church Supplies.

344. Declarations. 1. The jurisdiction which the Church supplies is defined as the jurisdiction which the Church supplies extraordinarily, for the common good, in the act itself.[885]

a. Therefore the jurisdiction which the Church supplies is delegated jurisdiction from the Church or from the supreme pontiff; but it differs from jurisdiction either ordinary or ordinarily delegated in this, that the latter is present already before confession and, when confession has been completed, remains habitually; but the former is granted only in the very act of confession, so that this can be validly completed, and when absolution has been granted, it is again extinguished.

b. Where the Church is said to supply a defect, one must attend to two things: whether she herself can supply the defect and whether she wills to supply the same. For the Church cannot supply all defects in a sacramental matter, e.g., in the matter or form, but only defects of power which depends on her. But neither

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Notes

879. Cn. 873, 3 coll. cn. 183.

880. Cn. 207.

881. Cn. 207, 2.

882. Cn. 61.

883. Cn. 73.

884. S. Officium, 4 April 1900; 23 Aug. 1905; 12 Dec. 1906. Cn. 883.

885. Lessius, *De iure* l. 2, c. 29, n. 68.

in all cases in which she can supply does the Church in fact also supply, but only in those in which she has manifested the will of supplying, either expressly or tacitly.

2. There are three cases in which the Church in fact supplies jurisdiction: a. in danger of death; b. in common error; c. in the case of probable jurisdiction. In these cases, however, she supplies whether the priest absolving otherwise has ordinary or delegated jurisdiction, and whether he knows or does not know that he lacks jurisdiction.

345. In Danger of Death all priests, although not approved for confessions, validly and licitly absolve any penitents whatever from any sins or censures whatever, however much reserved and notorious, even if an approved priest is present.[886]

1. **Danger of death**, in which every priest has the power of absolving, is present not only in grave illness, but also where the danger of death is brought about by an external cause, as in battle, in dangerous navigation, in a difficult childbirth, etc.

From a declaration of the holy see, soldiers constituted in a state of military mobilization (*im Mobilisierungsfalle*) are by that very fact equated with those who are in danger of death, so that they can be absolved by any priest at hand.[887]

2. **All priests**, therefore even one irregular, suspended, indeed even an excommunicated vitandus, schismatic, heretic, or apostate. A priest not approved absolves validly and licitly even when an approved priest is present; but a priest bound by an impediment or censure absolves licitly only when a priest who is free from every impediment and censure is lacking.

Just as absolution given by a non-approved priest is valid even when an approved priest could easily have been called or present, so absolution granted from reserved sins, either simply or with censure, by a priest not having jurisdiction in reserved matters is valid even if a priest having the aforesaid jurisdiction could easily have been called or present.[888]

3. **From any sins and censures whatever**: for in danger of death there is no reservation. Nevertheless those who have been absolved by a priest lacking power over these sins and afterward recover must, under penalty of reincidence, have recourse, and indeed: a. those absolved from some censure inflicted *ab homine*, to the one who issued the sentence; b. those absolved from a censure reserved in a most special manner to the apostolic see, to the Sacred Penitentiary or to the bishop or to another having faculty, and obey their commands.[889]

In danger of death even the absolution of an accomplice is valid and licit, but only in the case of necessity, i.e., if another priest is not present and cannot be called; outside the case of necessity it is indeed valid but illicit.[890]

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346. In Common Error and in the Case of Probable Jurisdiction.

Declarations. a. Error is called **common** if all or almost all the faithful of some place think that a confessor is actually furnished with jurisdiction; it is called **private** if that error is of one person or of a few.

Notes

886. Cn. 882. The Council of Trent, sess. 14, c. 7, has this: "Most piously, lest anyone perish on this occasion, it has always been kept in the same Church of God that there be no reservation in the article of death; and therefore all priests can absolve any penitents from any sins and censures whatever."

887. S. Penitentiary, 12 March 1912.

888. S. Officium, 29 July 1891.

889. Cn. 2252.

890. Cn. 884.

a. In order that someone be regarded as a confessor through common error, some fact is required, e.g., the exercise of the office of confessor performed for some time, from which the faithful of the place commonly regard him as a confessor. It does not suffice that someone once hear confessions in the manner of others.

b. Error is judged to be common provided that, in the place in which the priest hears confessions, the defect of jurisdiction is unknown, even if that defect were known in another place.

c. In a positive and probable doubt concerning the existence of jurisdiction, there is **probable jurisdiction**, whether the doubt is of law or of fact, provided positive and probable reasons prove the existence of jurisdiction.

Principles. 1. In common error the Church supplies jurisdiction.[891]

a. It makes no difference whence the common error arose. The internal reason which determines the Church to supply jurisdiction is the common good, namely lest many souls perish.

b. A priest who hears confessions and absolves after the time of jurisdiction has already expired; likewise a confessor who does not remember whether this sin is reserved in the diocese; finally a confessor who does not know whether the time of jurisdiction has already expired - these enjoy common error. Wherefore one who, while hearing confessions, remembered that the time of jurisdiction had already elapsed, or doubted about this matter, would not have to cease from hearing confessions.

2. In any positive and probable doubt, whether of law or of fact, or in the case of probable jurisdiction, the Church supplies jurisdiction.[892]

a. It is clear that in the case of probable jurisdiction the Church must supply jurisdiction only hypothetically, namely if the confessor in fact lacks the jurisdiction about whose existence there is doubt.

b. More frequent cases of probable jurisdiction occur in sins and reserved censures, where authors doubt whether some sin committed in determined circumstances is reserved or not.

3. It is lawful to absolve with probable jurisdiction: for since in this case the Church certainly supplies willingly and freely, the absolution is certainly licit and valid.

In order that one can use probable jurisdiction, a special cause is not required, provided that before using it he has tried to solve the doubt about the existence of jurisdiction, lest he use the same rashly.

Article IV.

On Jurisdiction over Religious.

347. Prenotions. The terms which the Code of Canon Law uses in this matter must be premised.[893]

A **religion** is a society approved by ecclesiastical authority, in which public vows, perpetual or temporary, but to be renewed when the time has elapsed, are emitted.

An **order** is a religion in which solemn vows are emitted.

A **religious congregation** is a religion in which only simple vows (whether perpetual or temporary) are emitted.

Notes

891. Cn. 209. Therefore in order that the Church certainly supply jurisdiction, besides common error the colored title which was formerly said to be necessary is not required.

892. Cn. 209.

893. Cf. Cn. 488.

A religion is called **clerical** if most of the members are increased with the priesthood; otherwise it is called **lay**.

A **religious house** is a house of a religion in general; a **religious** is one who emits vows in some religion.

A **regular house** is a house of an order; a **regular** is one who emits vows in some order.

A **formed house** is one in which at least six professed religious dwell, of whom in a clerical religion at least four are priests.

Major superiors are Abbots, Generals, and Provincials, and others having power after the manner of provincials.

348. Principles. 1. Ordinary jurisdiction over religious themselves is had: a. in an exempt religion by the superior and the ordinary of the place;[894] b. in a non-exempt religion by the ordinary of the place alone.[895]

2. Delegated jurisdiction for absolving religious can be granted, with respect to an exempt religion, both by the superior and by the ordinary of the place, and indeed by each to priests both secular and religious, even of another religion; with respect to a non-exempt religion, by the ordinary of the place alone.[896]

In actual fact, all priests, both secular and regular, who are furnished with the jurisdiction of their own ordinary, can in their own territory validly and licitly absolve any religious whatever, even exempt, even from reserved cases (n. 341).

3. Concerning the confessors of religious these things have now been established:

a. In individual houses of a clerical religion, according to the number of members, several confessors must be deputed with power, if it concerns an exempt religion (which can have its own reserved cases), of absolving even from reserved cases.[897] In lay religions an ordinary and extraordinary confessor must be constituted, and if a religious asks for some special confessor, the superior must grant him, without inquiring into the reason of the petition or showing that he bears it ill.[898]

These confessors are constituted: a. in an exempt clerical religion by the superior; b. in an exempt lay religion the superior proposes the confessor, to whom the ordinary of the place confers jurisdiction; c. in non-exempt religions the ordinary of the place constitutes them.[899]

b. The superiors themselves can hear the confessions of subjects who spontaneously and freely ask this, but without a grave cause they should not do this habitually. They should also beware lest either by themselves or through another they induce any subject by force, fear, importunate persuasion, or any other reason, to confess with them.[900]

c. A religious, even an exempt one, for the peace of his conscience, can approach a confessor approved by the ordinary of the place, even if he is not among the designated confessors; this confessor can validly and licitly absolve the religious, even from sins and censures reserved in the religion.[901]

Notes

894. Cn. 501. - Cn. 873, 2. - Cn. 874, 1.

895. Cn. 500.

896. Cn. 874; 875, 1.

897. Cn. 518.

898. Cn. 528.

899. Cn. 875; 529.

900. Cn. 518, 2, 3.

901. S. C. de Religiosis, 5 Aug. 1913. Cn. 519.

Therefore any religious can approach any confessor approved by the ordinary of the place, whether secular or religious of the same or another order, both at home and outside the house and on a journey, whether the superior consents or resists, and can be absolved by him validly and licitly, even from reserved cases, without any burden to be fulfilled afterward.

4. **With respect to novices.** a. According to the number of novices, one or several ordinary confessors are to be constituted for them, who should dwell in the novitiate house itself if this is clerical, or at least frequently approach to hear the confessions of the novices if it is lay.

b. Besides the ordinary confessors, some confessors are to be designated whom the novices can freely approach in particular cases.[902]

c. At least four times in the year an extraordinary confessor is to be given to them, to whom all should approach at least to receive a blessing.[903]

d. The master of novices and his associate should not hear their confessions habitually, unless the novices spontaneously request this in particular cases from a grave and urgent cause.[904]

5. **With respect to domestics.** By force of jurisdiction granted by the superior of the religion alone, even the households of regulars can be absolved.

a. Therefore the doubt, namely whether boarder pupils who live in monasteries or colleges under the discipline of regulars pertain to the households of regulars, whom regulars can absolve in confession by their own power, has now been solved, because Cn. 514, 1 also simply numbers pupils among households.

b. The jurisdiction of regulars over boarder pupils lasts as long as their subjection under the discipline of regulars lasts. Therefore during the time of vacations or a journey they cannot be absolved by regulars if at that time, now exempt from the discipline of regulars, they have again been given back to the care of their parents or others.

Article V.

On Jurisdiction over Religious Women.[905]

349. Prenotions. 1. All women devoted to God and living in community are called by the generic name **religious women**. There are religious women who pronounce solemn vows and have strict enclosure, and religious women who emit only simple vows or no vows and do not observe strict enclosure. Religious women of simple vows are called **sisters**; religious women of solemn vows, and those whose vows are solemn at least by institute but, by prescription of the holy see in some places, are simple, are called **nuns**. Moreover, some nuns are subject to the jurisdiction of the bishop; others, exempt from the jurisdiction of the bishop, are subject to the jurisdiction of the superiors of their own order. All sisters are subject to the jurisdiction of the bishop.

2. Those things which are established by the Code of Canon Law concerning confessors of religious women, whether ordinary or extraordinary, must also be observed by pious communities which are bound by no vows, even if they are only diocesan institutes.

Notes

902. Cn. 566, 3.

903. Cn. 566, 4.

904. Cn. 891.

905. Pelizzarius, *Tractatio de monialibus* (corrected Roman edition, 1755). I. Ch. Ioder, *Das Beichtvateramt in Frauenklostern* (*Archiv f. k. Kirchenr.* vol. 78 [1898] and 79 [1899]). In this whole question concerning confessors of nuns, the decree of the S. C. de Religiosis, 3 Feb. 1913, *De monialium et sororum confessionibus*, containing 17 numbers or paragraphs, is of the greatest importance; by it greater liberty in choosing a confessor is granted to religious women, and therefore some laws in force up to this time are changed. The Code of Canon Law agrees with it. Cn. 520-527. Cn. 876.

350. On the Confessor of Religious Women. 1. For receiving validly and licitly the confessions of any religious women and novices whatever, priests, both secular and religious, of whatever grade and office, need a special jurisdiction.[906]

Only Cardinals are excepted, who can hear the confessions also of religious of either sex everywhere on earth.[907]

2. The ordinary of the place in which the religious house is situated confers this jurisdiction, in this manner:

a. If the house is immediately subject to the apostolic see or to the ordinary of the place, he chooses the priest confessors, both ordinary and extraordinary, and approves them, i.e., confers jurisdiction upon them.

b. If the house is subject to a regular superior, he presents the confessors to the ordinary, who approves them.[908]

The confessor of nuns is customarily approved either specifically for some monastery or generally for all nuns of the same diocese. A confessor specifically approved for one monastery cannot validly receive confessions in another monastery, not even of the same order.

3. If some religious woman, for the tranquility of her conscience, approaches a confessor approved by the ordinary of the place for women, the confession made in any church or oratory, even a semi-public one, is valid and licit, any contrary privilege being revoked; nor can the superior prohibit this or inquire about that matter, not even indirectly; and religious women are bound to report nothing to the superior.[909]

Since the cited canon, from the decree of the S. C. de Relig. of 3 Feb. 1913, granting to religious women the faculty of confessing on a given occasion to any confessor approved for either sex outside their own house, omits the words: **outside their own house**, it grants this faculty of confessing also in their own house. Nevertheless it must be attended that it concerns only confession which is made now and then for obtaining tranquility of conscience. Therefore to nuns also dwelling within enclosure there has been given the power of confessing now and then to another who is not their own confessor.

4. All religious women who are gravely ill, even if they are not in danger of death, can call any priest approved for receiving confessions for either sex, even if not destined for religious women, and can confess to him during grave illness as often as they wish; nor can the superior prohibit them either directly or indirectly.[910]

5. The ordinary of the place, for a grave cause, can remove a confessor, both ordinary and extraordinary, even if the monastery is under regulars and the confessor is a regular; nor is he bound to signify the cause of removal to anyone except the holy see, if it is required by it; but he must warn the regular superior about the removal, if the nuns are subject to regulars.[911]

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351. On the Ordinary Confessor. 1. To individual houses of religious women an ordinary confessor must be given, and indeed only one, who hears the confessions of the whole community, unless because of a great number of religious women or because of another just cause there is need of another or of several.[912]

Notes

906. Cn. 876.

907. Cn. 239, 1.

908. Cn. 525.

909. Cn. 522.

910. Cn. 523.

911. Cn. 527.

912. Cn. 520, 1.

a. The law of one confessor was established both on account of uniformity of spiritual direction and for preventing abuses. At first issued only for nuns of solemn vows, later it was extended also to sisters of simple vows, but it does not bind for secular persons or girls to be educated who live with the nuns.

b. Nothing prevents the same person from being ordinary confessor in several monasteries, whether of the same or of a different order, whether of solemn or simple vows.[913]

2. The ordinary confessor of religious women is not constituted except for a three-year period; nevertheless the ordinary can confirm the same person (without permission of the holy see) for a second, indeed for a third three-year period.

When the three-year period has elapsed, the confessor can again be confirmed in his office: a. if because of scarcity of suitable priests provision cannot be made otherwise, or b. if the greater part of the religious women, even those who otherwise do not have the right of casting a vote, have agreed through secret ballots on the confirmation of the same confessor. For those dissenting, if they wish, provision must be made otherwise.[914]

3. The vicar general cannot be constituted confessor, whether ordinary or extraordinary, of religious women, because it is not fitting that he be constituted judge in the internal forum who is judge in the external forum.[915]

4. The ordinary confessor cannot be deputed extraordinary, nor again ordinary in the same community, unless after a year from the completed office, excepting the cases listed above. But the extraordinary can immediately become ordinary.[916]

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352. On the Extraordinary Confessor. 1. To each religious community there must also be given an extraordinary confessor, who at least four times in the year approaches the religious house, and to whom all religious women must present themselves, at least to receive a blessing.[917]

This was established so that those religious women who really need his help can approach the extraordinary confessor without shame. Indeed, in order that full liberty of approaching him be preserved for nuns, it is prohibited: a. lest the ordinary confessor, at the time when the extraordinary is exercising his office, approach the monastery; but if he lives in the monastery, it is not necessary that he depart from the house, but he must take care that he not dare to bring any impediment to the extraordinary; b. lest during that time he hear the confession of any nun, not even of the abbess or a novice; nevertheless this is not prohibited to him under penalty of nullity.

2. The confessor, both ordinary and extraordinary, must be furnished with knowledge, prudence, and holiness of morals, and must be 40 years old; nevertheless for a just cause the ordinary can choose priests for this office who do not yet have this age, provided they excel in other gifts.[918]

Confessors of religious women, both ordinary and extraordinary, are warned not to mingle in any way in the internal or external governance of the community.[919]

Notes

913. S. C. Ep. et Reg., 1 Sept. 1905.

914. S. C. de Relig., 3 Feb. 1913, n. 2. Cn. 526.

915. Cn. 524, 1.

916. Cn. 524, 2.

917. Cn. 521, 1.

918. S. C. de Relig., 13 Feb. 1913, n. 8. Cn. 524, 1.

919. Cn. 524, 3.

Note 1. Spiritual direction, both of the community in general and of individual nuns, pertains in itself to the ordinary confessor; wherefore to the extraordinary no other office belongs by law except to hear the confessions of the nuns at the stated times and to supply salutary admonitions and counsels in those matters which are proposed to him. Prudence requires, namely, that he not in any way mingle in other matters, whether they pertain to discipline or to the spiritual life.

Note 2. Let the ordinary confessor not bear it ill if sometimes nuns call the extraordinary confessor; indeed in certain circumstances let him himself counsel that they approach the extraordinary. For where he notices that a nun is not progressing in spirit, because he himself, for example, cannot aptly direct her scrupulous conscience or cure her tepidity, let him send her to the extraordinary, to whom perhaps it will better fall to obtain what he himself had thus far attempted in vain to achieve.

353. On Special and Designated Confessors. 1. If some religious woman, for the peace of her soul and for greater progress in the way of God, asks for some special confessor or spiritual director, the ordinary will readily grant him; nevertheless he should watch lest abuses creep in from this grant.[920]

A special confessor of this kind is to be granted not for a fixed time, but as long as the cause of necessity or spiritual usefulness lasts. Even a confessor who has exercised the office of ordinary for a three-year period can be deputed as special confessor, even though a full year has not yet elapsed from cessation of the office.[921]

2. In those places in which communities of religious women exist, the ordinary should designate some priests for individual houses, to whom religious women can have recourse for the sake of confession in particular cases, without it being necessary to approach the ordinary as often as this occurs.[922]

Concerning this matter the decrees establish: a. From the confessors designated by the bishop, the religious woman herself can choose whom she wishes.[923]

b. A designated confessor cannot be denied to a religious woman requesting him, not even in the case in which the superior sees that there is no necessity of calling him.[924]

c. If a religious woman asks for a designated confessor, the superior is not permitted, neither by herself nor through others, not even indirectly, to inquire into the reason for the petition, to oppose the petition by words or deeds, or to show in any way that she bears it ill.[925]

d. Designated confessors, if they understand that religious women approach them without any just cause, should prudently dismiss them. Moreover all religious women are warned that, setting aside human reasons, they should seek an extraordinary confessor only for spiritual good and greater progress in virtues.[926]

e. If a religious woman, according to the judgment of superiors, habitually seeks a special confessor or spiritual director for the quiet of her soul and for greater progress in perfection, he is to be granted to her by the ordinary; nevertheless he must watch lest abuses creep in from this grant.[927]

Notes

920. Cn. 520, 2.

921. S. C. de Relig., 20 April 1917.

922. S. C. de Relig., 3 Feb. 1913, n. 11. Cn. 521, 2.

923. S. C. Ep. et Reg., 17 Aug. 1891.

924. Ibid.

925. S. C. de Rel., 3 Feb. 1913, n. 11.

926. Ibid., n. 13.

927. S. C. de Relig., 3 Feb. 1913, n. 5.

928. S. C. Ep. et Reg., 7 Dec. 1906.

f. Extraordinary, special, and designated confessors are not bound by the law of the three-year period;[928] therefore they can remain in their office for several three-year periods.

Question II.

On the Restriction of Jurisdiction.[929]

354. Restriction of Jurisdiction. Jurisdiction, since it is concerned with a divisible object and is conferred by the free will of man, can be restricted and limited in various ways:

a. **With respect to persons**, as if someone receives jurisdiction for the whole diocese, certain persons nevertheless being excepted, e.g., women or nuns.

In some regions, e.g., in Italy, it is customary that jurisdiction be conferred upon young priests especially with limitation to absolving men alone, but not women; for this reason in the Code of Canon Law there sometimes occurs mention of a confessor approved also for women, or for either sex.

b. **With respect to place**, as if someone can receive confessions in only one parish.

Thus pastors in themselves receive jurisdiction (ordinary) only for their own parish; nevertheless it is customary that both pastors and chaplains receive jurisdiction (delegated) for the whole diocese.

c. **With respect to time**, as if jurisdiction is conferred on someone for a two-year period, after which the granted power expires.

d. **With respect to certain sins**, as if the supreme pontiff or a bishop reserves absolution from certain sins to himself. This limitation of jurisdiction is called the **reservation of cases**, which needs a fuller exposition.

Article I.

On the Reservation of Cases.

355. Nature of Reservation. Reservation occurs in both civil and ecclesiastical judgments and signifies the calling up of some cause from an inferior judge to a superior; by this calling up, the power of judging that cause is taken away from the inferior judge. Therefore the reservation of cases properly is the recall by an ecclesiastical superior of some cases to his own judgment. But because from this recall itself there follows a limitation of power in the inferior judge, reservation is customarily defined: the limitation or denial of the power of absolving from certain sins. And a reserved case is a sin called up to the tribunal of a superior judge, from which therefore the inferior judge cannot absolve because of defect of power.[930]

From these definitions three things are gathered: a. that no one can reserve sins except those of his own subjects; b. that reservation does not directly affect the penitent but the confessor, whose power it restricts; g. if therefore a simple confessor, whether in good or bad faith, absolves a penitent from a reserved sin, that sin, other things being supposed, is in itself remitted only indirectly.

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356. Power of Reserving. 1. There is in the Church a power of reserving certain sins, from which inferior confessors without a special faculty cannot absolve outside the article of death. This is clear from the Council

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Notes

929. Jos. Pauwels, *De casibus reservatis*, 2 vols. Migne republished, *Theologiae cursus completus* XVIII, 933-1604. Ian. Bucceroni, *Commentarii de casibus reservatis* (Rome: Armani, 1889). Ballerini-Palmieri, *Opus theol. mor.* V, Appendix *de casuum reservatione*. Matth. Hausmann, *Geschichte der papstlichen Reservatfalle* (Regensburg: Pustet, 1868).

930. Cn. 893.

of Trent,[931] from the Code of Canon Law,[932] and from the nature of the sacrament of penance, which is exercised in the manner of a judgment by power conferred by the Church; but the Church, which confers power, can also limit it and confer on others the right of limiting.

2. Although, if only the power of reserving is considered, all sins, mortal and venial, external and internal, can be reserved, nevertheless, if the end of reservation is considered, only external sins, and indeed graver and more atrocious ones, are reserved. For the power of reserving has been given for the usefulness of ecclesiastical discipline, wherefore only those sins are customarily reserved which disturb discipline and are a scandal to the faithful, such as grave and external sins. But it would be altogether useless to reserve venial sins, since they are not necessary matter of confession.

357. End of Reservation. a. The first end, intended of its own nature by the very institution of reservation, is disciplinary, namely the good governance of the Church: for suitable administration of the Church requires that graver sins, which are harmful to the community of the faithful, be reserved to superior judges, since they, because of their experience and prudence, can judge better by what means the evil is to be met.[933] b. The other end of reservation, likewise connected with reservation by its own nature, is medicinal: that the faithful may be deterred from sins whose absolution they see to be so difficult.

There were not lacking those who added a third end of reservation, namely a penal one. In actual fact through reservation there is imposed upon delinquents the burden of appearing before a superior judge; nevertheless it cannot be affirmed that the Church by this very fact intends that delinquents be punished. For in the new Code there appears no trace of a penal reason inhering in reservations; evident indications occur concerning each of the other two ends. For from the definition itself[934] the disciplinary end appears; but from the fact that it is required that a reservation not remain in force longer than is necessary for rooting out some public vice and restoring fallen Christian discipline, the medicinal end is implied.[935] This also appears from the fact that ordinaries must take care that diocesan reservations be brought to the knowledge of their subjects.[936]

358. Mode of Reservation. Sins can be reserved in a twofold manner: either **by reason of itself**, or the sin itself, whether it has an attached censure or does not have one; or **by reason of the censure** which is attached to the sin, the censure being reserved. Censures attached to sins are of two kinds: some impede the reception of the sacrament; others do not impede the reception of the sacrament. In the former case the sin is reserved, but on account of the censure; in the latter case the sin is not reserved.

a. In that case in which the sin is reserved only on account of the censure, if someone is excused from incurring the censure, because, for example, he sinned with grave fear or with ignorance of the censure, or has been absolved from the censure, the sin is not reserved. But if a sin reserved by reason of itself has an attached censure, when the censure is not contracted or has been removed, the sin remains reserved.

b. If the censure impedes the reception of the sacraments, the censured person cannot be absolved from sins unless first he has been absolved from the censure. But if the censure does not impede the reception of the sacraments, he can be absolved from sins while the censure remains firm.[937]

Notes

931. Sess. 14, c. 7 and can. 11: If anyone says that bishops do not have the right of reserving cases to themselves … anathema sit.

932. Cn. 893.

933. "It seemed greatly to our most holy fathers to pertain to the discipline of the Christian people that certain more atrocious and graver crimes be absolved not by anyone whatever, but only by the highest priests." Council of Trent, sess. 14, c. 7.

934. Cn. 893, 2.

935. Cn. 897.

936. Cn. 899, 1.

937. Cn. 2250, 1, 2.

c. The cases reserved by the Roman Pontiff, with one exception, are reserved censures. The one sin reserved to the holy see by reason of itself is false denunciation of a priest for solicitation before ecclesiastical judges, which sin also has an attached censure. Cases reserved by bishops are generally reserved sins. For most bishops reserve sins without censure; a few reserve one or another sin with censure.

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359. Who Can Reserve Sins.[938] The power of reserving sins resides in all who by ordinary right can grant the power of absolving or inflict censures, excepting the capitular vicar and the vicar general, unless the latter has a special mandate. For those who can confer jurisdiction upon others can also limit it, unless they are prohibited by the holy see. Therefore:

1. The **supreme pontiff** can reserve cases for the whole Church; all other ecclesiastical superiors, both ordinaries and regular prelates, since they receive jurisdiction from the supreme pontiff, depend on him in reserving sins, so that he can prescribe measure and limits for their reservations.

2. **Ordinaries of places** can reserve cases for their dioceses; therefore bishops can restrict in this way the jurisdiction also of pastors, as being subject to themselves.

a. The norms decreed and prescribed to ordinaries of places by Benedict XV and by the new Code are these:

b. Let them discuss the matter either in the diocesan synod or, if the reservation is made outside a synod, let them hear the cathedral chapter and some of the more approved curators of souls of the diocese concerning the necessity or usefulness of the reservation.

c. Let them reserve only three or at most four of the graver and more atrocious external crimes specifically determined; not merely internal sins, nor grave external sins which are committed from human frailty, not from special malice.

d. Let them abstain entirely from reserving to themselves sins which have already been reserved to the apostolic see, and regularly also from those upon which a censure reserved to no one has been imposed.

e. Let them be very sparing in imposing censures on those sins which they reserve to themselves. Moreover on a delict which, because of a censure, is reserved to the apostolic see, they cannot impose another censure reserved to themselves, Cn. 2247, 1.

f. Let them take care that the faithful be suitably instructed concerning the reservations made. But the reservations themselves should not remain in force beyond what is necessary for rooting out some vice or for restoring Christian discipline.

g. Several authors judge that a reservation by which a bishop reserves to himself a sin which has already been reserved by the pope is illicit but valid; against this Suarez[939] and Lugo[940] with most others say that a reservation of this kind is invalid, and Ballerini[941] defends their opinion, because it is repugnant to the nature of the thing that a bishop reserve to himself a sin from which not even he himself can absolve unless power has been delegated to him. Cn. 898 seems to confirm this opinion. Therefore confessors who have the power of absolving from papal cases can absolve from these, even if the bishop had reserved them to himself.

Notes

938. S. Officium, 13 July 1916. This decree in part repeats the things which Benedict XIV already records (*De synodo* l. 5, c. 5), and in part decrees things entirely new; with it Cn. 893-899 agree.

939. Cf. *De poenit.* disp. 31, sect. 4, n. 26.

940. Cf. *De poenit.* disp. 20, n. 151.

941. Cf. Ballerini-Palmieri V, n. 514 ff.

3. The **superior general of an exempt religion** and, in monasteries *sui iuris*, the Abbot, with each one's own council, with respect to their subjects. Nevertheless there remain firm the disposition of Cn. 518, by force of which the faculty of absolving from reserved cases must be granted to the confessors of the house, and the other disposition, by force of which all confessors approved by the ordinary can absolve a religious even from sins and censures reserved in the religion.

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360. Division into Papal and Episcopal Cases. By reason of the author from whom the reservation proceeds, reserved cases are divided into **papal cases**, which the supreme pontiff reserves for the universal Church (to himself or to bishops), and into **episcopal cases**, which the bishop reserves to himself for his own diocese.

1. All papal cases are reserved with censure and on account of censure, one also by reason of itself (n. 358). Therefore papal cases are properly reserved censures, some of which are reserved in the ordinary manner or simply, others in a special manner, others in a most special manner.[942]

This division of censures is taken from the scope of the faculty of absolving from cases reserved to the Roman Pontiff. For those which are contained in the general faculty of absolving are called reserved in the ordinary manner or simply; those which are contained in the special faculty of absolving are reserved in a special manner; and those which are contained only in the most special faculty of absolving are reserved in a most special manner.

2. Episcopal cases, which the bishops themselves reserve to themselves and which differ according to the diversity of places, are ordinarily reserved without censure. To these there are added from the Code of Canon Law five cases (excommunications *latae sententiae*) which are reserved to bishops by common law. These are properly papal cases, unless the bishops themselves reserve them to themselves, something which will scarcely happen, since it is prohibited through the Code.

a. Since cases reserved by law to bishops are properly papal cases, all confessors who have the faculty of absolving from papal cases can absolve from them; those who lack the power of absolving should have recourse either to the bishop or to the holy see for obtaining the faculty, and in an urgent case they should treat the penitent as if he had another papal case, i.e., absolve him directly with the burden of receiving mandates.

b. They dispute whether in properly episcopal cases reserved with censure the sin or the censure is principally reserved. But the opinion is certainly probable which, establishing no distinction in this matter between papal and episcopal censure, teaches that also in episcopal cases the censure is principally and in itself reserved, because no foundation for a distinction is found in the law, unless the bishop has explicitly signified his mind. The practical importance of this opinion is in this: that he who does not incur the censure also does not incur the reservation, as was said above concerning papal cases.[943]

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361. Conditions Required for Reservation. From the custom of the Church five conditions are required, in order that a sin can be considered reserved:

1. That it be formal in that species of malice on account of which it is reserved; for if this species of malice was wholly unknown, the sin under this aspect is merely material.

Notes

942. See the papal cases which have some importance for the practice of confession at the end of the book. From the Code of Canon Law several new censures have been added.

943. Cf. D'Annibale, *Summula* I, n. 340; Ballerini-Palmieri V, n. 476; Genicot II, n. 344.

Suppose that incest in the first and second degree of consanguinity is a reserved sin. Therefore, if someone confesses that he sinned with a blood-relative (in the second degree), but that he did not know the person was related by blood, or that incest differs in species from fornication, he did not commit a reserved sin. In practice, however, this latter ignorance is not easily admitted; for even the uneducated apprehend, at least confusedly, that it is not the same thing to fornicate with a blood-relative and with a stranger; and a confused knowledge suffices for incurring the case.

2. That it be external, even though occult; for merely internal sins are not customarily reserved (n. 356).

3. That it be mortal not only by reason of the object, but also by reason of the act, both internal and external; hence the reservation ceases if the sin, either on account of smallness of matter or on account of imperfection of the act, is rendered venial.

Reservation chiefly falls upon the external act, which accordingly ought to be gravely evil. Therefore, if the external act were slight, the sin would not be reserved, even though the internal act were grave, as if someone, with the intention of striking a cleric gravely, were only to touch him lightly.

4. That it be consummated in deed, by which is signified that the sin ought to be perfect in its own species; not merely attempted, but consummated with the obtaining of the effect, unless the reserving law also wishes the imperfect act to be reserved.

Therefore, if adultery or incest is reserved, the sin is not reserved unless perfect copula has intervened; and if homicide is reserved, to incur the reservation it does not suffice to have inflicted a wound or given poison, but it is required that death itself have followed.

5. That it be certain, not only doubtful; but doubt is understood both as doubt of law: whether the reserving law extends itself also to this case; and as doubt of fact: whether the sin was truly committed, whether it is grave, whether it was committed with the conditions under which it is reserved.

Namely, in doubt the reservation (censure) is contracted or is not contracted according to the truth of the fact. But now a reservation (censure) of this kind, if it is in fact contracted, can by the usage of the Church be taken away by any confessor. Hence if afterward it becomes known that the sin certainly was reserved, it ought not to be accused again, because it was already directly absolved.

Note. The reason for all these things is that reservation is an odious thing, both to confessors, whose jurisdiction it restricts, and to penitents, for whom it renders confession more difficult; and therefore it is of strict interpretation and is not to be extended to doubtful and imperfect acts, Cn. 2246, 2.

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362. Concerning Ignorance of Reservation or of Penalty. Whether reservation or penalty is incurred by him who is ignorant of them.

1. **Concerning episcopal cases.** a. Episcopal cases reserved without censure are incurred even by him who is ignorant of the reservation.

Reservations which have the nature of a penalty are not incurred by those who are ignorant; since episcopal reservations are only disciplinary and medicinal, nothing prevents its being said that even the ignorant incur them.

b. Concerning episcopal cases reserved with censure, the same holds which will soon be said concerning papal cases.

2. **Concerning papal cases.**[944] a. If the law has words: *shall have presumed, shall have dared, knowingly, studiously, rashly, shall have acted deliberately*, or similar words, which require full knowledge and deliber-

ation, any diminution of imputability, whether on the part of the intellect or on the part of the will, excuses from incurring the censure.

b. Affected ignorance, whether of the law or only of the penalty, does not excuse from censure, even if the law contains the aforesaid words.

c. Crass or supine ignorance of a law which does not have the aforesaid words, or even ignorance only of the penalty, does not excuse from censure.

d. Simple ignorance, or ignorance that is not crass, excuses from medicinal penalties, but not from vindicative ones.

e. Drunkenness, omission of due diligence, weakness of mind, and impulse of passion do not excuse, unless imputability is so diminished that the action is no longer a grave sin.

f. Grave fear does not excuse from penalties *latae sententiae*, if the delict tends to contempt of faith or of ecclesiastical authority, or to the public harm of souls.

Article Two.. Concerning Absolution from Reserved Cases.

As regards absolution from papal cases, the decree of the Holy Office of June 23, 1886 established an entirely new law, which in the new Code, cn. 2254, is again established and more accurately declared. But something else must be said concerning episcopal cases, which are not censures; wherefore the two absolutions must be treated separately.

Section 1. Concerning Absolution from Episcopal Cases.

On this matter a recent decree of the holy see must be noted; however, it treats only of sins which bishops reserve to themselves, not likewise of cases reserved by law to bishops, nor does it touch in any way the reservations of regular superiors. The Code of Canon Law is also added.[945]

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363. Who Can Absolve.[946] 1. By ordinary power, or by the law itself, he can absolve from episcopal cases:

a. The one reserving, his successor in office, his superior who has jurisdiction over the subjects of the one reserving, the vicar general, and finally the penitentiary canon, even of a collegiate church.

b. The parish priest and those who in law are considered in the name of a parish priest, throughout the whole time of the paschal precept.

c. Missionaries (but not likewise other confessors), at the time when they have a mission to the people.

2. By delegated power:

a. Vicars forane (deans), to whom the ordinary ought to grant the faculty, with the power of subdelegating, especially in places distant from the episcopal see, confessors of their district, whenever these have recourse to them for a more urgent and determinate case.

b. All to whom the ordinary has granted delegated power, which nevertheless he should not impart to anyone at all and indiscriminately.

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364. When Reservation Ceases. 1. Reservation ceases by the law itself:

Notes

944. Cn. 2229.

945. Holy Office, July 13, 1916. Cn. 899, 900.

946. Cn. 899, 900.

a. In the confession of the sick, who cannot leave the house.

b. In the confession of spouses, who confess for the sake of entering marriage.

c. If the superior has denied the requested faculty of absolving for some determined case.

It had already been established long ago that, if a regular superior denies to a confessor who asks it the faculty of absolving from a case reserved in his order, the confessor can absolve, unless scandal or common harm is feared which cannot be removed without the matter being manifested to the superior.[947]

d. If, in the prudent judgment of the confessor, the faculty cannot be sought from the superior without grave inconvenience of the penitent, or without danger of violating the seal.

Grave inconvenience of the penitent is considered to be present: a. if otherwise the penitent would give scandal; b. if he would incur infamy; g. if otherwise he would have to remain long in mortal sin and this would be hard for him; d. if the precept of paschal communion, or in a priest the necessity of celebrating, urges.

e. Outside the territory of the one reserving, even if the penitent departed from it only in order to obtain absolution.

Therefore travelers can be directly absolved by any confessor from sins and censures reserved in their own diocese, but not likewise from sins and censures reserved in the diocese in which they confess, where they are treated as inhabitants of the place.

f. In danger of death. See n. 366, 5.

2. Reservation ceases by absolution:

a. By valid absolution given by him who has ordinary or delegated power of absolving from reserved sins.

Therefore any confessor can absolve from reserved sins from which the penitent has already once been directly absolved, if they are again submitted to the keys.

b. By confession, even invalid or sacrilegious, before a confessor having power over reserved matters, in which the reserved sin is accused; for the legitimate superior has already judged concerning the reserved sin, and the penitent has already received a congruous penance, which indeed in this case he is bound to fulfill, even if the confession was null.

c. By a valid confession before a confessor having power over reserved matters, in which the reserved sin is not accused through forgetfulness; this opinion is probable and therefore practically safe.

The reason for this opinion is this: reservation can be removed by indirect absolution if the confessor, furnished with due power, wills this; but it is to be presumed that the confessor wills to free a rightly disposed penitent from reservation, since he wishes to help him as much as he can (*in quantum possum et tu indiges*). Wherefore the penitent afterward can be duly absolved by a simple confessor from that sin which, equally as in the former case, remains necessary matter of confession.[948]

d. By confession of a doubtfully reserved sin before a simple confessor, even if afterward it is known to be certainly reserved; for this sin has already been directly remitted, the Church supplying jurisdiction.

Notes

947. Thus Clement VIII established, as Urban VIII testifies in the constitution *Sanctissimus*, September 21, 1624. Cf. Ballerini-Palmieri V, n. 456.

948. It is certain that in the time of jubilee even those who do not confess through forgetfulness a reserved sin or a censure incurred are freed from reservations and censures. For in this case the privilege of absolving is certainly granted, so that all penitents may be freed from their reservations and censures, provided they have duly fulfilled the works prescribed for gaining the jubilee (n. 332).

What is to be done if a simple confessor, through inadvertence or ignorance, absolves from a reserved case:

a. If he absolves from a censure and sin reserved to the pope, the absolution of the censure is valid, provided it is not a censure *ab homine* or a censure reserved in a most special manner.[949]

b. If he absolves from an episcopal case, he should attend to the statutes of the diocese; for in many dioceses jurisdiction is conferred on the confessor in this case, so that he can directly absolve a penitent existing in good faith. But if nothing of this kind has been established:

c. The penitent who afterward knows that he was only indirectly absolved from a reserved sin should either return to the confessor and ask him to obtain for him the faculty of absolving, or approach another confessor having power over reserved matters and confess again the sin only indirectly remitted.

d. The confessor should admonish the penitent about the error committed, if this can easily be done, e.g., if he returns to confession, so that that error may be repaired. Or better, he should at once seek the faculty of absolving from that sin and see to it that the penitent returns again to confession and accuses himself at least in general of that sin, and he should absolve him, even if the penitent has not been warned about the error. But if he cannot easily either admonish or absolve the penitent, he should leave him in good faith.

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365. For Practice. 1. If the penitent brings forward a reserved case immediately before he accuses further things, he must be examined as to whether he sinned with sufficient deliberation and therefore mortally, whether the conditions required for incurring the reservation are present, and, if there is need, whether he knew that the sin was reserved. But if it is established that the sin is reserved, the penitent must be told to approach the superior or a privileged confessor, or, if he refuses this, to return after a few days to obtain absolution, for the conferring of which the confessor in the meantime will obtain for himself the necessary power.

2. If the penitent promises that he will return to the same confessor, the interrupted confession must be completed, lest the things already accused have to be repeated. It suffices that, when returning to obtain absolution, he accuse himself in general of those things which he had already confessed before.

3. Ordinarily it is advisable that the confessor himself obtain from the legitimate superior the faculty of absolving, and free the penitent from the burden either of approaching one who has power or of writing to the superior.[950]

4. A priest who has presumed to hear confessions without the necessary jurisdiction is by that very fact suspended from divine offices; but he who has presumed to absolve from reserved sins is by that very fact suspended from hearing confessions.[951]

5. A confessor presuming to absolve without the due faculty from an excommunication *latae sententiae* reserved to the apostolic see in a most special or special manner, by that very fact incurs an excommunication simply reserved to the apostolic see.[952]

Notes

949. Cn. 2247, 3.

950. Form of writing, by which the faculty of absolving from a reserved case is requested. Most Reverend and Most Illustrious Lord. - Titius has fallen into a case reserved in our diocese under n. IV (or: into an excommunication reserved to the pope in a special manner under n. 2). Since he repents of the deed, he humbly asks absolution. Let the rescript kindly be directed to me, the undersigned confessor, most humble servant N. N. in N. N.

951. Cn. 2366.

952. Cn. 2338.

Section 2. Concerning Absolution from Papal Cases.

366. Who Can Absolve. 1. The supreme pontiff and the major penitentiary.

2. Cardinals everywhere on earth can absolve from all reserved sins and censures, except censures reserved in a most special manner and those attached to the revelation of the secret of the Holy Office.[953]

3. A confessor whom a cardinal or bishop chooses for himself and his household members, even if he lacks jurisdiction, which he obtains by the law itself, can absolve also with respect to reserved censures, except those reserved in a most special manner.[954]

4. Ordinaries, by themselves or through another, can absolve: a. from all occult cases established by common law, simply, but not those reserved in a special or most special manner; b. from public cases established by common law, but not from cases reserved to the apostolic see or brought to the contentious forum.[955]

Nevertheless, most bishops, from special indults of the holy see, have broader faculties of absolving even from public reserved cases, so that confessors who need the faculty of absolving from some papal case can almost always receive it from the ordinary.

5. All priests can absolve those constituted in danger of death from absolutely all sins and censures, because in danger of death there is no reservation.

It must be noted that sick persons who recover, under penalty of reincidence into the same censure, must in this twofold case have recourse, either by themselves or through the confessor: a. if they were absolved from a censure *ab homine*, to him who imposed the censure; b. if they were absolved from a censure reserved in a most special manner, to the Penitentiary, or the bishop, or another having the faculty.[956]

6. In more urgent cases, namely if the censure cannot be externally observed without danger of grave scandal or infamy, or if it is hard for the penitent to remain in the state of sin for the time necessary for the competent superior to provide, any confessor can absolve from all papal cases, with the obligation nevertheless enjoined of having recourse and of standing by the mandates.[957]

a. The confessor ought to judge concerning the more urgent case; but if his judgment errs either from culpable imprudence or from levity, the absolution indeed is valid, but he himself can sin gravely; for his conscience is burdened in this matter, as the pontifical decree has it.

b. In a truly urgent case absolution can be granted from all papal cases reserved with censure, not even excepting those which are said to be reserved in a most special manner. And the absolution, otherwise than happens in episcopal cases, is direct by declaration of the holy see.[958]

c. Recourse must be made, if it can be done without grave inconvenience: a. under penalty of reincidence into the same censure, b. within a month, g. at least by letter or through the confessor, even one different from him who absolved him, d. the name being withheld, to the Penitentiary, or to the bishop, or to another superior furnished with the faculty.

d. It is permitted to the penitent, even after accepted absolution and after recourse has already been made to the superior, to approach another confessor furnished with the faculty, and, after confession at least of

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Notes

953. Cn. 239, 1.

954. Cn. 349, 1, coll. cn. 339, 1.

955. Cn. 2237.

956. Cn. 2252.

957. Holy Office, June 23, 1886. Cn. 2254.

958. Holy Office, August 19, 1891.

the delict with the censure has been repeated, to receive absolution and mandates from him. But if he has obtained these and has stood by the mandates, he is not afterward bound to stand by the mandates of the other superior to whom he had made recourse.

e. If in some extraordinary case recourse is morally impossible, the confessor, except for censure contracted on account of absolution of an accomplice, can absolve without burden, with those things nevertheless enjoined which must be enjoined by law, and with penance and satisfaction imposed for the censure; and if the penitent does not fulfill these within the time set by the confessor, he falls back into the censure. Such an extraordinary case can easily occur in missions or armies, if a foreign confessor must set out, or a response from the superior cannot be awaited, and the penitent on account of his own state, or for some other reason, cannot write and it would be hard for him to approach another confessor.

f. When a confessor, according to the decree of the Holy Office of June 23, 1886, absolves a penitent in a truly urgent case, he can also dispense him from an occult irregularity which follows the censure itself.[959]

Note. If a confessor, ignorant of the reservation, absolves from a censure and sin, the absolution is valid, unless it is a censure reserved to the apostolic see in a most special manner.

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367. For Practice. 1. If a penitent confesses a sin reserved to the supreme pontiff, the confessor, before he investigates further, should immediately inquire whether the penitent has in fact incurred the case. But if the reservation is established, he should propose to the penitent the option either of approaching, if one is present, a privileged confessor, or of returning after some time; but in the meantime the confessor himself should obtain for himself the power of absolving.

2. In an urgent case, in which absolution cannot be delayed without grave inconvenience of the penitent, the confessor should declare that he could concede absolution under these conditions: a. that after some time he return (if there is need, he should warn the penitent of reincidence into the same censure, if he does not return); b. that he be prepared to fulfill the mandates to be enjoined by the holy see. If the penitent promises these things, after confession has been completed and penance enjoined, the confessor should absolve him.

3. If the penitent does not fulfill the mandates enjoined, he sins indeed, but he does not contract the censure anew, because under penalty of reincidence only recourse is prescribed in good faith; but if he does not return to receive the mandates, he contracts the censure again, provided he omitted the return by grave fault, because recourse under penalty of reincidence was prescribed, and this return is not completed when it is made, but only when the mandates are received.

4. Rare will be the case in which the penitent himself can and wishes to have recourse; in that case the confessor should write to the holy Penitentiary or to the bishop, and should teach him to request absolution from censure granted in the urgent case and to seek mandates.[960]

5. If a confessor, who in an urgent case absolved a priest having a censure on account of absolution of his own accomplice, has recourse to the holy Penitentiary to receive mandates, the latter is accustomed to impose a grave penance and an express prohibition of hearing further sacramental confessions of the accomplice. But if the priest penitent has a third time (having been twice absolved by the same or by three different

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959. Holy Office, March 28, 1906; September 6, 1909. Cn. 990, 2.

960. Formula of writing to the holy Penitentiary: Most Eminent Prince. Titius contracted a censure reserved to the Roman Pontiff in a special (ordinary) manner because of reading prohibited books (because of a duel perpetrated). Since he was not able to approach a privileged confessor, nor to be dismissed without absolution, and otherwise seemed rightly disposed, he received absolution. Now, to obey the Church, by the prescribed letters through me, the undersigned confessor, he has recourse to the holy see to receive mandates, prepared to fulfill the penance which Your Eminence will deign to prescribe as a penalty of the delict. N. on the N. day of the month … N. N., parish priest. Exterior inscription of the letter: To the Most Eminent Prince Cardinal Major Penitentiary. Palace of the Apostolic Chancery. Rome.

confessors) or more often committed the crime of absolution of an accomplice, the obligation of imposing suspension is added, and if this cannot be done, at least within three months, if he is a parish priest, within six months the office of confessor must be given up. But if, by reason of his office, this cannot prudently be done, after the circumstances have been set forth the confessor should have recourse to the holy Penitentiary to obtain dispensation from the obligation enjoined. When this has been done, ordinarily the term for giving up the office is prolonged from year to year, unless perhaps a relapse has occurred in the meantime, or the requested dispensation is granted, so that the priest can retain the office of confessor. Provision can be made for the necessity of having recourse on repeated occasions, because already the first time the reasons can be set forth on account of which giving up the office of confessor is impossible for him. But if the priest penitent who has been absolved in an urgent case still needs only the mandates of the holy Penitentiary, and the confessor who absolved the priest cannot personally meet with him, because he has already withdrawn (e.g., after spiritual exercises have been completed), the confessor should ask the holy Penitentiary to be able to communicate the mandates with the priest penitent outside confession.[961]

6. Three absolutions of an accomplice are not to be counted from the last confession only, but from the beginning of the priestly life, so that, if, e.g., before this he had already twice been absolved from excommunication because he absolved an accomplice, he now cannot be absolved unless with the burden of giving up the office of confessor, if from the last confession he absolved the accomplice once.[962]

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368. Whether One Having Reserved Sins, in Necessity of Celebrating or Communicating, Is Bound to Confess to a Simple Confessor if Another Is Lacking.

a. If he has papal reserved sins, he is bound to confess; for since now the power has been given to all confessors in more urgent cases of directly absolving from all sins and censures reserved in any way whatever to the Roman Pontiff, no cause any longer exists excusing from making an integral confession before Mass or communion to a simple confessor.

b. If there is question of episcopal reserved sins, from which he cannot absolve in an urgent case, a distinction must be made:

c. If he has only reserved sins, he is not bound to confess, because he does not have necessary matter of confession which can be directly remitted.

Therefore he can in urgent necessity celebrate or communicate with contrition alone. If, however, he notices that he has only attrition, he is bound to confess some venial sin, or a mortal sin already remitted, so that he may at least be absolved indirectly from the reserved sins. And he can do this same thing even if he knows that contrition exists, in order that he may procure for himself a more secure state of grace. But if necessity is not urgent, he ought either to abstain from the sacred action or confess a venial sin or a mortal sin already remitted.

b. If he has reserved and mortal non-reserved sins, he is bound to confess, because the precept of premising confession before communion urges, and there exists no legitimate excuse. Yet he is not bound also to

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Notes

961. Formula of petitioning mandates for a priest who, in an urgent case, was directly absolved from the crime of absolution of an accomplice. Most Blessed Father. A certain priest, a parish priest, with Anna, his wife (or a girl), committed these acts … and in confession … (as often as) absolved her. Now performing exercises with due contrition he made confession. But since absolution could not be delayed (for he is constituted in the care of souls, etc.), he was directly absolved; therefore for him I request mandates. He himself indeed is prepared for every penalty, but the office of confessor and of parish priest he cannot give up because of these reasons…. Every occasion of sinning again is remote, indeed impossible, since he will hear no confessions of the accomplice. - He can return to me to receive penance in the confessional (or he cannot because of these reasons…. Therefore I humbly ask that it may be permitted to me through letters to communicate with him and to do the other things he asks). Let the response, I ask, be directed to me N. N., confessor in N. N. Exterior inscription to the Sacred Penitentiary: Vatican Rome.

962. Holy Penitentiary, June 5, 1901.

confess reserved sins, but it suffices that he declare that he has non-reserved sins; both because there is no obligation per se of confessing sins from which he cannot be directly absolved, and because otherwise he would be bound to confess the same sins twice.

This opinion, which obligates a priest having reserved sins and other non-reserved mortal sins to confession, is certain to all, although the contrary may seem to lack a probable argument.[963]

Article Three.. Concerning Absolution of One's Own Accomplice.

[964] Famous is the constitution of Benedict XIV, *Sacramentum poenitentiae* (June 1, 1741), for the declaration of which the same pontiff afterward issued the constitution *Apostolici muneris* (February 8, 1745) and, on March 17, 1749, issued the third constitution *Inter praeteritos*. That constitution chiefly contains three things: concerning solicitation in confession, concerning calumnious denunciation of the confessor as if soliciting, and concerning absolution of an accomplice. And since in these constitutions it is chiefly provided, not only that delinquents be punished, but especially that worthy administration of the sacrament of penance be procured: the highest indecency is found in this, that a priest hears the confession of a person with whom he committed shameful sin and so acts as judge in a crime of which he himself is a participant; and the highest indecency likewise is contained in this, that further confessions are heard by a priest soliciting in confession, since he who rushes headlong into spiritual ruin ought to absolve and preserve another from sin. Finally, the supreme pontiff also intended to remove the dangers of sinning: for a new temptation and likewise a repeated delict must always be feared in a confessor who solicits or absolves an accomplice.

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369. Declarations. 1. An accomplice is said to be one who commits the same sin (a shameful sin) with another, whether both act, as in mutual touches and conversations, or only one acts, e.g., one touches the other and this one consents and manifests consent externally. But he who externally does not resist is already considered to manifest consent externally.

a. Hence complicity properly so called is not had if a priest sins with one sleeping, drunk, insane, or unwilling; for the law speaks of formal complicity, for which the consent of both parties in the same sin is required.

b. To incur the case of complicity, immediate complicity in the shameful action itself is required; cooperation, however proximate, toward the shameful sin of another does not suffice.

2. By the person who is an accomplice is understood anyone with whom the priest committed a shameful sin, whether female or male or a boy, even not yet pubescent, indeed even a person with whom the priest sinned before receiving priesthood;[965] for the bull says: whatever person is the accomplice.

3. Under the name of shameful sin is comprehended any sin against the sixth precept, even if it was not consummated by copula, indeed even if it is only a shameful touch or glance or an immodest conversation.[966] But it is required that the sin be, on both sides, certain, external, and grave, both by reason of the internal act and by reason of the external act.

Hence that complicity of which the pontifical constitution speaks is not had if the sins are only internal, or only venial either internally or externally, or only doubtful, whether with doubt of law or doubt of fact.

Notes

963. Cf. Lugo, *De eucharistia*, disp. 14, n. 84 ss.

964. Aertnys, *De sollicitatione et absolutione complicis* (Faenza, Novelli, 1897). Ian. Bucceroni, *Commentarius in constitutionem Benedicti XIV Sacramentum poenitentiae* (Rome: Typogr. prop. fid., 1888).

965. Holy Penitentiary, January 22, 1879.

966. Holy Office, May 18, 1873.

370. Concerning the Forbidden Absolution of One's Own Accomplice. 1. Absolution of an accomplice in a shameful sin is not only gravely illicit but also invalid, except in danger of death.[967]

a. The cited canon does not change those things which are contained on this matter in the bull *Sacramentum poenitentiae*. Therefore the confessor is deprived of jurisdiction over the shameful sin of complicity, but not also over the other sins of the same penitent. Therefore if the penitent confesses other sins before the confessor-accomplice directly, the sins of complicity are remitted indirectly, provided the penitent is rightly disposed.

b. Whether the priest-accomplice lacks jurisdiction over his accomplice as regards the sin of complicity perpetually, or only until this sin has been directly remitted, is not established. I would say that a confessor-accomplice can absolve the penitent-accomplice not only from other sins but also from the sin of complicity after this has already once been directly remitted. In this sense most authors have explained the bull *Sacramentum poenitentiae*.

c. If the priest-accomplice absolves his own accomplice in good faith, either because he is ignorant that he lacks jurisdiction, or because he does not advert that the penitent is his own accomplice, the absolution is invalid, because no ignorance of invalidating or incapacitating laws excuses from those laws.[968]

d. If the penitent-accomplice who is absolved by the priest-accomplice is in good faith, and likewise if he does not declare the sin of complicity, the other sins are remitted directly and the sins of complicity indirectly.

2. A confessor-accomplice:

a. who absolves, or pretends to absolve, an accomplice in a shameful sin incurs by that very fact an excommunication reserved to the apostolic see in a most special manner;

b. incurs the same also when absolving, or pretending to absolve, an accomplice in the article of death, if another priest, even one not approved, can hear the confession of the dying person without grave infamy and scandal, excepting the case in which the dying person refuses to confess to another;

c. finally incurs the same when absolving, or pretending to absolve, an accomplice who does not confess the sin of complicity from which he has not yet been absolved, but so conducts himself because he has been induced to this by the confessor-accomplice, whether directly or indirectly.[969]

Note. The confessor-accomplice must be warned never to hear the confession of his accomplice outside necessity; if, however, the latter confesses to him after having already been absolved by another from the sin of complicity, he is absolved validly, indeed even licitly, unless this has been prohibited to him by the particular law of the diocese or by the Sacred Penitentiary.

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371. When a Priest Can Validly and Licitly Absolve His Own Accomplice:

a. **In the article or danger of death:** a. if no other priest is present or can be called, not even a simple one; b. if another refuses to hear the confession of the dying person; g. if the dying person refuses to confess to another, so that a sacrilegious confession is to be feared; d. if another priest cannot be called without grave scandal or infamy of the priest-accomplice.[970]

Notes

967. Cn. 884.

968. Cn. 16, 1.

969. Cn. 2367, 1, 2. The excommunication is explained in the booklet *De Poenis ecclesiasticis*. But the penitent-accomplice incurs no penalty, nor is his sin reserved by common law.

970. Cn. 2367.

This is clear from the bull of the holy pontiff, who confers jurisdiction on the priest-accomplice lest the dying person perish. Nevertheless, in this case the priest-accomplice is bound to forestall the danger of scandal or infamy, if he can, e.g., by withdrawing under some pretext; but if he omits to do this, though he can, or if he invents a danger of scandal or infamy where there is none, he indeed absolves validly, lest the dying person perish, but he acts illicitly and incurs the censure.

b. **In gravest necessity.** Although the supreme pontiff by the law itself excepts only extreme necessity, nevertheless by epikeia the priest can absolve his own accomplice also in gravest necessity. For it is scarcely credible that the supreme pontiff wished that this law, although prohibiting and invalidating, should also oblige in circumstances of this kind; wherefore in cases of gravest necessity the law is rightly said to suffer an exception.[971]

c. The authors imagine this case of gravest necessity: a woman has fallen into a shameful sin with a priest and has no other priest there with whom she may confess, and the circumstances of persons, place, etc., are such that she cannot turn elsewhere to seek a confessor, nor does any hope shine forth that another priest will ever come there (which can happen in mission places);[972] or the precept of annual confession and communion urges this woman-accomplice; she cannot omit the reception of the sacraments without grave scandal and infamy, but no other confessor is present, nor can the woman move to another place to seek a confessor.

d. This exception will be granted all the more easily because the human law, although invalidating, collides not only with the natural law of avoiding scandal and with the natural right of avoiding infamy, but also with the divine law commanding holy communion to be received at times; further, because otherwise the woman would have to lack the benefit of absolution for a very long time, indeed perhaps through her whole life until death, which is altogether foreign to the mind of the Church.

Article Four.. Concerning Solicitation in Confession.

372. Sources. a. To this matter belongs above all the bull of Gregory XV, *Universi gregis* (August 30, 1622), which extended to the whole world the particular laws already previously enacted on this matter for the Spains. Afterward (February 11, 1661) there were issued sixteen decrees of the Holy Office,[973] by which the pontifical constitutions are declared. To these decrees are added two propositions (6, 7) condemned by Alexander VII. Benedict XIV confirmed all these things by the constitution *Sacramentum poenitentiae*. Finally, on February 20, 1867, the Holy Office gave an instruction to all archbishops and bishops concerning the observance of the Benedictine constitution, and on July 20, 1890, an instruction concerning the examination to which the solicited person is to be subjected.

b. The Benedictine constitution has these things: Confessors who, either in the act of sacramental confession, or before or immediately after confession, or on the occasion or pretext of confession, or even outside the occasion of confession in the confessional or in another place destined or chosen for hearing confessions, with the simulation of hearing confession there, have attempted to solicit or provoke any penitent to immodest and shameful things, whether by words or signs or nods or touch or by writing to be read either then or afterward, or with him have had illicit and immodest conversations or dealings with rash daring, must be denounced to the ordinaries of the places.

Notes

971. Cf. Gury-Ballerini at n. 587.

972. Moreover, in a case of gravest necessity the confessor can seek the faculty of absolving an accomplice, and it is not necessary that he reveal himself; for he can seek the faculty under a covered name and use the faculty once obtained. Bucceroni n. 49.

973. They can be consulted in Lehmkuhl II, n. 975 (n. 1253).

373. Concerning Solicitation Itself. 1. He is said to solicit to shameful things who attempts to induce another directly to sin against the sixth precept of the decalogue. Therefore he who by some action of whatever kind, whether in itself immodest or in itself indifferent but showing a shameful affection, attempts or intends to excite in another a shameful affection, is said to solicit to shameful things.

a. Therefore, if solicitation is made by words, one must advert whether the words, either in themselves or from the circumstances, signify a shameful affection and provoke to a shameful affection.

b. Therefore, according to the opinion of St. Alphonsus (n. 704), these words contain solicitation: *I would marry you, if I were a secular*; on the contrary, these words: *remember me, because I love you from my heart*, can have either a shameful sense or also another indifferent sense, wherefore judgment must be made about them from the circumstances; for if it were established that the confessor outside confession fosters a shameful love toward that person, they would contain solicitation.

c. If the confessor enjoins on the penitent that she await him at home, or asks her where she lives, or invites her to come alone to the house of the confessor, the words in themselves are indifferent; but if afterward from the circumstances they are known to have been said from a depraved intention, they contain an inchoate solicitation. Yet in order that words of this kind be condemned as shameful solicitation, it is required that, besides the immodest cause, no other prudent cause can be supposed on account of which they were spoken by the confessor.

d. If the confessor in confession praises a woman for beauty and charm, the words in themselves are serious and prudent, e.g., to warn the penitent about the danger of sinning, or they can have proceeded from imprudence and levity, or finally from a depraved intention; it is clear that only if they give off a libidinous affection, and this clearly appears, do words of this kind contain solicitation.

e. If a confessor, hearing the confession of a maidservant, praises the beauty of her mistress, recommending that she come tomorrow for confession, from these circumstances he is to be judged in the prior case; yet St. Alphonsus rightly adds (n. 703) that this praise is more easily to be taken in an evil sense, because prudently scarcely any other reason for this thing can be imagined.

f. If the confessor solicits by deed, e.g., because he touches with lightly immodest or obscene touches or kisses during confession, the matter is to be judged according to the same norm; for since acts in themselves are indifferent or only lightly sinful, it ought to be gathered from the circumstances whether there was present a depraved intention of soliciting and of proceeding to further things.

Circumstances of this kind are these: if the priest is known to be prone to lust, if the touches were forced or repeated more often, if afterward sin followed, etc.

c. He also is said to solicit who has immodest conversations or dealings with the penitent; therefore, who mixes shameful colloquies with the penitent, whether the matter to be acted upon is depraved (*dealings*) or only shameful conversation is had with him (*conversations*), as if he asks the penitent who is accusing herself of a shameful action whether it pleases her to be engaged in those things, what acts she exercises, etc.[974]

2. A priest who has solicited any person in confession must be denounced to the ordinary.

The reason for this precept is that a priest who does not fear to abuse the sacrament of penance for so great a crime is suspected of heresy; but one who is suspected of heresy, from the ancient laws, ought to be denounced

Notes

974. Cf. Ballerini-Palmieri V, n. 725 s.

to the inquisitors and to clear himself from heresy. Moreover, solicitation is a most grave sin, not only against chastity, but also against religion; and if a pastor solicits his faithful, he also sins against justice.

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374. Conditions Under Which Solicitation Must Be Denounced. In order that the obligation of denouncing exist, four conditions are required:

1. There must be solicitation to a shameful sin, not to any other sin whatever; yet it makes no difference whether the confessor solicited a male or a female, whether pubescent or prepubescent, whether he solicited to a sin to be committed with himself or with another or alone, or whether finally he solicited the penitent immediately or through the penitent mediated another person to a sin to be committed with him.
2. The crime of solicitation must be certain; wherefore not only must the word or deed of the confessor be certainly established to the penitent, but it must moreover be certain that it contained true solicitation; for since a confessor possessed of his certain fame cannot be deprived of it through denunciation unless the solicitation is established with certainty.
3. The crime of solicitation must be gravely culpable; here it must be noted that light or indifferent acts by which the confessor solicits can be gravely sinful either from libidinous affection or from a depraved intention by which he attempts to draw another to grave sin; but if he intended to induce the penitent only to light acts, he does not commit the sin of solicitation that must be denounced.
4. The crime of solicitation must have been committed in confession or with relation to confession; wherefore solicitation is not to be denounced if it has no relation to confession, even if it was committed in the administration of other sacraments.

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375. Circumstances of Solicitation. There are four circumstances in which solicitation has that relation to confession such that the confessor must be denounced: a. if it occurs in the act of sacramental confession; b. if it occurs immediately before or immediately after; c. if it occurs on the occasion or pretext of confession, even if confession does not follow; d. if it occurs outside the occasion of confession in the confessional or in a place destined or chosen for hearing confessions, with simulation of confession. The individual circumstances must now be explained.

1. **In the act of sacramental confession** he solicits who interposes solicitation between the beginning of confession (when the priest blesses the penitent) and absolution. But a priest is considered to solicit in the act of confession when the confession has been begun, even if it was not completed or the penitent, for any cause whatever, was not absolved.
2. **Immediately before or immediately after:** if between the solicitation and the sacramental confession no interval, or no other act, intervenes which is not referred as a medium to the solicitation. But it can happen that one who is not to be denounced under this head must be denounced under another clause.

a. Therefore he must be denounced who, in the place of confession, solicits a woman asking for confession to be made immediately; or who solicits a woman who, after confession, approaches to kiss the hand of the confessor; or who, immediately after confession, leads a boy into his room and solicits him there. But solicitation made another day after confession, although made after the confessor heard another penitent after the deed, is not considered made immediately after confession, provided the confessor in confession did not manifest his depraved mind, as if, e.g., he said: *wait for me a little while*, and after a short time came and solicited.

b. If the confessor, after confession has been completed, outside the confessional, before he solicits, treats with the penitent about some business of which no word had yet been made in confession, the circumstances

must be considered for judging the matter. If it is established that solicitation was already primarily intended beforehand and the business was chosen only as a means to complete it, solicitation to be denounced is had.

3. **On the occasion of confession:** if the penitent approached for confession to be made here and now, even though the confession itself, on account of the solicitation made by the confessor, did not in fact follow.

a. Therefore a confessor is probably not to be denounced who, asked by the penitent outside the place of confession to hear her confession the next day or even in the evening (when she asks in the morning), solicits her, whether confession afterward follows or not; for he solicited not on the occasion of confession, but on the occasion of a request for confession.[975] But a confessor must be denounced who solicits a person inviting the confessor to hear her confession immediately; for it is not only he who solicits in the confessional who solicits on the occasion of confession, but also he who solicits outside the confessional when confession is requested to be performed at once, so that confession and the request are morally one.

b. Nor is the confessor who, from confession, recognizing the soul of the penitent as inclined to shameful things, thence takes an occasion for afterward soliciting her, to be considered to have solicited so much on the occasion of confession as because of knowledge taken from confession.[976] But if from some external sign it is established that the confessor already in the confessional conceived the will of afterward soliciting, as if he asks the man inclined to shameful things where he lives, he must be denounced, not indeed because he solicited on the occasion of confession, but because he began the solicitation immediately after confession and afterward completed it.

Note. In confession, immediately before or after confession, and on the occasion of confession, he also is considered to solicit who, in the aforesaid circumstances, begins an act of solicitation which afterward he completes, as if in those circumstances the confessor gives letters provoking to shameful things to be read afterward; if he asks the penitent where she lives; if he invites her to come to the house of the confessor, etc., and afterward he expressly solicits. Yet it must be established morally that the depraved intention was already present in those circumstances; for it can happen that lust burst forth only afterward, when the sin was committed.

4. **Pretext of confession** is a false allegation of confession on the part of the confessor, which he abuses for soliciting, even if confession does not follow; as if a priest, visiting a sick woman, says that he wishes to hear her confession, and then, after sending away the others, solicits the sick woman.

5. **In the place of confession with simulation of confession,** but outside the occasion of confession: solicitation to be denounced is had even then, when the penitent has come for any end whatever, whether good or evil, e.g., to seek counsel or to tempt the confessor himself, provided the solicitation occurs in one of the three indicated places, namely either in the confessional or in a place destined for hearing confessions, or here and now chosen for this, and with simulation of confession.

a. These words, *with simulation of confession*, are to be referred not only to the last, but to all three members: and in the confessional and in a place destined for confession ordinarily there is simulation of confession by the very fact that the confessor and the penitent are in this place; but as to the third, it does not suffice that the confessor and the penitent are in a place here and now chosen for hearing confession and speak secretly with each other, but outwardly they must conduct themselves in such a way as to be considered to be instituting confession. Hence a confessor is not to be denounced who, sitting in a confessional, solicits a woman before she kneels.

Notes

975. Ballerini-Palmieri V, n. 717.

976. D'Annibale III, n. 367 with many others, who nevertheless note that the practice of the Roman congregations is different.

b. A place destined for hearing confessions would be, e.g., a cell in which penitents who are hard of hearing are accustomed to be heard; a place chosen for hearing confessions for a certain time or for certain circumstances, such as a small room, sacristy, choir, where, e.g., during the time of a great crowd, confessions are heard. The room of the sick person or the bed on which the sick person lies is, by universal usage, a place chosen for hearing confessions in these circumstances.

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376. Concerning the Priest Soliciting. 1. **Who are to be denounced.** All priests of whatever dignity, both secular and religious, are to be denounced, provided they have truly and certainly committed the crime of solicitation.[977]

From the sources alleged above, however, it is established how far the obligation of denouncing a soliciting priest extends, namely that he must be denounced even:

a. who lacked jurisdiction (e.g., on account of reservation or complicity), provided he solicited in confession;

b. who alone solicited and the penitent only consented in deed and manifested consent externally, the execution of the shameful plan having been delayed to another time;[978]

c. who solicited already a long time ago; whose crime remained wholly occult; who has set out into a distant land; who has already amended;

d. who solicited a penitent not adverting to the malice of the sin to which she was solicited;

e. even if he immediately repented of the solicitation made, or if, after beginning the solicitation, he immediately desisted.

2. A priest soliciting is indeed punished with grave penalties, which nevertheless are all *ferendae sententiae*;[979] but the crime itself of solicitation is not reserved, unless perhaps somewhere the bishop has reserved it to himself. Therefore the priest soliciting, provided he is disposed, can be absolved by any confessor, but he must be warned not any longer to hear the confessions of the solicited person, even if she herself was not an accomplice, both on account of the great indecency of the matter and on account of the danger of relapse.

377. Who Ought to Denounce Confessors Soliciting: The solicited penitents themselves, and this even if someone else has already denounced him, even if the solicitation was mutual or the penitent consented to the solicitation; nor does there exist in this case any danger of defaming oneself, since the solicited are not interrogated about the consent given.

a. The prepubescent, or rather solicited persons who do not yet apprehend the malice of the solicitation, are denounced when they come to knowledge of the crime committed by the priest.

b. Besides the solicited person, no one else is obligated to make denunciation in the new Code. - The confessor soliciting is not bound to denounce himself; but one who accuses himself spontaneously is treated more leniently by the ecclesiastical judge. For priests who confess their crime spontaneously are admitted with congruous abjuration and salutary penances, with the counsel or precept added that they abstain from hearing the sacred confessions of the solicited persons; nor are they customarily affected by the other penalties set forth in the Clementine constitutions, even if later they are denounced.[980]

Notes

977. Whether also bishops who solicit are to be denounced is not established; but laymen or clerics not yet priests, who pretend that they are confessors and solicit in confession, by force of the words of the law, which speaks only of priests, are not to be denounced.

978. Holy Office, February 20, 1867.

979. Cf. cn. 2368, 1.

980. Instruction of the Holy Office, February 20, 1867.

378. Concerning the Solicited Penitent. Unless he incurs it by natural law, certainly by the grave precept of the Church he incurs the obligation, under penalty of excommunication (reserved to no one), within a month from knowledge of the obligation, of denouncing the soliciting priest either to the local ordinary or to the Congregation of the Holy Office.[981]

1. If the solicitation is established, the confessor, with the conscience of the solicited penitent being gravely burdened, must warn him about the obligation of denouncing.[982] The confessor is bound by positive ecclesiastical law to give this warning under grave sin, even if the penitent is in good faith and is foreseen not to be about to satisfy his obligation, except only in the case of death, lest the penitent be cast into danger of damnation. But if here and now, on account of a just impediment, he cannot denounce, he ought to warn him that the obligation urges when the impediment ceases.

a. The confessor is not bound to interrogate his penitents whether they were solicited, unless from prudent suspicion arises from their accusation of solicitation having been made. But confessors who solicit are never bound themselves to warn the solicited person about the obligation of denouncing, even if afterward she returns to the one soliciting for confession.

b. The penitent must be warned about the obligation of denouncing, even if it is foreseen that he will refuse denunciation, or rather even if only a slight hope of success shines forth, because the common good requires it, and a private good ought to yield to the common good. Yet one must not affirm that the common good always and in every case requires it; for whenever the Church dispenses from making denunciation, she does this because it could not be done if the law of nature or the common good were always to require it. Therefore when, from the crime committed, common harm no longer threatens, as if the confessor hears no more confessions and the penitent is foreseen not to be about to obtain them, the warning also can be omitted.[983]

2. The obligation of denouncing is a personal burden and therefore to be fulfilled by the solicited person himself, and indeed in judicial form; wherefore the penitent does not satisfy the obligation by private letters given to the bishop. Further, this obligation is never extinguished except by the death of the soliciting priest; hence if denunciation cannot be made on account of some impediment, after the impediment has been removed the obligation again urges.

Before judicial denunciation can be made, the solicited person approaches the ordinary, or, if he cannot do this, sends private letters either by himself or through the confessor to him, in which he sets forth all the circumstances of the solicitation and signs his own name with the place of habitation. Then the ordinary either sends the mandate for making the denunciation, if there is need, or gives another instruction.

3. Solicited penitents who are certainly bound to make the denunciation cannot be absolved unless they have first satisfied the obligation of denouncing, or at least have promised that, within a month if they can, they will satisfy their obligation. Wherefore if the penitent shows himself prepared to denounce, and no prudent doubt arises concerning the seriousness of his will, absolution can at once be granted, especially if the necessity of communicating urges; but if it must be feared that the denunciation will be omitted, absolution is to be deferred until the denunciation has actually been made.

Notes

981. Cn. 2368, 2.

982. Cn. 904.

983. Ballerini-Palmieri V, n. 743.

4. But he who, within a month from knowledge of the obligation, does not denounce without an excusing reason or culpably, incurs an excommunication reserved to no one, from which therefore any confessor can absolve a disposed penitent.

a. But in order that, after the month has elapsed, he incur the excommunication who has not made the denunciation within the month, it is required: a. that he knew the obligation of making denunciation within a month; b. that he knew an excommunication was attached to the omission.

b. If the solicited person culpably delayed the denunciation beyond a month, but now seriously promises that, as soon as possible, he will make the denunciation, he can be absolved from the censure, because in the cited canon it is said: not to be absolved, unless he seriously promises that he will satisfy. But if afterward, with changed will, he does not denounce, the censure does not revive, because there is nothing in the law concerning reincidence.[984]

5. False and calumnious denunciation of an innocent confessor concerning the crime of solicitation is a sin reserved by reason of itself to the Roman Pontiff, with an excommunication *latae sententiae* reserved in a special manner.[985]

a. The reserved sin of false denunciation is judicial denunciation, not private. A penitent who confesses this crime must be warned to retract the calumny and repair the harms which the priest suffered from it.

b. The delinquent cannot be absolved from this censure in any case unless he has formally retracted the false denunciation and repaired, according to his powers, the harms that followed from it. Further, a grave and lasting penance must be imposed on him.[986]

6. Since the crime of false denunciation of a priest concerning solicitation is reserved also by reason of itself, i.e., also as a sin alone and not only as a censure, it follows that a penitent who does not incur the censure on account of ignorance nevertheless cannot be absolved from the sin outside danger of death without the special faculty of the Roman Pontiff.

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379. Concerning Causes Excusing from This Obligation. For a just cause the solicited person is excused from making denunciation; for this precept, although most grave, is nevertheless at times a positive precept of the Church, which does not oblige with very grave inconvenience. If, however, the denunciation must also be made by the law of nature, namely where the solicitation brings on public scandal or common harm, no very grave inconvenience excuses from making it.

1. Besides impossibility, probable danger of grave harm in the goods of life, reputation, or fortune excuses.

a. If the solicited person can neither approach the bishop nor write a letter to him on account of ignorance of letters, and present another obstacle to denunciation, he is excused on account of impotence; but the confessor is not bound to make the denunciation for the penitent unless grave public harm threatens.

b. One is not bound to denounce a distinguished benefactor from whom he has received extraordinary and necessary support, which he would lose on account of the denunciation; nor a priest closely joined by intimate friendship or by consanguinity, unless the law of nature demands it on account of the common good.

Notes

984. Cf. *De poenis*, n. 103.

985. Cn. 894; Cn. 2363.

986. Cn. 2363.

2. Fear of incurring the indignation of the one soliciting does not excuse, nor the obligation of gratitude toward the one soliciting, nor the shame which the solicited person must undergo in making the denunciation.

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380. Manner of Acting with a Solicited Penitent. A confessor to whom a case of solicitation is brought ought to proceed in this way.

1. Since it not rarely happens that women, from ignorance or from hatred, envy, or another depraved motive, calumniate priests who are altogether innocent, the confessor should see whether the person is worthy of faith; and if he has doubt concerning this matter (which he will almost obtain whenever the person is prepared on her own initiative to make the denunciation), he should admonish her about the atrocity of the crime and about the grave penalty which is inflicted upon false accusation. But he should take care not to inquire about the name of the one soliciting.
2. He should diligently examine whether all the conditions are present which render the obligation of denouncing certain. And if he cannot judge this immediately, he should have the penitent return to him on another day. But if the solicitation is truly established, he should warn the penitent about the obligation of denouncing.
3. But if the penitent refuses to denounce, he should inquire whether there is an excusing cause. If an excusing cause is in fact present, denunciation can per se be omitted or at least delayed. Therefore if the penitent promises that he is willing to denounce when the excusing cause ceases, he can meanwhile be absolved.

Frequently penitents refuse to denounce because they fear that the one denounced will come to know the one denouncing. Wherefore the confessor should warn them that the one denounced cannot easily learn the person denouncing, first because it is generally granted that the denunciation be made by the agency of the confessor alone, then because the names of the denouncers are never manifested, and finally because the delinquent is ordinarily called to judgment only after the third denunciation.

4. The denunciation to be made must be made to the ordinary of the place in which the penitent is staying, even if the confessor soliciting belongs to another diocese, or to the Congregation of the Holy Office. The ordinary of the place then transmits the sworn denunciation to the bishop of the priest soliciting. But if it cannot be made to this ordinary, it must be made to the ordinary of the confessor soliciting.
5. Judicial denunciation must be made orally before the ordinary or his delegate with a notary intervening; sometimes, however, it is granted that it be made before a delegated priest with no notary intervening, or even before the confessor delegated in the confessional,[987] to whom the appropriate instruction is customarily transmitted by the ordinary for receiving it.
6. If the penitent, without a just cause, does not wish to make the denunciation, the confessor should try to induce him with suitable motives to make it; but if nevertheless he wholly refuses, he should not absolve the penitent, but should have him return to him at another time. Meanwhile he should have recourse either to the ordinary or to the holy see (the Penitentiary or the Holy Office), and, after all the circumstances have been set forth, with the name of the penitent nevertheless suppressed, he should ask for a suitable remedy. For either he is dispensed altogether from making denunciation, or it is granted that the whole matter be denounced by the agency of the confessor.

Notes

987. The manner to be observed according to the prescription of the Holy Office of July 20, 1890, in receiving the denunciation, is found in the *Acta S. Sedis*, Appendix to vol. 25, to which, on August 6, 1897, was added an instruction concerning the care to be employed in causes of solicitation.

Lest the confessor who makes the denunciation for the penitent come to the knowledge of the priest soliciting, he should induce the penitent himself to write the name of the soliciting priest, and to bind his own name in a written schedule in the same envelope with those letters.

Question Three.. Concerning the Obligations of the Minister.

[988]

381. All obligations of confessors arise from the general obligation of procuring those things which are necessary for the valid and licit administration and reception of the sacrament. Of these obligations some urge before the hearing of confession, others during the very hearing of confession, and others finally after the confession has been heard. Before the hearing of confession, suitable knowledge is required. During the hearing of confession, the obligation of teaching and warning must be observed, the obligation of interrogating, and the obligation of absolving the penitent. The obligation of the confessor after confession is twofold: one which follows from confession by accident, namely, of correcting defects committed; the other which follows from confession in itself, namely, of preserving the sacramental seal. The obligations cohere with the offices which belong to the minister of the sacrament of penance, namely with the office of teacher, by which he ought to warn the penitent and teach him those things which are necessary to be known; with the office of physician, by which he ought to cure the diseases of the soul and to suggest suitable remedies for avoiding relapse; but especially with the office of judge, by which he ought to judge concerning the sins and disposition of the penitent and reconcile him to God by sacramental absolution.

Article One.. Concerning the Knowledge of the Confessor.

382. Necessity of Knowledge. Outside a case of necessity, the confessor is bound under grave sin to have that knowledge which is required for duly performing his office; for he who, without due knowledge, exposes the sacrament and himself to the danger of gravely erring, and therefore of inflicting grave injury on the sacrament and great harm on souls. Neither gifts of talent, nor experience, nor common sense, which indeed help knowledge, can supply sufficient knowledge, but cannot fill the place of its parts.

a. A case of necessity is considered to be present not only in danger of death, but also when otherwise the faithful would have to lack confession for a long time. But in a case of necessity even a less learned confessor can licitly hear confessions; for when a confessor is lacking, not only does the insufficiency of the confessor not matter, but not even lack of integrity of confession, since in a case of necessity the sacrament can be administered without material integrity.[989]

b. Hence a confessor sins who, knowing that necessary knowledge is lacking to him, freely (even from charity or obedience alone) hears confessions, unless there is question of confessions in which, as he prudently supposes, only venial sins are accused. Nor does a superior who commands hear confessions supply for the defect of knowledge; yet in a superior's judgment any priest who doubts concerning his own knowledge can acquiesce with a safe conscience, if by him he is judged fit and is commanded to be free for hearing confessions, provided the superior is sufficiently known to him.[990]

Notes

988. St. Alphonsus, *Praxis confessarii*. Lacroix, *Theologia moralis* l. 6, pr. 2, n. 1699-1932. Stoz, *Tribunal poenitentiae* l. 2, *De confessario ut iudice*. Lohner, *Instructio practica de confessionibus rite et fructuose excipiendis*. Io. Palanco, *Directorium confessarii* (Cracow: Anczyc Gadowski, 1886). Aertnys, *Theologia pastoralis complectens practicam institutionem confessarii* (Paderborn: Schoningh, 1893). Tepehorn, *Anleitung zur Verwaltung des heiligen Bussakramentes* (Dulmen: Laumann, 1893). Reuter, *Neoconfessarius*, which Lehmkuhl newly edited in Latin (Freiburg: Herder, 1905), but Iul. Mullendorf in German, *Der Beichtvater u. s. w.* (Regensburg: Verlagsanstalt, 1901). Schick-Rhiel, *Kurze Anleitung zur Verwaltung des hl. Bussakramentes* (Fulda: Actiendruckerei, 1901).

989. Cf. Lugo, disp. 21, n. 73.

990. Ballerini-Palmieri V, n. 576.

A superior sins who grants permission to hear confessions to an ignorant priest, because he consents to and cooperates with his sin. He is excused, however, if he exposes a less learned confessor in a case of necessity, where he cannot have one sufficiently learned, as in a small and remote place whose care a learned priest does not wish to undertake.[991]

A penitent sins who knowingly and deliberately chooses an unfit confessor; but if the penitent confesses to one who is unfit, he is in good faith, the sacrament is valid: for on the part of the penitent there is integral confession and due disposition, and on the part of the confessor at least a generic and confused knowledge of sins, which suffices for valid absolution.[992]

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383. What Knowledge Is Necessary. Knowledge is not required by which the confessor can always, immediately and by himself, solve all occurring doubts; but ordinarily sufficient knowledge is required, by which he can understand and resolve commonly occurring cases, and in more difficult cases at least know prudently how to doubt, so that he can consult books or others more learned.[993]

a. Greater knowledge is required for hearing confessions in a great city than in a small and remote village; likewise for hearing any faithful of diverse state and diverse condition than for hearing penitents of the same state and condition.

b. A confessor ought to know: a. those things which pertain to the essence and effect of the sacrament of penance, and those things which are required for its valid and licit administration both on his own part and on the part of the penitent; b. the principles of discerning between mortal and venial sins, which sins are mortal and venial in the individual precepts, the various species of sins and the circumstances changing the species; g. those things which pertain to the restitution of goods and reputation; d. the more frequently occurring causes of reserved censures, impediments of marriage, and common and proper obligations of states; e. the roots and occasions of sins, and the opportune remedies to be suggested to penitents.

Note. The confessor should never interrupt the study of moral theology, both that he may preserve sufficient knowledge and that he may increase and perfect it. Nor should anyone flatter himself concerning preserving the knowledge necessary for hearing confessions without tireless study of moral theology, because this knowledge consists not only of many and scattered matters, but also of almost innumerable positive statutes, which are easily lost from memory unless they are recalled again. To preserving and perfecting this knowledge, the frequent reading of books of morals will greatly help, if the confessor, to solve occurring doubts, consults books or other more learned persons; if, after a more difficult confession has been heard, he diligently examines whether he acted rightly in all things; and finally, if he eagerly reads cases and diligently attends gatherings instituted almost everywhere for solving cases of conscience.

Article Two.. Concerning the Obligation of Teaching and Warning Penitents.

384. Obligation of Teaching. 1. By force of his office the confessor is bound to teach the penitent those things which are required for receiving the sacrament here and now rightly, because as minister of the sacraments he ought to procure their valid and licit administration. Therefore, if the reception of the sacrament cannot be deferred to another time, he ought to teach the penitent: a. the truths which must be believed by necessity of means for salvation; b. the dispositions necessary for receiving the sacrament with fruit, namely sorrow, purpose, and formally integral confession of sins. But those things which must be known and believed only

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991. Lugo, ibid., n. 64.

992. Cf. St. Alphonsus, n. 627, 628.

993. St. Alphonsus, n. 627.

by necessity of precept need not be learned by the penitent from the confessor in the confessional; rather, it suffices if he grieves for past negligence and conceives the purpose of learning them soon.

2. It is not necessary that the confessor instruct the penitent about necessary things in such a way that afterward he knows them and can give an account of them, but only in that way which here and now is required and suffices for receiving the sacrament, namely by proposing the articles of faith to be believed so that he may elicit an act of faith concerning them, by examining conscience with him, by eliciting sorrow and purpose, and by warning him to learn these same things more accurately as soon as possible.

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385. Obligation of Warning. 1. Penitents who, from an erroneous conscience, think that what is not a sin is a sin, or that what is venial is mortal, must be warned; for this ignorance is harmful to them, because they remain in danger of sinning formally.

2. Penitents who are in vincible and gravely culpable ignorance must be warned, even if no amendment is hoped for; for on the one hand the admonition cannot harm, since the penitent is already in a state of sin because of culpable ignorance or because of the doubt with which he acts, but on the other hand the warning can profit, because it is permitted to hope for the fruit of amendment.

a. If the penitent asks, the confessor is bound to manifest the truth; for then his ignorance is no longer invincible, and the silence of the confessor would confirm him in evil.

b. Ignorance is compared to vincible ignorance, so that a warning must be made, in the following cases:

c. If it induces proximate danger of sinning or of persevering in sins, as if the penitent is ignorant that pollution is a sin.

d. If it concerns laws which cannot long be unknown.

e. If it concerns those things which by necessity of means, either certainly or probably, must be known and believed.

3. A penitent who is in invincible ignorance must be warned if fruit from the warning is hoped for, either immediately or at least afterward, and no greater evil is feared. But if no fruit is hoped for from the warning, the warning must ordinarily be omitted and the penitent left in good faith; for from two evils the lesser must be chosen, namely material sin rather than formal sin, which the penitent, not about to obey, would commit.

a. The warning must be omitted even if the silence of the confessor tends to the harm of a third party as a particular person, if, e.g., it is foreseen that a penitent warned about restitution will not obey; for the warning would profit no one and would harm the penitent.

b. If the penitent is indeed hoped to be about to obey, but from the warning grave harm to a third party, e.g., harm to children, is at the same time foreseen if an invalid marriage is dissolved, the warning must be omitted. For just as the obligation of warning does not urge with grave harm to oneself, so neither does it urge with grave harm to another, provided the thing itself, because of invincible ignorance, is done without sin.[994]

c. In doubt whether the warning will profit or harm, it must be omitted, unless a much greater utility is hoped to follow from the warning.

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994. Cf. Lugo, disp. 22, n. 27.

4. Nevertheless, the penitent must be warned, even if no fruit of amendment is hoped for, whenever from the warning being omitted a greater evil follows than from the warning being made, as if ignorance would bring on graver harm or public scandal.

Note. It belongs to the confessor, as physician of souls, prudently to investigate the roots of sins, prescribe fitting remedies, and offer warnings of salvation. But in fulfilling these things, let him remember that, besides the penance, the confessor cannot impose a strict obligation on the penitent unless he declares those things which the penitent is already bound to perform from another source, e.g., that restitution must be made or the occasion of sin must be abandoned. For only in imposing penance does he act as judge; in other things he acts as physician, "whose office is not to command, but to counsel."[995]

Article Three.. Concerning the Obligation of Questioning Penitents.

386. Concerning the Obligation Itself. 1. The confessor per se is bound under grave sin to question penitents:

a. About those things which are required for the integral confession of sins, whether they have omitted these culpably or inculpably; for since he is bound to procure the legitimate administration of the sacrament, he cannot absolve penitents unless he has judged them to have confessed integrally (as to species and number).

b. About those things which are necessary to be known so that he can judge concerning the gravity of sins; for the confessor, so far as can morally be done, ought to judge whether the sins of the penitent are grave or slight (n. 388).

c. About those things which are necessary to be known so that he can know the disposition of the penitent and prescribe suitable remedies. For since he is bound to procure a worthy administration of the sacrament, he cannot absolve the penitent unless he has judged him to be disposed (n. 389).

d. Since by force of his office the confessor ought to procure the integral confession of sins, he is bound to question not only penitents who, from grave fault, but also those who, inculpably, on account of ignorance or forgetfulness, fail in integrity.[996] Nevertheless, the obligation of questioning penitents who culpably omit sins is graver than the obligation of questioning those who omit sins inculpably. But since it belongs per se to the penitent to accuse sins and to the confessor to hear the accusation, the obligation of questioning in the confessor is conditional and secondary, namely if the penitent fails; therefore the obligation of questioning is not greater, but rather less than the obligation of the penitent to examine and accuse himself.

e. In a long series of confessions, to omit one or another question about the species and number of sins which the penitent conceals from grave fault, or several questions about the number and species of sins which the penitent conceals in good faith, is not a grave sin because of smallness of matter, even if the penitent would be bound under grave sin to manifest them; for, considering the office of the confessor, by which he is bound to hear and help as many penitents as possible, such an omission is rightly considered slight.[997]

2. The confessor ought not to question all penitents at once, but only those whom he probably judges to be deficient in the integrity of confession; but those whom, either from the manner of confessing or from the condition of the person, he prudently judges to have confessed integrally, he is not bound to question.

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995. Cf. Lugo, *Responsa moral.*, l. 1, dub. 8, n. 5. Ballerini-Palmieri V, n. 126.

996. Cf. Suarez, disp. 32, sect. 3, n. 7 s. Lugo, disp. 22, n. 17 ss. Ballerini-Palmieri V, n. 584.

997. Cf. Gury, *Casus consc.* II, n. 669.

Defects in the integrity of confession chiefly arise from a threefold cause: from negligence in examination, from shame, and from ignorance of religious matters. Hence ordinarily those must be questioned who rarely (once or twice a year) receive the sacraments, who seem little instructed, who either from the manner of confessing or from the condition of the person are judged to be concealing sins. But priests, religious, pious persons, and persons sufficiently instructed according to their condition are not to be questioned, nor penitents who from the manner of confessing can prudently be judged not to be deficient in integrity.

3. In making questions, the confessor is not bound to employ anything except ordinary diligence, and that different according to the different capacity of the penitent. The reason for the first is that the obligation of the penitent to examine himself requires only ordinary and moderate diligence. The reason for the second is that the confessor is bound only to help the penitent and supply for his defects; therefore, since penitents ought to employ different diligence in examining conscience according to their different capacity, the confessor also can employ different diligence.

a. Hence even if the confessor, after moral diligence has already been employed, thinks that by further questions he can fish out more sins or know more accurately, as to species and number, the things declared, he is no longer bound to question. Indeed, neither is it expedient to torture the penitent with many questions, even if some defect in integrity is committed, lest confession be rendered odious.

b. Therefore since the confessor ought to take care only that the penitent confess sins as he himself knows them according to his capacity, a rude and uncultivated man is to be examined more lightly than a civil and instructed man; a sick person, who because of weakness can attend with more difficulty, more lightly than one healthy and robust; one who has more sins, more lightly than one who has fewer.[998]

4. Questions ought to be moderate, lest confession be rendered burdensome and odious to penitents.

Therefore above all the confessor should not question about all things in which the penitent could have sinned, but only about those things in which, by reason of his state and condition, he probably has in fact sinned. Then also with respect to necessary questions, especially about shameful matters, he should attend lest penitents be offended and deterred from making confession in the future; for it is better to fail in the integrity of confession than to render confession odious to the penitent.

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387. What a Confessor Ought to Do Who Doubts the Sincerity of the Penitent. The axiom received in the forum of penance must be noted: the penitent speaking both for himself and against himself is to be believed; for in the tribunal of penance he is at once the accused and the witness, his own accuser and advocate, and besides he must be presumed truthful unless something else is proved. Therefore the confessor can always absolve the penitent unless he knows certainly that he is sacrilegiously denying a sin. In particular, however, one can distinguish as follows:

a. If the confessor certainly knows that the penitent has committed a sin which he conceals and which, when prudently questioned, he denies, he should first consider whether it can be supposed that the penitent does not hold the matter at issue as a sin, or that he has forgotten this sin, or that he has already confessed it to another, or that he has a just cause for omitting that sin. If any of these can be presumed, the penitent must be absolved, from whatever source the confessor has received knowledge of the matter; for the penitent must be believed.

b. If none of these can be presumed, the penitent must be treated in a different way according to the different source from which the confessor received knowledge of the sin:

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998. Lugo, disp. 16, n. 594.

c. If he knows this outside confession, and indeed from the report of others, the penitent must be diligently questioned; and if he denies it, the confessor ought to absolve him, for the penitent must be believed rather than others, whom he ought to suppose to have been deceived.[999]

Since St. Alphonsus (n. 631) writes that he would not dare to absolve such a penitent in a case in which witnesses so grave had related his crime that moral certitude concerning it was had, a confessor, following the opinion of the holy doctor, can deny absolution to a penitent of this kind. For the holy doctor thinks that that rule, namely that the penitent must be believed, holds only in a doubtful matter, but not in a morally certain matter.

b. If he knows this outside confession, and indeed by his own experience and that infallible, because, e.g., he saw him killing, he ought to convict the penitent; and if nevertheless he constantly denies it, to dismiss him without absolution, for he lacks disposition.

c. If finally he knows this from the confession of an accomplice, he can question him only in general, lest the seal be violated, or even particularly about the same sin, if he would otherwise also have questioned about it, because it is customary for it to be committed by such a person. But if he does not confess the matter and it is plainly established that the penitent conceals a sin committed, it is licit to omit absolution and to recite some prayers to hide its omission; but it is also licit to absolve the penitent either absolutely or conditionally.

d. That absolution can be omitted is clear from this: on the one hand absolution would be null, and therefore the form of absolution would be pronounced in vain, which inconvenience is avoided by omitting absolution; on the other hand, by its omission the seal is not violated, since neither is the sin manifested, nor does a burden of penitents arise from it.[1000]

e. Nevertheless it cannot be demonstrated that absolution is illicit: for on the one hand, the confessor who omits absolution does not prevent the sacrilegious reception of the sacraments; on the other hand, he is not bound to use the knowledge drawn from the confession of the accomplice, but from the common rule can act as if he had not heard that confession; yet to this extent he can use it, that he absolves only conditionally.[1001]

Article Four.. Concerning the Obligation of Absolving Penitents in General.

This obligation, which concerns the sacramental judgment to be instituted by the confessor, comprises several particular obligations, namely the obligation of knowing the cause, the obligation of judging the disposition, and of rendering sentence, or of granting, deferring, or denying absolution.

Section 1. Concerning the Obligation of Knowing the Cause.

388. Concerning Knowledge of the Cause. 1. Before absolution the confessor ought to know the cause, or render judgment concerning the sins of the penitent and their moral malice, namely whether they are mortal, and whether the mortal sins are specifically distinct. To render this judgment he ought to attend both to the objective malice of the sin and to the subjective fault of the penitent, which chiefly depends on his advertence.

a. To judge the objective malice of a sin it is not required that the confessor actually and explicitly render a determinate judgment concerning the gravity and specific malice of every sin, but only this is required: that, endowed with habitual knowledge by which he can distinguish between grave and slight sins and between

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999. Lugo, disp. 22, n. 22. Ballerini-Palmieri V, n. 586.

1000. St. Alphonsus, n. 631.

1001. Cf. Lehmkuhl, *Casus consc.* II, n. 40 ss. Elbel-Bierbaum III, pr. 8, n. 44. Ballerini-Palmieri V, n. 587.

sins specifically diverse, he hear the penitent and, even if he does not reflectively think about them, judge in hearing according to common principles. But if he lacked the aforesaid knowledge and from ignorance judged falsely concerning sins, the confession would not for that reason be invalid.

b. To judge the subjective malice, he can presume that the penitent apprehended the sin according to its objective malice, unless there is a particular reason for doubting the truth of the presumption. But if such a reason is present, the penitent must be questioned about his apprehension of the malice; and if after the question has been made the doubt concerning the subjective malice of the sin cannot be solved, the matter must be left to the judgment of God.

Just as the penitent by divine precept is bound to declare all and individual mortal sins, and to declare them in such a way that they can be rightly understood by the confessor, so the confessor ought to attend to the individual sins which the penitent accuses and to understand each one. Hence a. if the confessor, on account of lack of skill in the language, does not understand all the mortal sins which the penitent accuses, he is bound to direct him to another confessor skilled in the language, if such a one is present and can be approached without grave inconvenience. But if this cannot be done without grave inconvenience, the penitent can be absolved. But if the penitent had only venial sins, the confessor could validly and licitly absolve him after one or another sin has been sufficiently understood.

b. If the confessor, on account of singing or sleep or distraction or another cause, did not hear the sins of the penitent, he should supply the defect in this way, if it can be done without grave annoyance. Let him ask the penitent whether he thinks that among the things accused any grave sin is contained; if he denies this, he can absolve him; if he affirms it, let him ask what that sin is, saying that he did not understand the matter sufficiently. But if from the conscience of the penitent known to him he can presume that the things which he did not hear are venial sins, he can absolve him without questioning about them.

2. The judgment concerning the sins of the penitent ought to be sacramental, which requires in the confessor the power of jurisdiction, and in the penitent a sacramental accusation, i.e., one made to the confessor as judge for obtaining absolution.

Therefore, to obtain valid absolution, a friendly narration of sins or an exposition of them made to the confessor for the sake of counsel does not suffice, unless the penitent again, at least generically and confusedly (*I accuse myself of all the things which I said outside confession*), accuses himself sacramentally.

3. Yet it is not required that the confessor, while he absolves, still remember either all the sins which the penitent accused or some sin in species and distinctly; rather, it suffices that he remember the sins confusedly, prudently judge that the penitent is actually disposed, and will to absolve him by divine authority from the sins which he had submitted to the keys.

Section 2. Concerning the Obligation of Judging the Disposition.

389. Concerning the Disposition to Be Known. 1. Since absolution cannot be granted except to a rightly disposed penitent, lest the sacrament be frustrated, the confessor ought to inquire into the disposition of the penitent and form for himself a judgment concerning its existence.

2. Concerning the existence of disposition in the sacrament of penance, a prudent and probable judgment suffices, one which rests upon a grave motive and to which no grave suspicion is opposed. Although in other sacraments the matter per se ought to be certain, nevertheless in the sacrament of penance, on account of its peculiar nature, it suffices that it be probable, lest the sacrament itself be rendered odious and its administration impossible, since full certitude concerning the disposition of the penitent very often cannot be had. Therefore the Roman Catechism teaches: If, after hearing the confession, the priest shall have judged

that neither diligence in enumerating sins nor sorrow in detesting them was wholly lacking to the penitent, he can be absolved.[1002]

a. The indisposed are those who certainly lack true sorrow for sins and a serious purpose of amendment. Of this kind generally are all those who refuse to fulfill a grave obligation.

b. They are called doubtfully disposed against whose disposition grave suspicion arises from positive indications, without, on the other hand, a probable judgment concerning the disposition being able to be formed.

Those are not called doubtfully disposed who, from a grave motive, are judged to be disposed, even if some slight suspicion arises against their disposition; for this occurs with many penitents who ought to be judged sufficiently disposed, since there is a probable reason for the disposition, and from the other side no prudent doubt excludes it.

c. The positive indications from which grave suspicion against the disposition of the penitent is especially suggested are these:

d. if, after remedies have been neglected, there has been a relapse into the same sins;

e. if he approaches confession not so much spontaneously as forced by counsel or custom, or if he approaches without due preparation;

f. if he confesses sins without humility and sorrow, and rather attempts rashly to excuse himself;

g. if he has studied to conceal sins, so that the confessor had to fish them out by industry;

h. if he is difficult in accepting penances and remedies for sins;

i. if after many relapses he says only coldly that he is sorry.

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390. Signs of Disposition. To form a judgment concerning the disposition of the penitent, the confessor needs great prudence and the help of divine light; but these signs can greatly help him in forming this judgment:

a. **The confession itself:** for if the penitent approaches confession spontaneously, whether to fulfill the precept, or to reconcile to himself the state of grace, or so that he can more easily avoid sins, the spontaneous confession itself is a probable sign of disposition; but from the confession itself one cannot safely conclude to disposition if the penitent approaches the sacraments only from the will of parents or superiors, or from a certain custom, because it must be feared that he does not act seriously and sincerely.

b. **The assertion of the penitent:** for whether he comes prepared to confession and asserts that he has sorrow and purpose, or comes unprepared and only after the warning of the confessor affirms that he detests his sins and wishes to avoid them in the future, he must be believed; nor, according to St. Thomas, can greater certitude be acquired in this matter than if the penitent himself is believed.[1003]

If the penitent sincerely confesses his sins and suggests no suspicion of deficient disposition, the confessor rightly presumes him disposed from the confession itself; but if he doubts concerning sufficient disposition, he ought to question the penitent and believe him when he affirms it.[1004] It is clear that these things are affirmed concerning penitents who are prudently judged to act seriously and sincerely in this sacred business of conversion, but by no means concerning penitents who are judged to proceed lightly and fictitiously. And

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1002. Part 2, c. 5, q. 58. Cf. I. B. Favre, *Dubitationes theol. de iudicio practico*, dub. 1.

1003. In 4, dist. q. 3, a. 3, qc. 5, ad 2.

1004. Suarez, disp. 32, sect. 2, n. 2.

indeed a confessor would err gravely if he gave faith to penitents of this kind when they affirm that they are sorry and propose amendment, and if he absolved them.[1005]

c. **The manner of confession:** for from the manner in which the penitent accuses himself candidly and humbly, the confessor can easily detect that he is acting seriously and sincerely and has conceived displeasure with his sins and a purpose of a better life.

d. **The circumstances of the penitent:** for sometimes the confessor detects in the penitent some circumstance which is an indication of a serious will of avoiding sins in the future: a. if he has already employed some care in avoiding sins and rooting out a habit of vices; b. if, when warned about remedies, he willingly promises that he will employ them, especially if he had never been warned before; g. if he approaches confession from some special motive, e.g., a sermon heard, the death of a friend, fear of a contagious disease, etc.; d. if he confesses sins previously culpably omitted; e. if he has fulfilled a difficult obligation, e.g., restitution, the fulfillment of which he had delayed until this point; z. if he had to undergo inconvenience in making confession, such as a long journey.

After St. Alphonsus the usage has already prevailed of distinguishing signs of disposition as ordinary and extraordinary, or special. Extraordinary signs are not so called because they signify or ought to signify an extraordinary and more perfect disposition, but they are customarily so called in order to be distinguished from ordinary signs. The ordinary signs are these two: confession duly made, and the assertion of the penitent that he is sorry and proposes amendment. The extraordinary signs which St. Alphonsus enumerates (n. 460) are almost those which are taken from the circumstances of the penitent.

Section 3. Concerning the Obligation of Absolving.

391. Concerning Absolution to Be Granted, Deferred, or Denied: General Rules.[1006]

1. A sufficiently disposed penitent per se must be absolved under grave sin from justice; for a. a rightly disposed penitent has the right of receiving absolution, since the priest, by this very fact that he hears the confession, binds himself by a tacit contract to grant absolution to him who duly completes confession and appears disposed; b. generally, absolution granted at once profits the penitent more than its delay; for he emerges from the most miserable state of sin, becomes a participant in the graces and goods which are granted to the just and denied to sinners, and finally is helped in amendment of life by the grace of both sacraments, penance and the Eucharist.

a. Even a penitent who has accused only venial sins has the right of receiving absolution, provided he is rightly disposed; if, however, once or twice he is dismissed without absolution with only a blessing, no grave injury is inflicted on him, and therefore this could sometimes be done without sin from a reasonable cause.

b. Those authors also who think that a merely generic confession of venial sins is licit (n. 231) concede that a penitent who accuses himself only in general of venial sins or of mortal sins already remitted, when he could confess in species, and who refuses to confess distinctly when the confessor asks, does not have the right of receiving absolution; for the confessor receiving the penitent does not intend to bind himself to absolve him unless he confesses according to the custom received in the Church.

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1005. Therefore this proposition (60) was condemned by Innocent XI: To a penitent having a habit of sinning, even if no hope of amendment appears, absolution is neither to be denied nor deferred, provided he orally says that he is sorry and proposes amendment.

1006. Cf. Bucceroni, *Commentarius de absolutione danda, differenda, deneganda* (Rome: Armanni, 1889). Pighi, *De iudicio sacramentali* (Verona: Cinquetti, 1897).

2. Absolution can be deferred even for a sufficiently disposed penitent, if the confessor has judged this to be truly useful to him; for although he has a right to absolution, nevertheless he does not have the right to receive it immediately when delay seems useful, either for striking horror into him concerning sins committed or for strengthening the will in the purpose of not sinning.

a. It is the most common opinion of theologians that the delay of absolution will sometimes be useful to penitents, especially occasionaries and recidivists, if it is prudently employed. But although the utility of deferred absolution is sometimes great, nevertheless it can never be called a necessary means which must be employed by the confessor to procure the salvation and amendment of a rightly disposed penitent. The delay of absolution can be called necessary only when the confessor doubts concerning the sufficient disposition of the penitent; for in this case it can be the one and necessary means from which the confessor judges concerning disposition. But as regards a rightly disposed penitent, the delay of absolution can never be called prescribed and necessary.

b. Therefore the one reason on account of which absolution can be deferred for a rightly disposed penitent is his spiritual utility. This utility chiefly consists in this: that from the difficulty of obtaining absolution, the penitent better knows the gravity of sin and conceives a greater horror for sins committed, and that his weak will is strengthened in the purpose of amendment. Therefore just as the confessor, foreseeing that delay of absolution will harm the penitent more than profit him, acts unjustly if he nevertheless defers it, so, when the spiritual utility of the penitent exists, he can licitly defer it per se even if the penitent is unwilling.

c. Nevertheless delay of absolution will scarcely ever be useful unless the penitent himself consents to the delay; for if he bears the matter with difficulty, he is offended rather than amended by the delay; wherefore it must be feared that for this reason he will be wholly alienated from receiving the sacraments. Therefore it can be said as a norm: absolution is not to be deferred for a disposed penitent if he himself is unwilling.

d. Absolution is not to be deferred except for a short time: for a few days, for a week, but not for fifteen days, much less for a month; for a longer delay harms the penitent more than it profits, since it is grave to remain for several days in the state of mortal sin both because of the danger of death, which is always threatening, and because of the innumerable goods of which a man who is in sin is deprived.

e. From these things it follows that it cannot be defined by a general rule when absolution should be deferred, but, as St. Leonard of Port Maurice says, "the whole must be left to the prudence of the confessor, who in particular cases ought to follow neither inclination, nor nature, nor compromise, nor the example of others, but only the unction of the Holy Spirit accompanied by good doctrine and the study of prayer."

Note. If, however, the penitent does not consent to the delay, but explicitly asks for absolution, this must be granted to him. For to one who is disposed, delay is not useful if absolution is deferred while he is unwilling. Therefore the new Code, cn. 886, has these things: If the confessor cannot doubt concerning the dispositions of the penitent and the latter asks for absolution, absolution is neither to be denied nor deferred.

3. Absolution must always be denied to a certainly indisposed penitent; for he who absolves an indisposed person commits a grave sacrilege, nor can any necessity of the penitent excuse the confessor from this sin.

Nevertheless those who approach unprepared and indisposed to make confession can, by the work and industry of a zealous confessor with the grace of God, be disposed to receive absolution. And if they give sufficient signs of sorrow and purpose, nothing prevents even those who had approached confession unprepared and indisposed from being absolved at once. Those who think that penitents who approach confession unprepared cannot be rightly disposed by the warning and exhortation of the confessor oppose the doctrine and practice

both of the saints and of theologians of great name.[1007]

4. A doubtfully disposed penitent cannot be absolved unless there is a grave cause on account of which absolution can or even must be given under condition: the reason for the first is lest the sacrament be exposed to danger of nullity; the reason for the second is that the sacraments are for men.

a. A doubtfully disposed person can or even must be absolved under condition if he is in the article of death, if otherwise he would incur the mark of infamy because he suggests suspicion of denied absolution, if otherwise he would be alienated from the sacraments, if he would have to lack the grace of the sacrament for a long time, if he would be forced to repeat the confession before another priest, if the precept of annual confession urged, etc.; even doubtfully disposed spouses who are soon to contract marriage can be conditionally absolved lest they certainly contract sacrilegiously.

b. Frequently the matter will be so that absolution can indeed be given because some indications of disposition are present, but also can be deferred because a prudent judgment concerning the disposition cannot be formed. In these circumstances let the confessor consider what, with the character of the penitent taken into account, is more expedient for his salvation. But since in our time it must greatly be feared that those not absolved will not return any more, unless they are animated by firm faith, generally the confessor will profit the salvation of souls more if he is rich in mercy and does not dismiss the penitent to another time, but spends all his care and work so that, with divine grace, he disposes him to receive valid absolution and absolves him when disposed; for if absolution is deferred, after the time has elapsed he will scarcely return more disposed.

Note. Since the general rules established above concerning absolving penitents make a particular difficulty in certain cases, one must treat in particular: a. concerning absolving habitual sinners; b. concerning absolving recidivists; c. concerning absolving occasionaries.

Article Five.. Concerning Absolving Habitual Sinners.

392. Notion. 1. A habitual sinner, or one habituated, is said to be one who, from the repetition of sins of the same kind, has contracted a depraved inclination or habit of committing the same sins. A habit or custom of sinning is a certain facility and propensity, induced from repeated sins, of committing the same sins.

To constitute a habit, two elements essentially concur: frequency of sins of the same kind and a certain distance and at the same time proximity between the individual lapses; for sins repeated more often do not induce a habit if they are too distant from each other, nor if they are too close, as if they were committed on the same day but afterward omitted.

2. When a depraved habit is considered contracted cannot be accurately defined, because this depends both on the character of the one sinning, and on the longer or shorter time which intervenes between sinful acts, and especially on the nature of the sin: for the more easily some sin is committed, the more acts within a certain time are required to contract a habit; and since internal sins (to which sins of the mouth are also referred) are committed more easily than external sins, generally more acts are required to induce a habit in internal sins (and sins of the mouth) than in external sins.

a. He who for a notable time, e.g., for a whole year, has committed an external sin five times in a month, indeed in the matter of lust even he who has sinned five or once in a month for a year, is considered to have contracted a habit.

Notes

1007. Those things which Ballerini wisely warns, *De poenitente minus disposito iuvando*, are worthy to be read. Ballerini-Palmieri V, n. 1858 s.

b. He who once daily for a longer time sins by depraved desires or blasphemies is a habitual sinner; indeed also he who commits these same sins three or four times in a week for some time must be called a habitual sinner.

393. Norm of Absolving. Any habitual sinner can and ought to be absolved, even if no amendment has preceded, provided he seriously proposes amendment; for a depraved habit is not a sin, but an inclination to sin, and therefore can be consistent with a true disposition of heart.

a. They are stricter than is just who, before they grant absolution, require from the penitent that he have laid aside the depraved habit and amended the relapse. For although amendment of life is the best sign of disposition, it is nevertheless not the only, and therefore not the necessary, sign of disposition; rather, before amendment and without it a true disposition can be present. Indeed, not even from this, that someone immediately after confession relapses into the same sin, is a defect of sorrow and purpose rightly inferred. For it can happen that a soul, drawn away from worldly things and considering again the eternal truths, with the help of grace conceives true sorrow and purpose, but immediately afterward, when worldly things and occasions of sinning present themselves again to the senses, the same soul, vehemently attracted and excited, such being its mutability and weakness, adheres again to sin, so that he who had just now been converted to God is now again converted to creatures. Nevertheless, if a penitent, already more often warned, returns without any amendment, a prudent doubt concerning the defect of true disposition is suggested, even though he affirms that he is sorry.

b. If a habitual sinner refuses to confess more frequently, absolution per se cannot be denied to him, both because more frequent confession is not prescribed, and because other means of amendment can be enjoined. But if other means were not judged sufficiently effective, as can happen with those habituated in vices of the flesh, then certainly absolution would have to be denied to him who refused to use a morally necessary and not very difficult means of amendment.

Article Six.. Concerning Absolving Recidivists.

394. Notion. A recidivist simply and generally is said to be that habituated person who after confession has relapsed into the same sin; but a recidivist formally, or in the theological sense, is said to be that habituated person who has already confessed the same sin several times and always relapses in the same way. Therefore three things are required in order that someone can truly be called a recidivist:

a. That he has contracted a depraved habit of sinning.

Per se it is not indeed necessary that a recidivist be a habitual sinner; for if someone confesses four times a year and at each time accuses himself of one sin of pollution committed, he is a recidivist, but is not a habitual sinner; for four lapses in a year do not suffice for contracting a habit. In fact, however, a recidivist will almost always be at the same time a habitual sinner.

b. That he has already confessed the same sin several times (three or four times).

Therefore a penitent who confesses the same sin during the first two or three times is not strictly a recidivist; consequently he is to be treated as a simple sinner if he has not yet contracted a depraved habit, or as a simple habitual sinner if he has already contracted the habit of sinning. Therefore there is no particular reason for doubting their disposition when they seriously say that they are sorry.

c. That he has relapsed without any effort of amendment having been employed; therefore he who for some time has employed the means prescribed by the confessor and has fought strenuously against temptations, even if afterward he has fallen again, is not properly a recidivist.

395. Norm of Absolving. 1. A recidivist who is prudently judged disposed can per se always be absolved: for he who can truly be judged disposed can be absolved, even though he is a recidivist; for nothing else is required for valid and licit absolution except that he be actually disposed; but future amendment is not required for true disposition, nor does foresight of future relapse prevent it.

2. But as regards recidivists the difficulty is in forming a judgment concerning their disposition; for from frequent relapse into the same sins there arises a grave suspicion of some depraved attachment, of slight horror of sin, and of defect of a serious will to amend oneself. This suspicion renders their disposition doubtful, even if they affirm that they are sorry for their sins, and therefore prevents them from being prudently judged disposed, unless some particular reason is added by which the doubt concerning disposition is sufficiently removed.

a. Much is always left to the prudence and discretion of the confessor, to whom the help of grace is always present, so that he may form for himself a judgment concerning the disposition of the penitent. In forming this judgment, first his own experience, and then also attention to certain particular signs, will help him (n. 390).

b. In order that a judgment concerning the disposition of a recidivist can be more easily formed, it must be noted that there are many recidivists from fragility. Of this kind are those who indeed often relapse into the same sins, but to whom sin habitually is displeasing, who therefore immediately detest the sin after the lapse and propose amendment, and who resist temptation in some way even for a time, but then succumb again both from weakness of will and from vehemence of temptation. Concerning the disposition of these one must not doubt. But there are also other recidivists from evil will, namely those who adhere with depraved affection to the object of sin and from this depraved affection often relapse into the same sins; nevertheless, either from custom or from human respect, they sometimes approach the sacraments, nor do they conceive a true and sincere will of amendment. The disposition of these is not doubtful, but rather null. Yet a good confessor does not dismiss these miserable sinners without absolution, but will try by salutary warnings to dispose them to amendment of life. But if he truly detects in them indications of a changed will, he can absolve these recidivists too.

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396. Whether Absolution Should Be Deferred for a Recidivist.

a. If the recidivist, otherwise rightly disposed, has relapsed from internal fragility, as into sins of pollution, morose delectation, hatred, blasphemy, etc., ordinarily greater fruit is to be hoped from the grace of the sacrament than from the delay of absolution. Sometimes, however, even in this kind of sinners, delay of absolution will seem profitable to a prudent confessor, especially if the remedies are employed negligently.

b. If the recidivist, otherwise rightly disposed, has relapsed in an external occasion or because he has not fulfilled an obligation (e.g., of retracting calumny, of reconciling himself), it is ordinarily expedient that absolution be deferred until the occasion has been dismissed or the obligation fulfilled; for he who has already often broken faith must have his will, though good, strengthened by this remedy of deferred absolution.

Delay of absolution, with a suitable warning, especially in younger penitents of lighter character who are otherwise piously and religiously educated, and who either do not fulfill an obligation or do not lay aside a depraved habit, is an excellent means of striking in a greater detestation of sin and of strengthening their weak will.

c. If the recidivist is doubtfully disposed and the necessity of absolving him under condition does not urge, absolution per se must be deferred so that in this way the will of the penitent can be established by experience. But because in our times, especially in cities in which faith languishes and Christian duties are

neglected, denial or delay of absolution generally profits little, indeed rather renders sinners offended and indignant and hardens them more, ordinarily the confessor acts better who tries to dispose such a penitent to sorrow and purpose, prescribes to him particular means of amendment, and absolves him.

Note. Lest the theory of St. Alphonsus concerning extraordinary signs of disposition be wrongly understood and applied, it must be noted: a. In occasionaries and recidivists extraordinary or greater sorrow and a firmer purpose are not required; for provided sufficient disposition is present, they can safely be absolved. b. The occasionary and the recidivist can always be absolved, provided he can be prudently judged by the confessor to be truly disposed, whatever may be the sign on which his judgment is founded: whether ordinary or extraordinary, whether the penitent has brought it to confession or finally exhibited it in confession at the warning of the confessor. g. Wherefore the confessor would act imprudently who judged an occasionary or recidivist simply indisposed unless he detected in him one or another of the extraordinary signs, and more imprudently still he who absolutely deferred absolution for a recidivist of this kind without having applied care and effort by salutary warnings to lead him to sorrow and purpose. But if the confessor has suitably performed this, it will generally happen as is asserted in these words: "it cannot happen that the penitent does not exhibit some sufficient sign of his soul; and therefore, when he affirms that he acts sincerely and that he wishes to perform those things which the confessor requires, the confessor can with a safe conscience impart absolution, even if the penitent has given no other sign of his conversion in advance."[1008]

Case. Recidivists in drunkenness and publicly known as such, who almost every week or even more often become drunk, are not altogether to be repelled from the sacraments, but ordinarily they are not to be admitted to them at once either. Not the first, because one must not despair of the amendment of any man; not the second, first because he cannot be absolved who is foreseen to be about to violate his purpose after a short time, unless necessity urges; for scandal would have to be feared if he relapsed immediately after receiving the sacraments. Then, because public scandal must first be repaired. Therefore absolution must be deferred for a penitent of this kind until he has at least somewhat amended himself. Indeed, even in the case in which, on account of an extraordinary sign of penance, he had been absolved at once, it is preferable not to admit him immediately to holy communion, both so that the public scandal may in the meantime be repaired by real amendment, and so that scandal perhaps about to arise from relapse may be avoided.

Article Seven.. Concerning Absolving Occasionaries.

397. Notion of Occasion. An occasion of sin is generally defined as an external circumstance which offers a man an opportunity of sinning and allures him to sinning.

a. A circumstance can be a thing, as a depraved book, or a person, as a mistress for a lover. b. It differs from the danger of sinning; therefore an occasion does not name an interior inclination, whatever it may be, to sin, whether this is external or internal; wherefore danger has a broader range than an occasion of sinning. c. Two things must be considered in an occasion: the convenience of sinning which it offers to the man, and the impulse to sinning; therefore an occasion agrees with scandal, but in scandal the matter is considered more as it impels to sinning, whereas in an occasion it is considered more as it offers the opportunity of sinning. d. Two things concur to constitute an occasion: on the part of the object, the impulse and opportunity toward sin, and on the part of the subject, propensity and inclination toward sin.

398. Division of Occasion. 1. One occasion is remote, another proximate. That is called remote in which the danger of sinning is slight, in which therefore men for the most part do not sin; that is called proximate in which the danger of sinning is grave, in which therefore men for the most part sin.

Notes

1008. Salvatori in Ballerini-Palmieri V, n. 187.

An occasion is called proximate or remote from its conjunction with sin; and with moral certitude accompanying sin it is called proximate, otherwise remote. Greater or lesser conjunction of the occasion with sin is chiefly taken from the frequency of lapses of him who is found again in the occasion. But how great this frequency ought to be in order that the occasion can be called proximate, or morally necessarily joined with sin, cannot easily be determined; hence it is that theologians define a proximate occasion in diverse ways. For some say that the proximate occasion is that in which men always or almost always sin; others, that in which they never or almost never abstain from sin; others, that in which men sin for the most part; others, that in which men frequently sin.[1009] It can be affirmed that an occasion is proximate when moral certitude is present that a man in it will sin, or when solid probability is lacking that a man in it will avoid sin. But whether moral certitude of sinning is present in a particular case, or whether it is lacking, must be judged: a. from the frequency of relapse known by experience, whether the penitent has already been in the occasion and has sinned in it for the most part; b. from the character of the penitent, whether perhaps from vehemence of temptation and from the known fragility of the penitent it ought by experience to be judged that he will almost always sin in this occasion; c. from common contingency, for frequently the gravity of danger must be judged from this rule: what for others in the same circumstances is a proximate occasion, will also be proximate for this one.

2. A proximate occasion is either proximate absolutely or per se, or per accidens or relatively. The former is that which commonly for all men brings in a proximate danger of sinning, as the sight of a shameful thing or obscene conversations; the latter is that which brings in a proximate danger of sinning only for some determined man on account of his own fragility, as access to a tavern.

3. A proximate occasion is either voluntary or necessary: voluntary is that which can easily be avoided or can be avoided with slight inconvenience; necessary is that which cannot be removed either physically or morally; physically, if someone, e.g., is enclosed in the same prison with an occasion of sinning; morally, if the occasion cannot be dismissed except with great difficulty or with great detriment in the goods of life or fortune or reputation.

a. In practice, one must not easily believe, but prudently inquire into the truth of the matter, if one constituted in an occasion pretends that he can dismiss the occasion only with great harm; for affection for sin often increases the difficulty of removing the occasion.

b. To form a judgment whether the harm which someone ought to undergo in order to flee or dismiss the occasion is truly notable, the circumstances of the persons must be attended to, and this must be measured according to the diverse estimate of fearful persons from the common estimate of men. St. Alphonsus notes (n. 455) that a moderately wealthy man is not excused if he refuses to suffer a loss of one hundred ducats (c. 800 cor.) to abandon the occasion.

4. A proximate occasion is either continuous or present, or interrupted or not present: continuous, or *in esse*, is that which someone always has with him, which he always has to seek, such as a free obscene or shameful statue which someone keeps at home; interrupted, or *not in esse*, is that which he does not indeed have with him, but can easily find, as a tavern for the drunkard, a mistress for the lover, gambling for him who is accustomed to blaspheme by gambling.

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399. Concerning Absolving Occasionaries in a Free Proximate Occasion. 1. A penitent who does not wish to avoid a proximate occasion of gravely sinning, which he can easily avoid, cannot be absolved: for he who does not wish to avoid a proximate occasion of this kind does not have an efficacious will not to sin any

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1009. Cf. Lugo, disp. 14, sect. 10, n. 148 ss.

more, and therefore is not disposed for obtaining absolution, since the will itself of remaining in a proximate occasion is a grave sin.

It is not licit to admit the excuse by which penitents promise that, with remedies employed for not sinning, they will render a proximate occasion remote, when they can avoid it without difficulty; for it is not licit rashly to expose oneself to a danger of sinning which can easily be avoided, but it must plainly be fled.

2. He who promises that he will abandon a free proximate occasion, whether the occasion is continuous or interrupted, can per se be absolved, provided the confessor can prudently believe his promise. For he who is judged sufficiently disposed can per se always be absolved; indeed, ordinarily, absolution granted to him will profit more than its delay, because the grace of the sacrament will help him in executing his purpose.

Nevertheless, if, having already often been absolved, he has not stood by his promises, but has relapsed in the occasion, he is not to be absolved unless he has first dismissed the occasion; for the confessor ought rightly to suspect that he does not have a firm purpose. Further, even if he could be judged disposed, prudence persuades that by this means of delayed absolution the weak will of the penitent be helped in executing the purpose, especially if the occasion is *in esse*. Nevertheless, since the penitent can also be truly disposed after repeated relapse, absolutely speaking he is not prohibited from being absolved if a reason urges for granting absolution again before he has dismissed the occasion, provided he is seriously sorry and proposes amendment.

There are those who in this case establish the following rule concerning a voluntary proximate occasion *in esse*: the penitent cannot be absolved, not even the first time, unless he has first dismissed the occasion, even if he is disposed.[1010] This rule is clear if it is stated concerning a strict obligation of deferring or denying absolution; for it seems hard, since the penitent is supposed sufficiently disposed and denial of absolution has the nature of a remedy by which relapse is prevented. But the confessor cannot be obligated to prescribe a remedy which is not altogether necessary, nor does he have the right to enjoin such a remedy. Yet it could sometimes be prudently advised to the penitent that absolution be deferred already at once the first time until the occasion has in fact been dismissed, where namely the delay of absolution is judged to be profitable to the penitent, as if there is question of dismissing a concubine.

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400. Concerning Absolving Occasionaries in a Necessary Proximate Occasion. 1. He who does not wish to abandon a proximate occasion, morally necessary, of gravely sinning can be absolved, provided he promises that he will employ remedies for not sinning. For one constituted in a necessary occasion must be judged disposed if he is willing to employ suitable remedies for not sinning, since there does not exist an absolute obligation of abandoning the occasion, as not voluntary, but only a hypothetical obligation, either of employing remedies or of abandoning the occasion.

a. Remedies by which a proximate occasion can be rendered remote are: diligent prayer, more frequent use of the sacraments, daily renewal of the purpose of not sinning anymore, not being alone with a woman alone, fleeing from the sight of the accomplice, etc.[1011]

b. How great the inconvenience ought to be which excuses from abandoning a proximate occasion cannot be defined by a general rule, but must be determined in a particular case by the prudent judgment of the confessor, diligently considering the particular cases in which approved authors think that one constituted in a necessary proximate occasion must be absolved, so that he can form judgment in this matter.[1012]

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1010. St. Alphonsus, n. 454.

1011. Cf. Lugo, disp. 14, n. 151. St. Alphonsus, n. 455.

1012. Cf. Lugo, disp. 14, n. 151. St. Alphonsus, n. 455. Berardi, *De recidivis et occasionariis* II, p. 98 ss.

2. If one constituted in a necessary proximate occasion after several confessions returns with the same sins without any amendment, it is not absolutely to be demanded that he abandon the occasion, but he can still be absolved if he seriously wishes to employ means by which the occasion becomes remote instead of proximate; for when this will has been posited, he is sufficiently disposed, even if he does not wish to remove the occasion. Whether in a particular case dismissal of the occasion is to be demanded, or rather the use of means is to be earnestly recommended, must be left to the prudence of the confessor. Generally it can be said that it is not to be demanded that the occasion be dismissed if it is much more difficult to dismiss the occasion than to avoid sin by employing remedies.

In this case several authors with St. Alphonsus (n. 457) establish this rule: the penitent cannot be absolved unless he abandons the occasion, even if he must undergo a very grave inconvenience, the loss of goods, reputation, and life itself, since with him no hope of amendment appears; the words of Salvatori are to be applied: if your eye scandalizes you, etc.[1013] Others, however, think that one must not proceed all the way to this point; for from the fact that after many relapses no amendment has followed, it is not to be inferred that no hope of amendment remains, but only this: either that the proposed means were not sufficient, or that they were not employed. But if this latter is established, the penitent must be seriously warned either that he diligently employ the remedies or abandon the occasion, even with very grave inconvenience.

Article Eight.. Concerning the Obligation of Correcting Defects.

401. Prenotions. 1. Defects committed by the confessor can be of three kinds: either they concern a. the value of the sacrament, as if the confessor did not absolve or absolved an indisposed person; b. the integrity of the sacrament, as if he did not question concerning the species and number of sins or did not impose penance; c. the obligations of the penitent, and indeed either to the temporal harm of the penitent himself or of a third party, as if he unduly obligated him to restitution or released him from making it, or without temporal harm to anyone, as if he did not warn him about abandoning an occasion.

2. In order that the degree of obligation in repairing defects can rightly be determined, several circumstances of the defect committed must be considered.

a. The defect committed can be culpable or inculpable; it is called culpable if it is committed with grave fault of the confessor, and inculpable if it is committed without fault of the confessor or with his slight fault. It is clear that the obligation of him who committed the defect culpably is much greater than the obligation of him who committed the defect without fault.

b. A defect can be committed either positively by doing something, or negatively by omitting something which had to be done. To determine the obligation of reparation, when the defect is committed to the temporal harm of the penitent or of a third party, one must advert whether the defect was committed positively or negatively, by omitting a due action.

c. The confessor can be bound to correct defects either from justice or only from charity. Because the obligation of justice is graver than the obligation of charity, it also obliges with grave inconvenience if the defect was committed with grave fault.

He is bound from justice to repair a defect if the defect concerns the value of the sacrament, or if by a positive action he influenced harm to the penitent or to a third party. He is bound from charity alone if the defect does not concern the value of the sacrament, and if he influenced harm to the penitent or a third party only negatively.

Notes

1013. Mark 9:46.

d. It can happen that from the defect committed the penitent undergoes no danger of soul, as if one healthy and existing in good faith is absolved invalidly; for if afterward, being attrite, he approaches holy communion, he obtains sanctifying grace, or at least by the following absolution those sins are remitted indirectly. But it can also happen that from the error committed the penitent is brought into danger of salvation, as if a dying person, who cannot receive another sacrament, is absolved invalidly.

Note. 1. In the individual following cases two things come into question: a. how great is the obligation of correcting the defect committed; b. in what way the defect is to be corrected.

2. As to the manner: a. Some defects can be corrected without the penitent knowing, as if one not absolved returns to the same confessor. b. If it is necessary to speak with the penitent himself, one must consider whether the matter to be spoken of is under the seal; for in this case it is not licit to speak unless the permission of the penitent has first been sought and obtained. c. Some defects must be repaired even outside confession; for others it is enough that they be repaired within confession. As far as can be done, reparation outside confession must be avoided, because it is troublesome both to the confessor and to the penitent. Wherefore if it is foreseen that the penitent will return to the confessor, and there is no danger in delay, it is preferable to settle the matter in the following confession. d. Finally, it can happen that the confessor does not know the penitent or the third person to whom harm was inflicted; in this case nothing remains except that the confessor repent of the fault, if he committed any, and otherwise commend the whole matter to God.

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402. If There Is Question of the Value of the Sacrament. 1. A culpable defect concerning the value of the sacrament must be repaired even with grave inconvenience, if otherwise the penitent would suffer grave harm, because here there occurs an obligation of justice. But if grave spiritual harm in the penitent is not to be feared, he can be left in good faith; for in the following confession those sins will be remitted.

Therefore a confessor who, e.g., did not absolve a penitent guilty of mortal sins, either because he forgot to absolve or pronounced absolution badly, or who absolved without jurisdiction, with danger to salvation supposed in the penitent, ought to approach him even with grave inconvenience to himself. And in this case indeed, in which there is question of giving absolution, he can reveal the error even without permission having been sought, by saying that he did not absolve, because the obligation of the seal does not intervene here. But in other cases, where, e.g., he did not say or said badly those things which had to be said by reason of the obligations of the penitent, permission to speak concerning matters pertaining to confession must always first be sought, both because the sacramental judgment has already been completed, and because the warning is considered to be as it were a reproach of sin made outside confession, which would be troublesome to the penitent and would render the sacrament odious.

2. An inculpable defect concerning the value of the sacrament, even with grave harm of the penitent supposed, need not be repaired with grave inconvenience, unless the penitent is in danger of dying in the state of sin; for here there is only an obligation of charity, which does not urge with grave inconvenience except in extreme necessity, if, e.g., a dying person had been invalidly absolved.

a. If for this end (namely, to absolve him) the sick person not absolved had to be approached, he would have to be warned about the defect and induced to elicit sorrow for sins, to confess sins if any had been committed in the meantime, and to accuse again by a general formula the sins already previously declared; when this has been done, he could be absolved. But if the warning is very troublesome and it can be supposed that no mortal sin was committed in the meantime, absolution can be granted even without the penitent being warned, since the moral union between confession and absolution still endures both by reason of time (even after several days) and by reason of sorrow. Likewise if the penitent not absolved returned to the same confessor, he would not necessarily have to be warned about the error, but it would suffice to induce him

to elicit sorrow for the sins accused in the last confession and to accuse them again in general; for in this way he is directly absolved also from them.

b. If a sick person of this kind, not absolved, afterward received viaticum, and especially if he received extreme unction, he would not necessarily have to be warned about the defect, because he would not suffer grave harm, since through extreme unction he can now certainly be supposed to have been justified.

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403. If There Is Question of the Integrity of the Sacrament. 1. A defect, whether culpable or inculpable, positively committed concerning integrity, if the confessor, e.g., is the cause why the penitent thinks that he ought not to accuse the number and species of sins, must be repaired, with previous permission of the penitent, even outside confession, provided it can be done without grave harm or scandal: the reason for the first is that each one is bound to remove the cause of evil which he himself has put; the reason for the second is that grave harm excuses the penitent from preserving integrity, and therefore a fortiori also the confessor from procuring integrity.

2. A defect, whether culpable or inculpable, negatively committed concerning integrity, if, e.g., he did not question concerning species and number, did not impose penance, did not prescribe remedies, need not be repaired outside confession; for the obligation of procuring integrity per se and directly affects the penitent, and the confessor only indirectly; or if it affects the confessor per se, it affects him as minister of the sacrament in confession. Therefore, since in this case he himself is not the efficacious cause of the harm, it suffices that in another confession, as minister of the sacrament, he repair the defect, if he can do so without grave inconvenience.

In practice, however, where the defect concerns only the integrity of confession without harm to a third party, the confessor is ordinarily bound to nothing else except that he grieve for the fault, if he committed any; for first, even apart from warning, the penitent will be untaught the error in the following confession by another confessor, who will question concerning the species and number of sins. Then, scarcely ever will grave inconvenience be lacking, both on the part of the penitent, to whom the warning brings annoyance, and on the part of the confessor, who will not be able to warn without detriment to honor and reputation.[1014]

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404. If There Is Question of an Obligation of the Penitent. 1. A defect concerning the obligations of the penitent which yields to the temporal harm of the penitent himself or of a third party must be repaired from justice, even with grave inconvenience, if the confessor culpably and positively induced the penitent into error, because the confessor is the unjust and efficacious cause of the harm. And it must indeed be repaired in confession if it is hoped that the penitent will return, and (permission first having been sought) outside confession if it is not hoped that he will return to the same confessor.

2. But if the confessor induced the penitent into error inculpably, he is indeed bound from justice to repair the defect; for everyone is bound from justice to prevent harm from following to another from his own action, but not with grave inconvenience, because he inflicted the harm with slight or only material fault.

3. Finally, if the confessor behaved only negatively, he is not bound from justice but only from charity to repair the harm, and therefore not with grave inconvenience, but with greater or lesser inconvenience proportioned to the gravity of the harm and fault.

If the defect committed by the confessor concerns an obligation imposed by an ecclesiastical or natural precept, whose violation nevertheless harms no one in temporal goods, as if he had falsely said that tomorrow is not a

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1014. Suarez, disp. 32, s. 6, n. 8.

fast, or that this book is not harmful, he himself, like anyone else, is bound to correct the error if he conveniently can, lest he be the cause on account of which the law is violated by the penitent, even if only materially.

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405. Obligation of Restitution on the Part of the Confessor. From these things it is gathered when the confessor is bound to restitution, either toward the penitent or toward another in place of the penitent, if namely the penitent himself would have made restitution.

a. If with grave fault he positively released the penitent from making restitution and afterward did not retract the error.

Indeed in this case, first, under grave sin and from justice, even with grave inconvenience, he is bound to retract the false resolution, because each person is bound to guard lest harm follow to others from his own action; but if he either could not do this or omitted to do it, he is bound to repair the harm itself which followed from his error; for he himself is the efficacious, culpable, and unjust cause of the harm.

b. If without fault he positively released the penitent from making restitution and afterward, with grave fault, did not retract the error, although he could conveniently have recalled it.

Indeed in this case, first, he is bound under grave sin and from justice to retract the error if he can do so without grave inconvenience. If he cannot retract it without grave inconvenience, he is not bound to restitution: not by reason of the false resolution, because it was not culpable, nor by reason of the omitted retraction for the same reason. But if he does not retract the error although he conveniently can, he is bound to repair the harm, not indeed by reason of the error, which was inculpable, but by reason of the omitted retraction, which is gravely culpable against justice.

c. If with grave fault he positively obligated the penitent to make restitution to which he was not bound.

In the same way, in this case he is first bound under grave sin and from justice, even with grave inconvenience, to retract the error; but if he either cannot or does not wish to accomplish this, he is bound to repair the harm itself, of which he himself is the efficacious, unjust, and gravely culpable cause.

d. But if, even with grave fault, he merely did not warn the penitent concerning restitution to be made, he is not bound to make restitution himself; for in order that he who did not prevent another's harm can be obligated to restitution, it is required that he be bound from office to prevent the harm; but the confessor is not bound from justice to prevent harm which happens to another from the omitted restitution of the penitent.[1015]

Article Nine.. Concerning the Obligation of Preserving the Sacramental Seal.[1016]

406. Definition of the Seal. The sacramental seal, or seal of confession, is defined: the obligation of the confessor of preserving silence concerning all things known from sacramental confession, the revelation of which would render the sacrament odious. One must treat: a. of the obligation; b. of the subject; c. of the matter; d. of the violation of the seal.

a. The penitent is not bound to the sacramental seal concerning those things which he heard from the confessor, but he is bound to natural and committed secrecy, if their manifestation can bring harm to the

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1015. Cf. *De praeceptis*, n. 497.

1016. Schuler, *Die Martyrer des Beichtsiegels* (Wurzburg: Bucher, 1892). Kurtscheid, *Das Beichtsiegel in seiner geschichtlichen Entwicklung* (Freiburg: Herder, 1912).

confessor. This secrecy binds the penitent more strictly than any other secrecy, both because the confessor is bound by office to give counsels, and because he cannot defend himself if the secret has been unjustly injured. But since experience establishes that penitents willingly speak about those things which occurred in confession, the confessor ought to take care not to say or do anything which he would not want manifested to others.

b. The seal obliges the confessor only toward others, but not toward himself; hence a confessor is indeed worthy of reprehension, but does not act against the seal, who without sufficient reason thinks over within himself matters heard in confession; who casts his eyes from the confessional upon penitents in order to recognize them; who asks others concerning the name of his penitents as such, unless others from this manner of acting suspect some grave matter about the penitent.

c. This obligation is not ineptly called a seal: for just as letters whose object ought to remain hidden are closed and sealed with a seal, so the things said in confession are closed by this obligation and hidden from others.

Section 1. Concerning the Obligation of the Seal.

407. The Obligation Itself. There exists a grave obligation in every case of keeping silent outside confession about those things which are contained under the sacramental seal, unless the penitent has given permission of speaking.

1. The obligation of the seal is twofold: from religion, because reverence due to the sacrament, which otherwise would become odious to the faithful, requires it; and from justice, both by force of the implicit agreement entered between confessor and penitent concerning secrecy to be preserved, and by reason of the harm which the penitent would suffer in reputation if an occult sin were manifested.

a. Wherefore violation of the seal always has a twofold malice, and sometimes even a threefold malice: for it is against religion on account of injured reverence due to the sacrament; it is against justice on account of the tacitly entered contract violated; and sometimes also on account of injury to reputation, when namely an occult delict is manifested.

b. The obligation of the seal arises from a threefold source: from natural law, for there intervenes as it were an implicit agreement between confessor and penitent concerning secrecy to be preserved; moreover the law of nature requires that the reputation of another not be unjustly injured; yet from the law of nature it cannot be proved that the seal must be preserved in every case. From divine law: for Christ the Lord, although not by explicit precept, nevertheless by the very institution of this sacrament prohibited any revelation whatever of those things which pertain to sacramental confession; indeed the obligation of the seal is demanded by the very precept of confession: for he who commands an end also commands the means necessary for the end; but men would never be compelled to confess their sins, even the gravest and occult ones, if they knew that these could ever be manifested to others. From ecclesiastical law:[1017] the Church commands the seal to be preserved at all times; nevertheless its obligation primarily arises from divine law. Hence it is that the Church can neither dispense nor change anything in this matter.

2. No case is excepted, so that, to save life or even the republic, those things which fall under the seal can be revealed, either before or after the death of the penitent. a. For if any exception were admitted, the spiritual good of the faithful would suffer harm, because the faithful would always fear the revelation of their sins, and this would draw them away from the sacrament of penance; but no temporal or private or

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1017. C. *Omnis utriusque* 12, *De poenit. et remiss.* (V. 38), in which these things are had: "Let him take great care that he does not by word or sign or in any other way in any manner betray the sinner." Cn. 889, 1. A confessor who directly violates the sacramental seal incurs an excommunication reserved to the apostolic see in a most special manner, cn. 2369, 1; he who violates it indirectly is to be punished with penalties indicated in cn. 2368, 1.

public good exists which must not be preferred to this spiritual good of the faithful. b. Since even after death men would hear confession badly, confession would become very odious if the sins of a dead penitent could be manifested.

a. Hence if a priest should know from confession an evil which threatens another, he can urge the penitent, only under penalty of absolution being denied, that he reveal the matter, or that he give the confessor himself the power of speaking afterward; but if the penitent does not wish this, he can warn him only in general words about the danger, provided all danger of suspicion against the penitent is absent.

b. In this respect the seal differs from a natural secret: a. that the violation of natural secrecy is not a sacrilege; b. that the obligation of secrecy admits smallness of matter; g. that the obligation of secrecy in certain cases also ceases; d. that the obligation of secrecy does not urge toward him who committed the secret.

3. The obligation of the seal prohibits the confessor from speaking outside confession about things heard from confession, not even with the penitent himself; but in other confessions the confessor can, without express permission, make mention of those things which he heard from the penitent in previous confessions. Likewise he can also speak about things heard from confession immediately after absolution has been given, whether the penitent has not yet departed, or has already departed and at once returns, because this is morally said to be in confession.

If the penitent himself begins to speak about the confession, the confessor needs permission to speak by this very fact, but only concerning that matter about which he himself began to speak.

4. The obligation of the seal arises from every and only sacramental confession, or one made in order to obtain absolution (n. 267); for from every and only sacramental confession does the obligation of the seal avail, by which secret things are to be preserved.

Therefore he does not break the seal who narrates those things which he had heard outside confession, although under secret or under the seal of confession, as they say; or even in confession, but done without the will of receiving the sacrament, whether done in order to seek alms or to deceive the confessor. Nevertheless scandal of the faithful must be diligently guarded against, since perhaps they will think the deed was a true confession.

5. In this matter of the sacramental seal one may not use a probable opinion, because here there is question not of the merely licit or illicit, but of spiritual harm necessarily to be avoided for the faithful, who would be drawn away from the sacrament of penance.

Wherefore, both in doubt of fact, whether something was said in order to confession, and in doubt of law, whether some dictum or fact injures the seal, the confessor is bound to the seal, as long as the opinion favoring the seal is truly probable.

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408. Concerning Permission to Speak. If the penitent has given permission, the confessor can speak about things heard in confession not only with the penitent himself, but also with others; e.g., he can warn the accomplice, because the penitent can free the confessor from the obligation of the seal. Nevertheless, he ought to take care lest someone think that the seal can be violated and suffer scandal.

The obligation of the seal is indeed immediately introduced in favor of the penitent, but principally for the common good, lest the sacrament become odious to the faithful. But although a man cannot renounce a privilege which has been conceded for the public good, nevertheless this is valid only when renunciation tends to public harm; but renunciation in our case does not yield to public harm or to hatred of the sacrament. For if the faithful knew that the confessor cannot speak about things heard in confession except in that case in which the penitent, because he judges it useful to himself, has given permission, the sacrament would in no

way be rendered odious to them. - Nor is it said that the penitent cannot take away the obligation of divine law which commands the seal. For the obligation of divine law is not absolute, but conditional: unless the penitent has given permission; therefore the penitent gives that condition by which, when posited, the obligation of divine law ceases.

a. Presumed permission does not suffice, because it could too easily and imprudently be presumed; rather express permission is required, either by word or by deed equivalent to express permission, and it must be entirely free and in no way extorted by force or fear, lest reverential fear exclude it. But if the penitent is bound to give permission and yet denies it, absolution can and must be denied to him, but the obligation of the seal remains.

b. There is a twofold way in which the penitent can give this permission: either he grants permission in such a way that he, to whomever the confessor speaks, is himself not bound to the seal, or in such a way that he is not bound to the seal toward the confessor. But if the penitent grants limited permission, there always remains the obligation of natural secrecy, which the nature of things demands.

Note. Confessors should ask this permission rarely and only in grave necessity, and ordinarily only from those to whom they can safely entrust the matter; for experience establishes that most penitents speak with difficulty outside confession about matters pertaining to confession, and that the very request is already troublesome to them.

Section 2. Concerning the Subject of the Seal.

409. The confessor himself is bound to the seal per se and primarily; all those to whom knowledge of sacramental confession has in any way whatever come are bound per accidens and secondarily.[1018]

1. The confessor is bound to the seal whether he is true or fictitious, or thought to be such by error; therefore even a layman who simulates being a confessor, or is held as a confessor, and to whom the penitent confesses in good faith, is bound.

a. Hence if the confessor is interrogated concerning a matter which he knows from confession, he can and ought to answer that he does not know it; and if he is further asked whether he does not know it even as confessor, he can still answer that he does not know it; and if he is pressed to answer without restriction, he can affirm, even with an oath, that he speaks without restriction, namely without an unnecessary restriction. For all know that the confessor cannot answer otherwise, and that as a private man he truly does not know it and the penitent said nothing to him. But it is better to repel the one asking by this or a similar formula: there is nothing for me to answer to this question.

b. A confessor interrogated in court about a matter which he knows only from confession can use the privilege which is conceded to him both by ecclesiastical law[1019] and, in most regions of Europe, also by civil law, namely of refusing testimony. But because, when testimony is denied, the sacramental seal is sometimes injured indirectly, namely when from the denied testimony suspicion can arise that the accused confessed the delict, in this case he ought rather to answer that he knows nothing. Indeed, because it can rarely be determined whether the seal is injured or not, and because at least the accused who confessed the delict must judge that the priest is denying testimony on account of his confession, it will be preferable that the priest in every case answer: that he knows nothing.

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1018. Cn. 889, 2.

1019. Cn. 1757, 3, n. 2.

c. A confessor who cannot confess his own sin without injury to the seal ought to omit it; for the obligation of the seal is graver than the obligation of confessing integrally. But danger of violating the seal will rarely be present, provided nothing is said in confession except what is necessary for declaring the species of the sin.

d. A confessor who, after hearing confession, is asked in church by the sacristan, or in a hospital by a sister ministering to the sick, whether those things should be prepared which are necessary for administering communion, should refer the one asking to the penitent himself, so that he may ask him whether he wishes to receive holy communion; and lest any danger of violating the seal ever arise, this must always be done, whether the penitent has been absolved or has not been absolved.

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410. 2. It happens in two ways that those who have received knowledge of confession are bound to the seal: a. if they received it immediately or mediately from the confession itself; b. if they perceived the matter from a means of actual confession, whether this means was ordered per se or per accidens to actual confession.

a. Therefore interpreters voluntarily employed for making confession are bound. No one is bound to confess through an interpreter unless he voluntarily wishes; nevertheless, if someone employs an interpreter, the latter, as one hearing sins declared in sacramental confession, is bound to the seal.[1020]

b. Bystanders who, whether by chance or by design, hear a matter declared in confession, and those to whom perhaps a confession heard by these is sacrilegiously revealed; indeed, he who intentionally tries to hear one confessing already sacrilegiously violates the sacramental secret.

If the penitent speaks so clearly that he is heard by those standing around, and while adverting to this nevertheless continues, those who hear the confession can be bound by natural secrecy, but they are not bound by the sacramental seal, because the penitent spontaneously yields his right to a secret confession.[1021]

c. All those to whom the confessor, whether sacrilegiously or imprudently, has revealed something concerning things heard in confession; hence if the confessor in a sermon before the people injured the seal, all would be bound to the seal, so that they could not even speak among themselves about the matter heard.

d. Superiors from whom outside confession, either by the penitent or by the confessor, the faculty of absolving from reserved matters is sought, or to whom one absolved from a reserved matter presents himself, because the superior to whom recourse must be made either for absolution or for penance constitutes with the confessor one sacramental tribunal; for in the former case the necessary preparation of confession is had, in the latter its complement.

e. A theologian whom the confessor, with the permission of the penitent, consults concerning the sins or state of the penitent, unless the penitent has relaxed the obligation of the seal; because just as the work of the interpreter, so the instruction of the consulted doctor is ordered to confession.

If the penitent himself consults a theologian, one must distinguish: if he consults him concerning a confession to be made to another, the consulted theologian is not bound to the seal, because the consultation is not even an inchoate confession; but the seal arises only from sacramental confession at least begun. But if he consults him concerning a confession to be made to that same theologian, he is bound by the seal, because the consultation is an inchoate confession.

f. One reading, whether by chance or by design, the written confession of another is bound by the seal if the writing must be considered as actual confession or as a means ordered to actual confession. But he is

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1020. Cn. 889, 2.

1021. Lehmkuhl, *Casus consc.* II, n. 563.

not bound by the seal if the paper only contains matter prepared for confession; for a paper of this kind is not confession nor a means of actual confession, but a means chosen and ordered so that confession may afterward be more easily instituted; however, in this case an obligation of natural secrecy is induced, grave or slight according to the nature of the matter which is contained in that schedule.

g. He is bound by the seal who reads a schedule already handed to the confessor by a mute person, or by another who confesses by writing; in the same way, one who reads it after absolution, left in the confessional or sent away by the confessor, because it is as it were a continuing confession.

h. He who reads letters directed to the superior on account of some reservation: for letters of this kind are a means necessarily ordered, by the institution of the sacrament, to confession and therefore a complement of the sacrament.

i. If someone reads a paper in which a penitent, before confession, while making an examination of conscience to assist memory, wrote down his sins, he is no more bound by the seal than one who hears someone making his daily examination of conscience in a louder voice.[1022] Likewise, one who reads a paper which the penitent used for confessing and which he still keeps after confession does not injure the seal, because this paper can no longer be considered as actual confession.

Section 3. Concerning the Matter of the Seal.

The matter of the seal can be distinguished as essential and accidental; the essential is either direct or indirect.

411. Direct Matter. Directly, all sins, both mortal and venial, even public ones, constitute the matter of the seal, unless they are known to the confessor from another source.

a. Mortal sins are indeed manifested whether in species or only in general, e.g., Titius confessed grave sins; but venial sins, if they are manifested in species, not likewise if they are manifested only in general, unless it is said that someone confessed many or graver venial sins; for by the very fact that someone confessed, he is supposed to have confessed at least venial sins, and therefore this can be troublesome to no one. Therefore, just as it can be said without injury to the seal: Titius confessed, so it can be said: Titius confessed venial sins only, or confessed his venial sins. Therefore it is not against the seal if the confessor says of his penitent that he lives so innocently that he scarcely commits venial sins.

b. If it were licit to manifest publicly known sins, penitents would always fear lest confessors consider their sins publicly known and therefore reveal them. Therefore he who says of a notorious thief that he confessed his thefts with great contrition injures the seal; but he who says only that he confessed his sins does not injure the seal, because he does not say that he sinned mortally, nor does he manifest any venial sin in species.[1023]

c. If the confessor speaks about those things which are known to him from elsewhere, he does not manifest the things heard in confession itself; yet he ought to take care lest from the things heard in confession he confirm things less certain or complete things less accurate.

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412. Indirect Matter. Indirectly, all those things which are said for declaring sins constitute the matter of the seal, whether they are necessary for this end or only useful or even superfluous, unless they are publicly known facts, even if until now unknown to the confessor or to others; therefore circumstances of sins, objects, accomplices. For since Christ prescribed the seal so that confession not be rendered odious to the faithful, and

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1022. Cf. Lugo, disp. 23, n. 47.

1023. Reuter, n. 378, 16.

since the revelation of these things would be unwelcome to the faithful, from the will of Christ all these things must be closed under the seal. Nevertheless, publicly known facts are excepted, even if previously unknown to the confessor, because their revelation can be burdensome to no one.

a. Circumstances are such things as occasions, end, and other circumstances connected with sins. Thus, if a spouse confesses that he boasted of nobility, the nobility is matter of the seal. Likewise imposed penances are under the seal, unless they are such as are customarily imposed only for the lightest faults, because from them it can be gathered that the penitent confessed a mortal sin or several venial sins.

Denied absolution is matter of the seal; therefore not only does he violate the seal who says that he denied absolution on account of indisposition, but also he who says only that he did not absolve such a person, because others rightly suspect indisposition from this. If the confessor is asked about denied absolution, let him answer: I have performed my office; or: there is nothing for me to answer to this question. Nor is it licit for the confessor to say that he did not give absolution, even if there is question of a public sinner, indeed even if the sinner himself says that absolution was denied to him, unless he says it in those circumstances in which by that very fact he grants permission for saying this.[1024]

The counsel which is sought from the confessor pertains to the matter of the seal if the request has a connection with sacramental confession, as if someone seeks means by which he can correct a defect declared in confession.

b. Objects of sins, even declared after absolution, if, e.g., someone says that he despised his father because of his tenacity, or that he spoke about the adultery of Titius, the tenacity and adultery fall under the seal.

c. The sins of an accomplice, even if they were revealed without necessity, as if someone in confession says: I committed theft with my brother. Therefore it is not licit for the confessor to warn or correct the accomplice without the permission of the penitent. The penitent indeed can grant this permission, because the penitent alone, not also the accomplice, has the right to the seal; nevertheless it is rarely expedient for the confessor to assume the office of correcting the accomplice, even if he is asked by the penitent, because correction can rarely be made without danger of scandal.[1025]

d. If someone confesses that he omitted Mass in order to see soldiers arriving, this fact does not fall under the seal.

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413. Accidental Matter. Per accidens, all those things known in confession constitute the matter of the seal whose revelation would yield to the burden of the penitent and to hatred of the sacrament: defects either of body or of soul, and sins committed in the confession itself.

a. Natural defects are matter of the seal, not only when they are said for explaining a sin, but also if they are known from confession alone and are otherwise unknown. Thus scrupulosity is matter of the seal, both if it is manifested in confession as a moral defect or for declaring sins, and also if it becomes known to the confessor from the manner of confessing, while it is unknown to others. There are indeed those who say that natural defects otherwise unknown, if they are not manifested for explaining a sin, are matter only of natural secrecy; but assent seems to be given to the authors who count them as matter of the sacramental seal. And indeed if the confessor detects certain defects from the manner of confessing which the penitent otherwise can and is accustomed to conceal, confession would plainly be rendered odious if the confessor could reveal them. But defects which are already commonly known do not constitute matter of the seal,

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1024. Cf. Lacroix l. 6, pr. 2, n. 1965.

1025. Cf. St. Alphonsus, n. 492.

because the penitent cannot take it ill if the confessor speaks about them. From these things one can judge how far it falls under the seal that the penitent is hard of hearing, of slow or stubborn mind, of irresolute and troublesome nature, and such like.[1026]

b. Sins committed in the confession itself, e.g., impatience and insults against the confessor himself, are not matter of the seal if they are not accused; but per accidens they usually fall under the seal, because someone could suspect that the confessor either did not wish to absolve the penitent or reprehended him more severely on account of graver faults. Theft committed by the penitent to the harm of the confessor at the time of confession does not fall under the seal; and if it were established that the thief approached confession only so that he might have an occasion of stealing, the sins accused by him would not be matter of the seal, because the confession would not be sacramental.

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414. The Matter of the Seal Is Not those things heard in confession or connected with confession whose revelation does not yield to the burden of the penitent or to hatred of the sacrament; nevertheless, according to the nature of the matter, they can fall under natural secrecy.

a. The gifts of God and virtues per se are not matter of the seal, even if they are manifested in confession in order to declare the state of the soul to the confessor, because their revelation cannot render confession odious. Therefore confessors can and are accustomed to manifest the virtues and gifts of their penitents after their death for the effect of beatification. But virtues and gifts can be matter of natural secrecy if it is established that penitents would bear their manifestation with difficulty, and they fall under the seal if they are manifested to explain some sin, e.g., ingratitude toward God or inconstancy in good.

b. Absolution conferred is not matter of the seal; therefore he who says that he absolved such a person does not break the seal. Nevertheless, one must altogether abstain from this manifestation, especially in those circumstances in which this manifestation becomes burdensome to others, because the same cannot be said about them. If parents, teachers, and masters imprudently ask confessors about absolution given to sons, pupils, or subjects, they must be referred to the penitents themselves.

c. Access to confession is not matter of the seal, because it is known outside confession and is not per se something odious. Therefore he who says: Titius confessed to me, does not violate the seal; but if someone has approached confession secretly, the confessor is bound to conceal this by natural secrecy.

d. That whose knowledge the penitent does not bear with difficulty, such as condition or state, e.g., that the penitent is a priest, parish priest, soldier, married, unmarried, does not pertain to the object of the seal, because its revelation is not burdensome to the penitent, even if it was manifested to declare sins, since there is question of a publicly known state, even if until now unknown to the confessor, provided no suspicion of sin arises. But although the confessor can speak freely about this matter, it is always dangerous to say that he knows it from confession, because the faithful easily suffer scandal and fear lest confessors also speak about those things which penitents manifested in confession.

Note. Nevertheless, even concerning those things which do not properly fall under the seal, a prudent confessor, if he has received them in the confessional, will preserve silence, so that he may avoid scandals, which can scarcely be avoided from narrating those things which were said in the confessional.

Section 4. Concerning Injury to the Seal.

415. Modes of Violating the Seal. 1. The seal can be violated in a twofold way, directly and indirectly.

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1026. Cf. Tamburini, *Methodus confessionis*, Appendix *de sigillo*, c. 2, n. 13, 17 ss.

a. It is violated directly if the sin accused in confession and the person of the penitent are manifested.

For direct violation of the seal it is required that the person of the penitent either be named expressly, e.g., Titius committed homicide, Peter was not absolved; or that he be so perfectly designated from the circumstances that he can certainly be known, although unknown to the hearers and never to be known by them, e.g., the prefect of such a city committed adultery. These words: the first today confessed adultery contain a direct violation of the seal if the hearers know him; otherwise, however, an indirect violation, more culpable in proportion as the danger of knowing the person of the penitent is greater.

In order that the seal be violated directly, it is not necessary that the hearers know that the confessor is speaking about matters heard in confession, but it suffices that he in fact does this.

b. It is violated indirectly if from those things which the confessor says or does there arises danger of knowing the sin of the penitent or of rendering the sacrament odious.

In order that the seal be violated indirectly, it is not necessary that the person of the penitent from those things which the confessor says or does be actually known, or that suspicion actually be suggested about him; but it suffices that this can happen by a prudent suspicion.

2. Direct violation of the seal does not admit smallness of matter, but indirect violation admits it. The reason for the first is that even through injury of the seal in light matter a grave injury is done to the sacrament; for the faithful would be greatly drawn away from it if they knew that confessors could reveal venial sins without grave sin, since they would always fear lest they judge grave sins to be venial and manifest them. The reason for the second is that indirect violation of the seal consists in the danger, from the sayings or deeds of the confessor, of knowing a defect of the penitent or of rendering the sacrament odious; but this danger can be very slight; therefore violation of the seal can also be slight.

Whether by some saying or deed the seal is violated indirectly is sometimes difficult to determine. The principle which ought to be kept before one's eyes is this: he who reports sins heard in confession, without naming the person, does not injure the seal unless there underlies danger of coming to knowledge or suspicion of the person, nor unless hatred of the sacrament arises. There are especially three things by which the sacrament is rendered odious: if from the sayings or deeds (omissions) of the confessor there arises suspicion of sin or defect of the penitent, defamation either of a community or of the penitent, or burden of the penitent.

a. He who, after hearing few penitents, reports some sin declared by one of them in confession injures the seal, because some suspicion arises concerning each, if the penitents are known to those to whom the sin is narrated.

b. He who says that he heard a grave sin in such a monastery injures the seal; likewise, he who says that he heard a grave sin from a religious of a determined order injures the seal if the order is not numerous and is of intact reputation, because some infamy redounds to the whole community or to the whole order and therefore to the penitent himself insofar as he is a member of the community or order. But the seal is not injured if the order is very numerous, especially if it is also of relaxed discipline, provided the danger of suspicion concerning some monastery in particular is excluded, because no one suffers detriment of reputation, neither a determinate person nor the order.[1027]

c. He who says that such a crime is rampant in some place, which he knows from confession, injures the seal, unless the crime is public or the place is very large (at least 3000 inhabitants); for from a revelation of this kind infamy redounds to the individual inhabitants if the place is small, but it does not redound if it is large.

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1027. Lehmkuhl, *Theol. mor.* II, n. 469 (n. 600); *Casus consc.* II, n. 551 ss.

d. A parish priest who, from the knowledge of confession, communicates with missionaries about which vices in the community especially need correction does not injure the seal if the vices are common or the place is sufficiently large. If the community is small (e.g., a small community of nuns) or the vices belong to a few, the seal is injured, because individuals are exposed to suspicion, or the hearers are affected with shame over their own defect.

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416. Concerning the Use of Knowledge Received from Confession. St. Alphonsus wisely warns that the confessor should proceed cautiously, since in these matters every danger either of revelation or of burdening the penitent must with difficulty be avoided. Something else also must be carefully guarded against, namely that those who easily suspect and fear injury to the seal should not be scandalized. Therefore attention must be paid to three things, lest the use of knowledge from confession be illicit: a. that there be no danger of revelation; b. that no burden of the penitent or hatred of the sacrament arise; c. that no suspicion of a violated seal, and therefore scandal, be suggested to others.

1. It is never licit to use knowledge received from confession if there is danger of revelation, or if, even without any revelation, confession is thereby rendered odious, although from the non-use of it a far greater evil of the penitent would follow. And this indeed is not licit whether the penitent notices or does not notice that this is being done because of the sin accused by him; for the faithful would be drawn away from the sacrament of penance if they knew that confessors are permitted to use the knowledge of confession to the burden of the penitent, when neither the penitent nor others notice it.

a. Superiors cannot use knowledge of confession for external government, even if outwardly this appears in no way; for if the faithful knew that this is licit for superiors, confession would be rendered odious to them.[1028] Therefore it is not licit to remove an unworthy man from office, which is a source of sinning for him; to deny suffrage in elections; to deny sacraments, unless it concerns a public sinner; or to change an arrangement, even one conceived only in the mind and not yet communicated to anyone.

b. If the confessor knows from confession that someone is of bad conscience, troublesome, or indisposed, he cannot on that account excuse himself from hearing his confession; for if penitents notice this manner of acting of confessors, they will manifestly be drawn away from the sacrament. He can, however, without injury to the seal excuse himself under another true pretext.[1029]

c. Lest confessors be exposed to danger of breaking the seal, they are not to be questioned, e.g., by parents or teachers, about the morals of their penitents, nor are they to be consulted where there is question of someone to be promoted to orders or admitted into religion, etc.; they should testify only to the frequentation of the sacraments.

2. It is licit to use the knowledge of confession if there is no danger of revelation and no burden of the penitent by which confession would be rendered odious. And this indeed is licit whether the penitent notices that it is

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1028. Cn. 890. There exist on this matter two decrees of the holy see: one of Clement VIII, May 26, 1593, which forbids regular superiors to use knowledge received from confession for external government. Lugo rightly notes, *disp.* 23, n. 93, and after him St. Alphonsus, n. 656, that the decree is to be extended to all confessors, even if they are not superiors, in relation to any penitents whatsoever, even seculars, because the supreme pontiff in this decree does not establish a particular law but declares the divine law concerning sacramental secrecy. Therefore the opinion of the ancients must be corrected, that it is licit to use knowledge received from confession if this can be done without danger of manifesting the penitent's sin, that is, provided others cannot suspect anything about the penitent. The other decree, issued by the Holy Office by command of Innocent XI on November 18, 1682, pertains to all confessors and forbids the use of the knowledge of confession with burden of the penitent, even when the penitent by the use of it is freed from a greater burden or evil, especially from sin. Therefore this principle of the ancients must be corrected: it is licit to use the knowledge of confession when the penitent cannot be reasonably unwilling, e.g., when the use of sacramental knowledge is necessary to remove the penitent from sin. From this principle they permitted that the confessor close the doors, lest the servant whom he knows from confession to be going out to sin be able to go out.

1029. Cf. Lugo, *disp.* 23, n. 117.

being done because of the sin accused by him or does not notice it; for if the use of knowledge received from confession is not burdensome to the penitent, confession cannot from it become more difficult, whether the penitent notices the use or does not notice it. Moreover the actions in which use of this kind is contained can either be concerned with the confessor himself or can be referred to the penitent.

a. From the knowledge of confession the confessor can: alpha. reform his own morals, perform his office better, watch over subjects more diligently, with the danger of revelation nevertheless excluded; beta. pray for the penitent, for the confessor uses the knowledge of confession before God, which is not illicit, and act more kindly toward him, even if the penitent notices that it is done because of his confession, since this cannot be unpleasant to him; gamma. consult books or theologians, with danger of revelation excluded; delta. direct himself from this knowledge, e.g., by prudently questioning or instructing others, toward tempering rigor, toward guarding himself from dangers of spiritual or temporal harm, which he knows penitents to have undergone; epsilon. warn others generally, e.g., that they should guard themselves or watch carefully, with danger of revelation nevertheless excluded.

b. Preachers can speak of those things of which they would not have thought unless they had heard confessions; but they must take care not to speak publicly about the particular sins of one or another penitent, especially before a small community, because this could easily be troublesome to the penitent. Thus, for example, a confessor of nuns can preach about defects which are commonly committed in the monastery, but not about some particular defect of some nun.

c. If a priest knew from confession that ambushes were being prepared for him, or that the wine which he uses for Mass had been infected with poison, it would not be licit for him to flee or omit Mass where from his flight or omission others could conjecture that the penitent conscious of the matter had confessed that sin, or the penitent would suffer harm or burden. Moreover, in order to save life the confessor could ask permission from the penitent to allow the indirect manifestation of the sin which would follow from the flight or omission. If the penitent, even unjustly, refused to give this permission, he would be unworthy of absolution; but the priest could not flee or omit the sacred rite.

d. A priest cannot without the penitent's permission dismiss a servant or take keys away from a servant whom he knows from confession to be unfaithful; for this manner of acting contains a certain reproach of the penitent and therefore brings him a burden. Whether in the confession itself he can command the servant to return the key or to depart of his own accord is disputed. Elbel affirms it, because he can command everything without which the penitent is not capable of absolution; Lugo denies it, because the command is not an act pertaining to confession, since it is not a necessary means of amendment.

Note. The confessor can do everything which he ought to do and which he would have done even if he had not heard the confession, namely what his office, ordinary diligence, and vigilance require, although from the things heard in confession he takes occasion for doing it and now would not have done it if he had not heard the confession. It is better, however, to warn the penitent about this matter, lest he take scandal, thinking that the seal is violated. But without the penitent's permission it is not licit for a confessor to do something on account of things heard in confession which otherwise he would not have done, if from it either danger of manifestation or burden of the penitent can arise. The event must be awaited which will furnish a new motive for doing what until now was not customarily done.

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417. Concerning a Certificate of Confession to Be Given or Denied. a. A certificate of confession should show nothing except testimony that confession was made on such a day, but not testimony that absolution was given, about which nothing should ever be added in the certificate. If, however, a printed certificate imprudently showed testimony of absolution, and such a certificate, on account of the seal, would have to be handed even to one not absolved, it would simply have to be handed over, or even signed, without anything being deleted,

even if absolution had been denied; for that act of handing over, or signing, such a certificate does not seem to be a lie.

b. If absolution was denied to an indisposed penitent who made a sacramental confession: alpha. the certificate of confession is to be given if he asks outside confession; for if in this case it were denied, the confessor outside confession would use the knowledge of confession with burden of the penitent. beta. The certificate is to be given if he asks in confession and the denial is equivalent to an indirect violation of the seal, which happens when others, from the very denial of the certificate, come to knowledge of the denied absolution and therefore either of indisposition or of a reserved case in the penitent, as if, when those confessing are in a public place, a certificate is given to others and denied to one. gamma. A certificate of confession can be denied if he asks in the confession itself and the denial is not equivalent to indirect injury of the seal, because others come to knowledge of the denied absolution not from the very denial of the certificate but afterward; for just as the seal is not broken because absolution was denied, even though others come to knowledge of it, e.g., from the fact that he abstains from holy communion, so also the seal is not broken because a certificate was denied, even though others, from the fact that he does not bring a certificate, come to knowledge of the denied absolution. But when a reasonable and just cause exists, the certificate in this case can also be given, because sacramental confession was made.

c. If the penitent did not make a sacramental confession, but only simulates confession, or if he asks for a certificate in order that, without confessing, he may show it to a teacher or parish priest, e.g., before marriage, it is altogether to be denied; for on the one hand there is here no danger of injuring the seal, which does not arise except from sacramental confession, and on the other hand the confessor, because he gives the certificate, lies and easily cooperates in an unworthy reception of the sacrament of the Eucharist or of matrimony.

Note. Concerning a confessor needing counsel. If a confessor in a difficult case needs counsel: a. let him have recourse to a theologian to whom the penitent is altogether unknown; b. if this cannot be done and there is danger of revelation, let him ask permission from the penitent to speak with another about a matter pertaining to the confession; or c. let him propose the case in such a way that he avoids danger of revelation, that is, as fictitious, omitting all non-necessary circumstances and mixing in other false ones which do not change the substance of the matter; d. if he does not have permission and cannot in any way avoid the danger of revelation, after diligence in study and prayer has been applied, let him solve the knot by his own judgment.

Appendix I.

Concerning Particular Occasions.

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Article One.. Concerning the Visits of Those Courting.

In the visits which are customarily made between those courting with a view to future marriage, a twofold stage, as it were, must be distinguished: visits which take place before betrothal, and visits which take place after betrothal. The former must be treated distinctly under the title “familiarities,” and the latter under the title “visits of the betrothed.”

418. Concerning Familiarities. 1. Familiarities, which are also called courtships, of themselves contain an occasion of sinning; for the character of human nature, especially in younger persons, is of such a kind that

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1030. Aem. Berardi, *De recidivis et occasionariis*, 5th ed. (Faventiae: Novelli, 1897).

more frequent conversations between persons of different sex excite base love. Therefore familiarities are not licit of themselves unless there is added a just cause which renders them licit.

Whether in a particular case there is a proximate occasion must be judged either from the vehemence of temptations, or from the known frailty of the penitent, or from the frequency of sins which have already happened in the visits (n. 413).

2. Familiarities which are made with a view to future marriage are licit; for visits which would not be licit of themselves can become licit from this end. No one is bound to enter betrothal with a person unknown to him, but he can test the character and morals of his future wife; for this reason visits of this kind have already been introduced almost everywhere by the usage of peoples.

Therefore familiarities illicit because of danger of sinning are to be forbidden, and, if the occasion of sinning is proximate, even under penalty of denial of absolution; namely, those familiarities in which either there is no hope of future marriage or there is hope of contracting marriage only after a long time. For the hope of future marriage is the only cause on account of which these visits become licit. The measure of time within which they can be permitted must be defined not so much by a certain rule as by the judgment of prudent men. In general it can be said that familiarities which are prolonged for a long time beyond a year are not to be permitted; therefore in such a case they must either be entirely broken off or at least interrupted, if the marriage itself cannot be contracted sooner.

3. Care must be taken, however, lest licit familiarities become a proximate occasion of sins; for without suitable precautions they easily degenerate into a proximate occasion. Precautions of this kind are:

a. That the consent of the parents be obtained as soon as possible; without it the future marriage will either be prolonged too long or will not take place at all.

b. That they not be alone, one with one, which indeed is of such great importance that confessors can never sufficiently urge the obligation of parents by which they ought to watch over the visits of their children.

c. That visits not be too frequent or too prolonged. Moreover, the number of visits and their licit duration must also be determined by the estimation of prudent men. In general, Aertnys thinks that once in a week for one or two hours is not immoderate.

d. That they avoid all things which can increase danger, namely too much liberty in preserving signs of affection, especially touches, kisses, embraces.

e. That by exercises of piety, and especially by frequentation of the sacraments, they strive to fortify themselves against sin.

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419. Concerning the Visits of Betrothed Persons. 1. It is certain that after betrothal has been entered, betrothed persons have no mutual right over their bodies. Therefore those things which are sins in the unmarried, namely immodest looks, touches, kisses, embraces, are in the same way grave sins also in the betrothed.

2. They have a right to show each other those honorable signs of love and benevolence which betrothed persons, according to the custom of the country, are accustomed to show each other, such as kisses, embraces, touches, and honorable conversations. The very relation of betrothed persons is the foundation of this right. Therefore carnal motions, and even pollutions which perhaps arise on this occasion, are not sins, because the relation of betrothed persons is a just cause for permitting those effects, provided consent is guarded against.

Authors dispute whether it is licit for betrothed persons to take and intentionally seek sensual pleasure which arises from modest kisses, embraces, or touches. Now if by the name of sensual pleasure venereal pleasure is understood, this cannot licitly be intended, whether it is great or slight; for the condition of betrothed persons gives no right voluntarily to seek pleasure of this kind, not even slight pleasure. But if by the name of sensual pleasure is understood pleasure which is not venereal, it is not illicit voluntarily to take and intend it. For pleasure of this kind is honorable: since the love of betrothed persons is honorable, and equally honorable are the signs by which that love is shown and fostered, therefore also honorable is the pleasure which connaturally follows from that showing of love. Moreover there is a sufficient reason for taking it, namely the relation of betrothed persons; finally, venereal pleasure perhaps arising can be licitly permitted for this same reason, provided consent is excluded.

The controversy among authors seems to have arisen from the fact that they do not sufficiently distinguish between venereal, sensible, and sensual pleasure; sensual pleasure must be entirely distinguished both from venereal and from sensible pleasure, and of itself it is indifferent.[1031]

3. After betrothal has been entered, the danger of sinning in visits is greater; for the betrothed converse with each other with greater liberty, since certain signs of mutual love according to the custom of the country cannot be forbidden to them; but this greater familiarity greatly increases the danger of sinning. Therefore special precautions must be proposed and inculcated to them:

a. That they never be alone, especially in a secret place; moreover it must be enjoined on the parents, especially the mothers, that they watch.

b. That they abstain from those signs of benevolence by which lust is more greatly excited; but in other signs they should indulge nothing to themselves except what can be done before others without offense.

c. That they use more diligently the exercises of piety and the sacraments of the Church.

4. If in these visits, whether they take place before or after betrothal has been entered, sins are committed, it must be judged from their frequency whether there is a proximate danger of sinning. But if from the frequency of sins it appears that the visits are a proximate occasion for the betrothed, they are to be regarded and treated as persons constituted in a necessary proximate occasion; for it is morally impossible for the betrothed to abstain from visits and conversation.

a. If therefore external sins, such as base touches and fornications, are committed, it must be enjoined on them that they never remain alone; if sins are committed because they consent to base motions which arise on the occasion of the visit, care must be taken that the visits, as far as can be done, be diminished and that precautions be used more diligently.

b. Moreover, even recidivists the confessor should try to dispose actually, and, if he can judge them disposed, he should absolve them; for if they are sent away without absolution, it will happen that throughout the whole time of courtship they abstain from the sacraments and languish in sins.

Note for confessors. When young men or girls accuse themselves of sins against chastity committed with a person of the other sex, they must be asked whether they foster some familiarity. If they affirm this, it must further be asked whether there is hope of future marriage. If there exists no hope of marriage, it must altogether be demanded that they break off the familiarity, since without a just cause they are found in a proximate occasion of sinning gravely. Ordinarily the same must be demanded if the hope of entering marriage shines forth only after a long and indeterminate time, for example after the death of the father, if I shall have

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1031. Cf. Noldin, *De sexto praecepto*, 14th ed., n. 7; Ballerini-Palmieri II, n. 298.

obtained an office, after I shall have satisfied the laws of military service, etc. But if, after considering all the circumstances, there exists a reasonable hope of future marriage, the familiarity must be permitted. The precautions, however, of which there was speech above, must be suggested.

Article Two.. Concerning Dances.

420. Whether They Are Licit. Dances must be distinguished into gravely indecent dances and honorable, or only slightly indecent, dances. Gravely indecent dances are those which are undertaken by persons of different, or even of the same, sex with gravely obscene uncoverings or gestures or gravely immodest touches; honorable or slightly indecent dances are said to be those in which uncoverings, gestures, and touches occur only if honorable or only somewhat indecent.

But if the holy Fathers of the Church with one voice gravely reprehend and reprobate all dances, it must be noticed that the choreal games of that time were far different from those of our time, although also in our time dances are held which must be entirely reprobated. For forming a judgment concerning their liceity in practice, attention must be paid both to the kind of dances and to the character of the persons.

1. Gravely indecent dances are a proximate occasion of sinning that is morally universal; for the rarest person will be one who is not basely moved by things of this kind. Therefore they must be said to be gravely illicit, unless true necessity compels one to attend them.

2. Dances that are not gravely indecent commonly contain only a remote occasion of sinning; therefore it is not licit to frequent them without cause, but when a just cause exists it is licit to attend them, and this cause must be graver in proportion as the danger of sinning is greater.

a. Just causes from which it is licit to frequent dances of this kind are: custom; once or twice in a year for relaxing the mind; for more easily finding an occasion of marriage; for not displeasing a suitor; for satisfying those inviting one to dances, etc. A graver cause is the command of parents, fear of gravely offending a husband, parents, etc.

b. In order that the danger of sinning which the dances themselves present to those frequenting them can be judged, this must be noted: alpha. A general rule which can be applied everywhere cannot be established, but attention must be paid both to the custom of places and to the different character of persons. beta. In general public dances, especially those which are held among unmarried persons of different sex in taverns, contain much greater danger than those which are held in private houses. gamma. Some dances which in our time are very much in use do indeed contain greater danger because of the closer pressing of embraces which they require, but in general they cannot be said to be gravely indecent, and therefore not illicit of themselves because of a proximate occasion. delta. Great danger of sinning also exists, especially in the country, in going to dances and especially in returning from them.

3. Honorable dances, even among persons of different sex, are of themselves indifferent and therefore of themselves licit.

Dances are indeed indifferent of themselves, but as they are now held, they are never entirely immune from danger of sinning. The freer conversation between persons of different sex, the handling of hands, stirring musical harmonies, the excitation of the nerves from the use of alcoholic drink, the night time, etc., always contain some danger, at least slight; therefore dances of themselves are to be recommended to no one, indeed rather they are to be dissuaded from all.

4. Dances of masked persons are almost always to be reprobated as illicit; for they put on a mask so that they can do more freely what the restraint of shame would have hindered.

Note. 1. Although it cannot be affirmed that those who go to dances are ordinarily moved by an evil end, for often they attend merely for the sake of joy and recreation, nevertheless those who attend them with an evil intention of lust manifestly sin gravely by this very intention.

2. In a particular case it must above all be considered whether dances are for the penitent a proximate occasion of sinning. If they are not a proximate occasion for someone, as far as can be done he must be warned not to attend them; but the confessor cannot by his right demand that the penitent, under penalty of denial of absolution, promise that he will not go to them. If they are a proximate occasion for someone, he likewise cannot demand this promise when this twofold condition exists: namely, if the penitent is compelled by a grave cause to attend them, and if by suitable precautions he can and will make the proximate occasion remote. But if there were no necessity of attending them, the penitent who refused to avoid them could not be absolved.

Article Three.. Concerning Spectacles.

421. 1. Spectacles of themselves are indeed an indifferent thing; since by their nature they are a play which, if it is held honorably and moderately, contains nothing evil in itself. Therefore if spectacles were altogether harmless, they could licitly and freely be attended merely for the sake of solace and recreation. But as spectacles are now, they almost always contain a greater or lesser occasion of sinning.

The sins for the committing of which they furnish occasion are: alpha. sins of lust, either because of the base or at least amorous matters which are represented, or because of their various circumstances, especially because of the immodest clothing which is seen both in the actors and in the spectators, or because of the indecent dances which are inserted into the scenes; beta. sins against faith, when revealed truths and Christian institutions are held up to mockery, vices and crimes are raised up with praises, but virtues are despised as base and ridiculous.

2. Spectacles which contain only a remote occasion are not gravely illicit; therefore they can be attended from a just cause. Spectacles in which notably base things or things notably contrary to religion do not occur ordinarily do not present a proximate occasion, but an occasion more or less remote; hence according to the gravity of the danger a graver cause also is required which excuses entrance, and suitable precautions which remove the danger of sinning must be used with greater solicitude.

A cause excusing in this way is not solace and recreation, but something graver is required, e.g., the will of a husband, the command of parents, the condition of service in those who must accompany a master or mistress, the reason of utility once or twice in those who must acquire knowledge of these things for an honorable end.

3. Spectacles which contain a proximate occasion of sinning are of themselves gravely illicit; therefore they can be attended without grave sin only from a grave cause and with suitable precautions used. Spectacles in which notably base things or things notably contrary to religion occur ordinarily present a proximate occasion, especially those in which scenic dances are inserted among the acts; but by reason of frailty, even spectacles which contain less indecent and less irreligious things can be a proximate occasion.

A sufficient cause from which spectacles of this kind could be attended is indignation of a husband or parents which cannot otherwise be avoided; but not a mere command, nor, as Berardi rightly notes, the loss of the price already paid for entrance, which is not recovered by not attending, nor, ordinarily at least, a philanthropic end to which the profit is destined, because the price can be paid even without attending.

4. Actors, and especially directors, gravely sin by the sin of scandal if they present plays which are either gravely obscene, or notably excite to lust, or gravely offend religion.

Note. 1. As far as can be done, all, but especially young persons of both sexes, must earnestly be turned away from attending theaters; for modern theaters are full of dangers, they foster levity and sensuality, impede virtues, and weaken the vigor of the soul. How those are to be treated who either cannot or will not abstain from gravely dangerous spectacles was said above concerning dances.

2. Since today those things which are exhibited in theaters are ordinarily evil and full of dangers, it is not licit to attend a theater unless knowledge has first been had of the thing to be exhibited. Especially must parents make themselves more certain about this matter before they can grant permission to their children to attend a theater.

Appendix II.

Concerning General Confession.

422. Its Necessity. General confession is the repetition of all or of many confessions. Considering the ordinary circumstances of penitents, general confession must be said to be necessary for two kinds of men:

a. For those who with grave fault concealed a mortal sin in confession, whether this was done from gravely culpable negligence in the examination of conscience or from defect of sincerity in the confession itself.

b. For those who knowingly confessed without sorrow and a serious purpose of amendment.

Those who for a long time lived in an evil habit of sinning and, although they often approached the sacraments, nevertheless always relapsed into the same sins without an efficacious effort of amendment, cannot be bound strictly to making a general confession, because it is not certain that past confessions were invalid. But since it can not imprudently be doubted concerning their value, they are earnestly to be exhorted to general confession.

423. Its Utility. All theologians agree in preaching the utility of general confession; for from it the penitent, having more inwardly known the state of his conscience, conceives fear and humility, horror of sin, peace and tranquillity of soul, and hope and confidence in God. One general confession often profits more than many ordinary confessions. Therefore Benedict XIV says: "Moderators of consciences agree with one voice that much utility is perceived from the use of general confessions."[1032]

General confession is useful chiefly for five kinds of men:

a. For adults who have not yet made a general confession, especially if a suitable occasion offers itself for it, as in the time of a mission, spiritual exercises, a jubilee, etc.

b. For those who undertake a state of life or a new manner of living, such as those about to marry, widowers and widows, soldiers who enter barracks or return from them, students who begin higher studies, etc.

c. For those who seriously intend to be converted to God and to establish a better manner of life; for it scarcely happens that a truly Christian life is restored unless the sins of the past life have been expiated by serious penance.

d. For the sick who are in danger of death; for if they have not made a general confession either from childhood or for a long time, and their strength suffices, they are earnestly to be exhorted to making it, so that they may be able quietly and confidently to await death.

e. General confession can ordinarily be permitted also to the scrupulous; for it is not general confession itself, but its repetition, which harms them and therefore must be forbidden.

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1032. Apostolic Constitution, June 26, 1749, n. 17.

Note. Excess in this matter must be avoided. Therefore the confessor should take care not to drive penitents importunately to making general confession; for unless they make it willingly, there will be scarcely any utility from it. He should also take care not to demand general confession from every new penitent whom he obtains, under the pretext of better knowing the state of the soul; for the knowledge which can be drawn from ordinary confessions abundantly suffices for directing the conscience suitably.

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424. Admonitions. 1. Because of the great utility of general confessions, the confessor should willingly hear them, and should never reject a penitent who intends to make a general confession under the pretext that it is not necessary; on the contrary, unless from the circumstances he judges that it will be harmful, he should promise that he will help the penitent, so that he may approach the making of confession with greater confidence.

2. General confession should not be made incidentally and perfunctorily only under the principal heads, but ordinarily, especially if it is made on the occasion of spiritual exercises or a public mission, it should be made accurately and diligently, even if there is no question of a necessary confession; for otherwise the penitent will not obtain that peace of soul and tranquillity of conscience which is the sweetest effect of general confession.[1033]

3. It is not expedient that general confessions be made suddenly, as it were, and without preparation; but to obtain the fruits which by the grace of God can be hoped for from them, diligent preparation must be premised. Therefore those who are going to make a general confession must be instructed that for some days, insofar as daily business permits it, they should be occupied in examining conscience, in recalling and detesting sins, and especially in frequent prayers by which they implore true conversion.

4. If the penitent is sufficiently instructed and prepared, it is better that he himself, with the confessor assisting when there is need, state the sins which he knows. But if he is not sufficiently instructed or prepared for making confession, or if he spontaneously asks to be questioned, it is better that the confessor complete the whole confession by questioning.

425. Preliminary Questions. In order to render general confession easier, it helps to question the penitent beforehand, either when he asks that his general confession be heard, or immediately before confession, about the following things.

1. Why he wishes to make a general confession. From the answers given it will be clear whether the general confession is necessary or only useful.

2. But if it is established that it is necessary because of past confessions made badly, it must at once be explored when the last valid confession was made, how often in a year the penitent was accustomed to confess and communicate, and whether during this time he received another sacrament, such as confirmation, matrimony, extreme unction.

3. An unknown penitent must be questioned about his state of life, single or matrimonial, and about the profession which he exercises.

4. When the last confession was made. Ordinarily a confession of sins committed since the last confession must be premised to a general confession, so that the confessor may thus better know the state of the penitent.

Notes

1033. Cf. *Directorium in exercit. spirit.* (Bruges: Desclee, 1897), c. 16, n. 3.

426. Catalogue of Sins. a. The penitent must be questioned about sins which, considering his state and condition, were probably committed by him. Therefore from the following catalogue sometimes some questions must be omitted, and sometimes others must be added; for it sets forth the sins about which one must ordinarily question.

b. It is expedient that the order of the precepts of the Decalogue be observed; but about the sixth precept the questions are to be made either immediately at the beginning or only at the end. The precepts of the Church can be reduced to the third, and the duties of state to the fourth precept.

c. If the penitent is found to have contracted an evil habit, it must be explored when it began and how long it lasted.

d. If he confesses a grave sin, he must at once be asked about the lowest species and about the number, if this can be done without grave inconvenience.

I. a. Whether he seriously doubted some truth of faith. Whether he denied a truth of faith.

b. Whether he despaired of his salvation.

c. Whether he murmured against God and his dispositions. If he affirms this, whether he had blasphemous thoughts about God.

d. Whether he held impious conversations against religion, the Church, priests. Whether he read bad books, bad newspapers, liberal or socialist, and handed them over to others to be read. Whether he thought that on this account he incurred excommunication. If he affirms this, he must be questioned about the very books which he read. Whether he performed superstitious things, such as spiritism or hypnotism. Whether he received a sacrament unworthily.

II. Whether he gravely blasphemed; whether before children. Whether he swore falsely, in court, with harm to a neighbor. Whether he made a vow which he afterward did not fulfill.

III. a. Whether on a feast day he culpably did not hear Mass. Whether on a feast day without necessity he labored, or imposed labor on others.

b. Whether on Friday he ate meat. Whether he violated the fast. Whether he satisfied the paschal precept.

IV. a. A son or daughter of a family: Whether he was disobedient in a grave matter, e.g., by staying outside the house at night, by frequenting persons or houses against the prohibition of parents. Whether he gravely saddened them. Whether he treated them harshly, by words or by deeds. Whether he wished death upon them.

b. A servant: Whether he furnished the service owed. Whether he caused harm to his master, or defrauded him.

c. The father and mother of a family: Whether they gave scandal to children. Whether they watched over children and servants, lest they frequent bad companions or dangerous houses, or neglect Christian duties.

d. A husband: Whether he lives peaceably with his wife. Whether by quarrels, reproaches, etc., he gravely offended her. Whether he squanders the goods of the family.

e. A wife: Whether she is obedient to her husband in domestic matters and in the conjugal debt. Whether she renders life troublesome to her husband.

V. Whether he had enmity, fostered hatred, wished a great evil, rejoiced over evil, and how long it lasted. Whether he gravely offended someone, struck him, wounded him, or had a duel. Whether he gravely harmed himself. Whether he wished death upon himself or thought about inflicting death on himself. Whether he made himself drunk.

VI and IX. Concerning sins against chastity, an examination with an adult penitent who can be supposed to have committed sins of this kind is more suitably made by beginning from the graver sins almost in this way: Whether he sinned by work against chastity. If he affirms this, whether he sinned with another person. If he affirms this, whether with a person of the other sex. If he affirms this, he is to be examined about the sins which were with a person of the other sex; if he denies it, about the sins which were with a person of the same sex; and if he did not sin with another person, about sins which can be committed solitarily.

a. With a person of the other sex: Whether he did as in marriage. If he affirms this, whether offspring followed. If he denies this, whether it could have followed. If he denies this, whether they placed an impediment to conception. Whether the person was related by blood, married, or sacred. How often this was done. Whether besides these things he basely touched persons of the other sex or looked at them; whether he admitted base touches. Whether he had base conversations or willingly heard them. Whether besides this he sinned with a person of the same sex; if he affirms, he must be examined as is indicated below. Whether he also sinned solitarily; if he affirms, he must be examined as is indicated below.

b. With a person of the same sex: Whether he performed base touches; whether unto pollution. Whether he committed something worse, sodomy. Whether he had base looks, base conversations. Whether besides this he sinned solitarily.

c. Solitarily: alpha. Whether he voluntarily had base motions; whether base touches. Whether he polluted himself, whether he had a habit of polluting himself, when it began, how long it lasted, whether it happened daily. Whether at the same time, in polluting himself, he had evil thoughts or desires, and what kind they were.

beta. Whether he had base looks with lustful affection. Whether he had base desires, and what kind they were.

gamma. Whether he read bad books. Whether he was present at indecent dances and in them sinned basely by thoughts, words, or touches. Whether he attended gravely base theaters and in them was voluntarily delighted.

delta. Whether animals were an occasion of sinning. Whether he performed base touches, whether worse things.

A married penitent must be examined about the sins of spouses: Whether conscience pricks him concerning the conjugal debt or concerning the use itself of marriage. Whether he preserved conjugal fidelity. Whether he performed the conjugal act duly.

VII and X. Whether he took something by theft. Whether he restored what was taken. Whether by selling, buying, or other contracts he caused grave harm. Whether he caused grave harm to the goods of his neighbor. Whether he repaired the harm caused. As far as can be done, penitents are to be freed from making restitution; but if this cannot be done, the manner of restitution must be indicated accurately.

VIII. Whether he revealed a hidden crime of his neighbor. Whether he said something false about his neighbor. Whether he violated a secret in a grave matter.

Note. Since light sins are omitted in the catalogue of sins, to render the penitent tranquil it will help at the end to include all sins, even unknown ones, especially negligences in prayers, anger and impatience, envy and pride, lies, and injuries to the charity of neighbor.

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427. After Confession. When the confession has been completed: a. Let him ask the penitent whether there is anything which pricks his conscience and about which he has not been questioned.

b. Let him raise him up to full confidence by warning him that now all sins are remitted by absolution, and that there is no need that he ever be troubled about them or accuse anything further in confession, unless he certainly remembers a grave sin never declared up to this point in confession.

c. Let him suggest the means by which he can guard against relapse and make his salvation certain: alpha. frequentation of the sacraments; beta. devotion toward the blessed Virgin Mary; gamma. flight from occasions and battle against temptations; and anything further which, from the known state of the penitent, seems necessary or opportune.

d. After motives of penance have been proposed in a brief but paternal exhortation, let him elicit contrition with him and, after imposing penance, dismiss him absolved in the Lord.

Book VI.. Concerning Extreme Unction.

1034

Question One.. Concerning the Nature of Extreme Unction.

428. Definition. Extreme unction is a sacrament by which, through an anointing with olive oil and the prayer of a priest, health of soul and sometimes also of body is conferred on one gravely sick.[1035]

a. The common source from which those things are taken which theologians teach concerning this sacrament is the words of the Apostle James: Is any man sick among you? Let him bring in the priests of the Church, and let them pray over him, anointing him with oil in the name of the Lord. And the prayer of faith shall save the sick man, and the Lord shall raise him up; and if he is in sins, they shall be remitted to him.[1036]

b. It is called extreme unction because of all the anointings which Christ instituted or entrusted to the Church to institute, it is the last which is administered. This sacrament is the complement of penance in almost the same way that confirmation is the complement of baptism.

c. Extreme unction is of itself a sacrament of the living, because it was instituted primarily not for destroying mortal sins, but for removing the remains of sins. Yet because by the force of its institution it also destroys mortal sins, it can per accidens be called a sacrament of the dead.

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429. Effects in General. The proper effect of this sacrament is fourfold: a. strength of soul; b. cleansing of venial sin and of punishments; c. remission of mortal sin; d. health of body. They are taken from the words of James cited above.

a. This sacrament was instituted for disposing and preparing the soul proximately, so that without delay it may be able to enter the kingdom of heaven. Now, for obtaining this end, extreme unction especially does two things: alpha. it strengthens the soul by actual graces, so that it may persevere in good until death; beta. it purges the soul from sins and punishments which delay entrance into eternal glory.

b. Of these effects some are intended primarily and principally, others indeed per se, but only secondarily. The first among those named above, the strengthening of the soul, belongs to the primary effects; the same seems

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1034. St. Thomas, *Suppl.* q. 29-32; St. Alphonsus, l. 6, n. 706-733; Coninck, *De sacramentis* II, disp. 19; Sporer-Kazenberger, *Supplementum theol. sacram.* c. 2, sect. 3-4; Suarez, *De poenitentia*, disp. 39-44; Ballerini-Palmieri, *Opus theol. mor.* V, n. 840-881; Ign. Schmitz, *De effectibus sacramenti extremae unctionis* (Friburgi: Herder, 1893); J. Kern, *De sacramento extremae unctionis* (Ratisbonae: Pustet, 1907); Heimbucher, *Die hl. Olung* (Regensburg: Manz, 1888).

1035. Cn. 937 sets forth a description of the sacrament.

1036. James 5, 14-15. Cf. Council of Trent, sess. 14, *De extr. unct.*, can. 1.

to have to be said of the second, the cleansing of sin and of punishments. The third and fourth, remission of mortal sin and healing of the body, constitute, by the consent of all, secondary effects of extreme unction.

c. All theologians teach that extreme unction removes the remains of sin, both original and actual, but not all explain in the same way what those remains are. The infirmities of soul to be enumerated below primarily pertain to these remains.[1037]

d. This sacrament completes and perfects the sacrament of penance. For penance was instituted for destroying sins, both mortal and venial; extreme unction was instituted for destroying the remains of sin, both original and actual. Therefore, just as penance, so likewise extreme unction must be called a sacrament of divine mercy, which supplies to man a means of disposing and preparing the soul so that, separated from the body, it may immediately be able to enter the kingdom of heaven.

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430. Effects in Species. 1. Strength of soul: for with an increase of sanctifying grace there is conferred on the sick man a right to actual graces by which he is strengthened and comforted for overcoming those difficulties which threaten at the time of death: The Lord shall raise him up.

These difficulties arise from spiritual infirmities, of which sort are: a. weakness of soul left from past sins, by which it happens that one more easily relapses into sins; b. weakness arising from the fact that God, on account of past sins, deprives the soul of more abundant helps of grace; c. fear, sadness, and lack of confidence, because the sick man indeed knows that he has sinned, but does not know that God has already forgiven the sins committed; d. temptations of the devil, by which at death he tries to reduce the soul into perpetual servitude to himself; e. weakness of soul arising from the very bodily infirmity itself, for a man pressed by the gravity and pains of disease is hindered from attending to spiritual things.

2. Cleansing of venial sins and punishments which hinder immediate passage to eternal glory. a. That the sacrament produces this effect, because grace infused through the sacrament from divine ordination has the force of destroying sins and all of them, unless there is an obstacle in the soul of the sick man, and of remitting punishment, of itself indeed all punishment unless defect of disposition in the recipient stands in the way, is clear from the words of James: And if he is in sins, they shall be remitted to him. Then, through the form the proper effect of the sacrament is signified; but remission of sins is signified; therefore at least venial sins are remitted. b. Since the sacrament was instituted to remove those things which hinder immediate passage to heavenly glory, it must be said that, as much as is of itself, it destroys both venial sins and punishments of sins.

All indeed teach that this sacrament confers remission of temporal punishments, since it was instituted for wiping away the remains of sins, among which temporal punishments also are numbered; but concerning the manner and measure of remission, not all speak in the same way. From the sense of the Church it seems altogether necessary to say that this sacrament, ex opere operato, immediately indeed does not remit all punishments, but according to the measure which Christ determined when instituting the sacrament, provided the necessary disposition of the recipient is present; then, however, this sacrament ex opere operato confers actual graces by which the sick man can obtain for himself remission of all temporal punishments which delay entrance into eternal glory, by eliciting salutary acts and by acquiring indulgences.

3. Remission of mortal sin which cannot be destroyed by another means, provided attrition is had concerning it. For both the words of the Apostle James and the words of the sacramental form are altogether universal; for this reason they are not to be restricted to venial sins alone without manifest reason. But since this

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1037. Cf. Suarez, disp. 40, sect. 1, n. 8 ss.

sacrament was instituted not per se first but only per se secondarily for destroying mortal sins, it remits these only if they cannot be remitted either by confession or by contrition.

a. That this effect is secondary is clear from the fact that the sacrament of penance was primarily instituted for destroying all mortal sins whatsoever. Therefore this sacrament was instituted not for destroying mortal sins simply, but only those which can no longer be destroyed through penance from whatever cause, while the obligation of confessing them, if this can be done, always remains.

b. Therefore he who is guilty of mortal sins and indeed cannot confess, but can elicit contrition, is bound to this before extreme unction, both because this means of destroying mortal sins is available and because extreme unction is a sacrament of the living. Hence it is not licit knowingly to receive it in the state of mortal sin.

c. Therefore he who is guilty of mortal sins but lacks the actual use of reason, likewise he who has actual use of reason but invincibly does not know that he is constituted in mortal sins, or invincibly thinks that he is contrite when he is not, obtains remission of mortal sins through extreme unction, provided he is attrite. But since this doctrine is morally certain, it is easily clear that for a dying man deprived of his senses extreme unction is a far more secure means of salvation than sacramental absolution itself.[1038]

4. Health of body likewise follows from the reception of this sacrament not per accidens but by the force of the institution; nevertheless, not always, but only when it is expedient for the salvation of the soul, and therefore conditionally. That this sacrament was instituted also for restoring health of body is gathered both from the words of St. James, the prayer of faith shall save the sick man, and from the Council of Trent, which counts also this among the effects of extreme unction: "and health of body sometimes, where it shall have been expedient for the salvation of the soul, the sick man obtains."[1039]

a. From the added restriction, if it is expedient for the salvation of the soul, it is understood why that effect, although it is produced ex opere operato, nevertheless does not always and infallibly follow. For the secondary effect depends on the primary, which is the salvation of the soul, so that the secondary does not follow if it impedes the primary.

b. The sacrament does not work this effect suddenly after the manner of a miracle, but because by its supernatural force it helps and directs natural and free causes so that they effect health. Others derive this effect from the overflow of spiritual strengthening into the body; for they judge that supernatural strengthening of the soul has influence in producing health of body.[1040] Therefore the sacrament cannot produce this effect if health then cannot be restored through natural means but only by miracle. Therefore it is expedient that this sacrament be received as soon as the danger of death begins, so that there may be greater hope of recovering health by the force of the sacrament.

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431. When It Produces Its Effect. More commonly theologians had taught that this sacrament produces its effect only at the last anointing. For they thought that the individual anointings by themselves alone did not have the character of a sacrament, but that all the partial anointings of the senses together with their forms were necessary for the perfect character of the sacrament. But after the recent declaration of the Church (n. 434), from which we learn that one anointing on some sense suffices for producing the essential effect of the sacrament, it now seems that this question can be determined thus. Each anointing with its form

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1038. Cf. Suarez, disp. 41, sect. 1, n. 19.

1039. L. c., c. 2.

1040. Cf. Kern, l. c., p. 205 ss.

completely and perfectly signifies the effect of the sacrament, and therefore also produces it. Therefore by the first anointing the sacrament with its essential effect has already been conferred; then the following anointings increase and perfect the grace of the sacrament, especially if meanwhile the sick man has procured for himself a greater and more perfect disposition, in almost the same way in which, according to some theologians, in the most holy sacrament of the altar the reception of one species already suffices for perceiving the essential effect of the sacrament; then the reception of the other species increases and perfects this effect, especially if the communicant meanwhile has disposed himself better.

Note. Above (n. 8) we called the reviviscence of extreme unction probable. There are those who say that the reviviscence of this sacrament is plainly certain.[1041] Their assertion has as much force as this argument has: Every sacrament validly conferred, even without the effect of grace, produces something in the recipient; this, however, is a right or title to the effect of grace, the obstacle having been removed afterward, if the recipient is still capable of it.

Question Two.. Concerning the Matter of Extreme Unction.

432. The Valid Remote Matter of extreme unction is oil consecrated by the bishop with a special blessing.

1. Oil by necessity of the sacrament must be from olives; for both by common usage and by the sense of the Church, by the name of oil nothing else is understood except oil of olives. Moreover in the decree of Eugene IV for the Armenians it is expressly said that the matter of this sacrament is olive oil.[1042]

2. The oil must necessarily be blessed by a bishop. Therefore an anointing conferred with oil blessed by a simple priest without special permission of the holy see, and still more with oil not blessed at all, is of no value.

a. Both the words of Eugene IV and the words of the Council of Trent, by which it is expressly affirmed that the matter is oil blessed by a bishop, exclude every doubt in this question. The Council of Trent moreover adds that the Church learned from apostolic tradition the matter of this sacrament, namely oil blessed by a bishop,[1043] by which words it signifies that this matter was determined by Christ himself. Therefore the Church declared the contrary opinion rash and proximate to error,[1044] and never permitted, not even in a case of extreme necessity, that, oil blessed by a bishop being lacking, the sacrament of extreme unction be administered with oil blessed by a simple priest who had not been delegated for this.

b. Nevertheless oil blessed by a simple priest from a special delegation of the supreme pontiff can be used; just as in the Greek Church oil blessed by a presbyter is generally used, with permission of the Roman pontiff. The blessing of a bishop is ordinary; that of a delegated priest is extraordinary.[1045]

3. In order that the oil certainly be valid matter of this sacrament, it must be blessed by a special blessing, that is, in order to extreme unction; for by this special blessing the matter of this sacrament is constituted. But other oil blessed by a bishop constitutes probably only valid matter.

That by force of precept it must be blessed by a special blessing is clear from the new Code, which in canon 945 cited above says that oil must be blessed by the bishop for this, that is, in order to this sacrament. But the

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1041. Gihr, p. 94 ss.; Kern, l. c., p. 372 ss.

1042. Denzinger-Bannwart, n. 700.

1043. Sess. 14, c. 1, *De extr. unct.*

1044. Holy Office, January 13, 1611, under Paul V, and September 14, 1842, under Gregory XVI.

1045. All these things are confirmed by Cn. 945: "The oil of olives to be used in the sacrament of extreme unction must be blessed for this by a bishop, or by a presbyter who has obtained the faculty of blessing it from the Apostolic See."

question whether this is required for the value of the sacrament is not solved by these words; therefore the opinion remains only probable that oil must be blessed by a special blessing for the value of the sacrament.

Hence in a case of necessity, oil of the sick being lacking, the sacrament is to be conferred conditionally with another oil blessed by a bishop; but afterward, if oil of the sick can be had, the sacrament is to be repeated conditionally. This must also be done if by error the priest used another oil.

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433. The Licit Remote Matter of this sacrament is oil blessed in the same year by the bishop of the diocese.

1. Blessed in the same year: for according to the Roman Ritual the oil must be renewed each year after the old has been burned, in a lamp burning before the most holy sacrament. This precept indeed seems to be grave. But if new blessed oil cannot be had, it is licit to use old oil.[1046]

If the oil seems not likely to suffice within the year and no other blessed oil can be had, according to the Ritual another unblessed oil can be mixed with it, but in a lesser quantity; indeed the mixing can be renewed more often, provided that the part of oil mixed in is always less than that part into which it is poured.[1047]

2. By the bishop of the diocese, and when the see is vacant by another neighboring bishop, and indeed on Thursday in the Lord's Supper. Therefore to use oil, without necessity, which was not blessed by one's own ordinary is against the precept of the Church, which seems to some to be grave.[1048]

434. The Proximate Matter is the anointing of the sick man with oil blessed by the bishop, as the Apostle has it: anointing him with oil.

The Apostle indeed does not determine the parts of the body which are to be anointed, nor had the Church up to this point defined anything on this matter; but recently, both from the declaration of the holy see[1049] and especially from the new Code, it is clear how many anointings are required for the value of the sacrament.[1050]

1. For the value of the sacrament, one anointing on the forehead of the sick man certainly suffices.

It will help to know the arguments of the theologians who tried to demonstrate that one anointing suffices, because they shed much light on the whole question: a. For the essence of this sacrament an anointing of the sick man is required, just as for the essence of baptism a washing of the body is required. But for the value of baptism one washing suffices; therefore by equal reason for the value of extreme unction one anointing suffices. b. That several parts of the body are to be anointed is gathered from the precept of the Church, not from the institution of the sacrament, because sometimes more and sometimes fewer parts, and not always the same parts, are prescribed to be anointed.[1051] To the argument of those denying it: Anointing signifies the perfect spiritual healing of man; but it does not signify this unless all five senses are anointed, since they are so many origins and roots of sins. To this argument they respond: Since the head is the seat of all faculties, and from the head all the senses, even internal senses, flow, by the anointing of the head or forehead perfect spiritual healing is suitably, not to say more suitably, signified.

2. By precept of the Church five parts of the body must be anointed: the eyes, ears, nostrils, mouth, and hands.

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1046. Cn. 734.

1047. *Rituale rom.*, tit. 5, c. 1, n. 3; S. C. C., September 25, 1862. Cn. 734, 2.

1048. Holy Office, September 14, 1842; January 10, 1850. Cn. 734, 1.

1049. Holy Office, April 26, 1906; March 9, 1917.

1050. Cn. 947, 1: In a case of necessity one anointing in one sense, or more correctly on the forehead, suffices.

1051. In the Greek Church anciently three parts of the body were anointed: the forehead, chin, and both cheeks; now they anoint the forehead, chin, both cheeks, breast, hands, and feet.

Concerning the anointing of the loins, although the most recent edition of the Ritual says: the anointing of the loins in women is always omitted for the sake of modesty,[1052] nevertheless the new Code simply decrees: the anointing of the loins is always omitted.[1053] The anointing of the feet can be omitted for any reasonable cause.[1054]

Therefore, that the sacrament be administered licitly, the anointing at least of the five senses is necessarily required; namely, the eyes, ears, nostrils, mouth, and hands are to be anointed. Nevertheless, in a case of necessity, the sacrament can and must be administered with one anointing on some sense, or better on the head, from which the nerves of all the senses descend, and indeed absolutely, because its value is already established.

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435. How the Anointings Are To Be Made. The anointings must be made: a. with the right thumb; b. in the manner of a cross; c. on both organs, beginning from the right; d. with the order of the senses prescribed in the Ritual observed.

a. Outside a case of grave necessity, the anointings are not to be made either with another finger or with a brush, and a contrary custom, if it flourished anywhere, would have to be removed.[1055]

Nevertheless, nothing prevents the anointings in a case of necessity, e.g., in time of plague, from being made by means of a brush or little rod, afterward to be burned, because in this sacrament, as in confirmation, imposition of the hand is not required, and therefore neither is immediate anointing by the hand of the minister. Yet according to the judgment of the physicians now living, anointings can always be made with the finger itself without danger of contagion.

b. That the anointing must be made in the form of a cross is not required by the essence of the sacrament, but by precept of the Church; for nowhere, neither in the Council of Florence nor in Trent, is this indicated. Therefore in a case of necessity the anointing can be made also by a simple touch; but without necessity the prescribed mode is not to be omitted.[1056]

c. It is not required by necessity of the sacrament, but only by necessity of precept, binding gravely indeed, that the anointing be made in both organs of a sense, because the whole sense is had in one organ.

d. Likewise only by necessity of precept, and not binding gravely, is it required that the order prescribed in the Ritual be observed among the different senses, and that the anointing begin from the right organ rather than from the left. Finally, those who lack some sense, as the blind from birth, nevertheless are to be anointed in its organs; and those who lack the organ of a sense are to be anointed in the nearer part with the same form of words.

Question Three.. Concerning the Form of Extreme Unction.

436. The Form of Extreme Unction is this: Through this holy anointing and his most loving mercy may the Lord forgive thee whatever thou hast sinned through sight (hearing, smell, taste and speech, touch, walking). It is a prayer signifying the effect of the sacrament.

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1052. Tit. V, c. 1, n. 15.

1053. Cn. 947, 1.

1054. Cn. 947, 3.

1055. S. C. R., May 9, 1857, n. 3051. Cn. 947, 4.

1056. Cn. 947, 1: "The anointings are to be performed accurately with the words, order, and mode prescribed in the ritual books." Cf. *Rituale rom.*, tit. V, c. 2, n. 8.

In this form these things are essential: through this anointing may the Lord forgive thee whatever thou hast sinned; for in these all things are had which must be expressed through the form of this sacrament: a. the sacramental action: anointing; b. the proper effect of this sacrament: may he forgive, etc.; c. the deprecatory form, for it is required for the essence of this sacrament that the form in some way, at least formally, be deprecatory: the prayer shall save the sick man.

The word holy and those other words, through his most loving mercy, do not pertain to the essence. Indeed it is not necessary that the senses be named either specifically or in general, since express mention of them is lacking in many forms, and especially in the Greek form and in the form recently approved by the holy see.[1057]

437. Concerning the Form To Be Used in a Case of Necessity. 1. In a case of necessity, where on account of danger of delay extreme unction must be administered as quickly as possible, the dying man is to be anointed on the forehead with this form used: Through this holy anointing may the Lord forgive thee whatever thou hast sinned. Amen.

The holy see approved this form as sufficient in a case of necessity (n. 434). By this declaration it is clear: a. that for the value of extreme unction it is not required that the senses be named either in general or individually; b. that one anointing on the forehead, or on some sense, of the sick man suffices for the value of extreme unction, and it is not necessary that the individual senses be named either explicitly or implicitly, or that the individual senses be anointed; for by one anointing the sick man is judged to have been anointed.

2. If the sacrament in danger of death has been conferred by one anointing, afterward when the danger has ceased the individual anointings are to be supplied absolutely, not because the value of the sacrament is doubtful, but for the greater spiritual utility of the sick man.[1058]

a. The individual anointings are to be supplied not from necessity of the sacrament, but from precept of the Church; for since the cited decrees and the Code of Canon Law say that one anointing on the forehead of the sick man suffices, certainly for producing the essential effect of the sacrament, there can be no doubt concerning its validity.

b. The anointings are to be supplied not conditionally but absolutely, because they ought to exercise their force not in the case in which the first anointing perhaps was invalid, but in every case, even if the first anointing was valid and efficacious. But the effect which the individual anointings produce is gathered from those things which were said above (n. 431).

438. Concerning the Rite of Extreme Unction. a. If extreme unction is to be administered to several persons at the same time, the prayers which are not joined with actions are to be said only once in the plural, if the change can conveniently be made; but the actions with the prayers joined to them are to be repeated over each one. Therefore if extreme unction is conferred on several persons, the imposition of the hand with the prayer: Let it be extinguished, and then the anointings with their forms, are to be repeated over each one; but the other prayers can be said only once over all in the plural.

b. If a priest fails during the anointings, another ought not to repeat the anointings already made, unless a notable time, that is, a quarter of an hour, has already passed; but it suffices that he add those which are still lacking. Indeed, the administration of this sacrament would not be invalid, but outside a case of necessity in the Latin Church gravely illicit, if it were done by several priests at the same time in such a way that one anoints one part of the body, another another part, pronouncing the form appropriate to that anointing.

Notes

1057. Cf. Chr. Pesch VII, n. 531 ss.

1058. Holy Office, March 9, 1917. Cn. 947, 1.

Question Four.. Concerning the Minister of Extreme Unction.

439. The Minister of Extreme Unction is every priest and only a priest, which was expressly defined by the Council of Trent;[1059] for St. James had said that the priests of the Church should be brought in, who should pray over the sick man.

1. Every priest can validly confer the sacrament of extreme unction; for to administer this sacrament validly jurisdiction is not required, but only the power of order, which belongs to every priest, even one excommunicated, suspended, or degraded.

2. The ordinary minister is the parish priest of the place in which the sick man lives; but in a case of necessity, and with the at least reasonably presumed permission of the same parish priest or ordinary, any priest can administer this sacrament.[1060]

a. The simply reserved excommunication which up to this point a regular incurred who, outside a case of necessity, administered this sacrament without the permission of the parish priest or ordinary, has been removed by the new Code.

b. In a case of necessity, namely if the parish priest is absent, or unjustly refuses to minister the sacrament, or is bound by excommunication or suspension, any priest can, from the presumed permission of the bishop, and from charity also ought, to administer this sacrament.

3. To regulars and to those who are of their household extreme unction is conferred by the regular superior, or by him whom he shall have deputed. Regulars can administer this sacrament also to those who remain in their house day and night for the sake of hospitality or infirm health.[1061]

440. Concerning the Mode of Administering. This sacrament must be administered according to the mode described in the Roman Ritual. On this matter the following must be noted:

1. To administer it without any sacred vestment, that is, without surplice and stole, is a grave sin, except in a case of necessity in which otherwise the sick man would die without this sacrament.

2. To omit either all the prayers prescribed in the Ritual or a notable part of them is a grave sin, except again in a case of necessity.

3. To administer this sacrament without a light is a light sin; there are, however, those who think this is no sin.[1062]

4. To omit the sign of the cross to be made in the individual anointings is venial.

5. To administer the sacrament without a minister, even where a minister could be had, probably is not a sin.

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441. Obligation of Ministering Extreme Unction.[1063] 1. He who is pastor is bound from office or from justice, and indeed under grave obligation, to minister this sacrament, either by himself or through another, to his subjects who ask for it, unless a just cause excuses him. And he is bound to this even with grave inconvenience, indeed with danger of life, if this sacrament is the only means of eternal salvation, which

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Notes

1059. Sess. 14, c. 3 and can. 4, *De extr. unct.* Cn. 938, 1.

1060. Cn. 938, 2.

1061. Cn. 514, 1.

1062. Cf. Gury-Ballerini II, n. 498, note.

1063. Cn. 939.

happens when the sick man is judged to be in the state of mortal sin, if, for example, he has not confessed for a long time, or he could be absolved only conditionally, as one destitute of his senses.

Therefore in time of contagious disease the parish priest is not bound to anoint the sick who were able to confess, if this cannot be done without danger of life; and because probable danger of life from contagion in this case is always present, it can be said absolutely that the parish priest is not bound to administer this sacrament. But to those who certainly could not receive valid absolution and cannot provide for themselves, he is bound to administer this sacrament even with danger of contagion.

Indeed from the Roman Catechism (q. 9) the parish priest who delays the administration of this sacrament until the last time of life, when the sick man is already beginning to be deprived of the use of senses and reason, sins gravely. For the Catechism judges that grave harm is brought to the sick man if the administration of this sacrament is deferred until that time when death is now near at hand; for besides the fact that the sick man is exposed to danger of dying without this sacrament, he is deprived of several effects of it, namely special help in the last agony and perhaps also healing of the body. Therefore, "With all zeal and diligence care must be taken that the sick receive it while they are fully in possession of themselves."[1064]

2. He who is not pastor, from charity and therefore in common necessity under light obligation, but in extreme necessity, namely if the sick man who is in mortal sin would otherwise die without any sacrament, under grave obligation, is bound to minister this sacrament; for since extreme unction in this case is the only means of salvation, charity under grave obligation requires that this be furnished to the neighbor.

Question Five.. Concerning the Subject of Extreme Unction.

442. The Subject of extreme unction is every baptized man who has attained the use of reason and is in danger of death from disease or old age.[1065]

For the valid reception of this sacrament, three conditions are required in the subject:

1. That the one to be anointed be baptized. This sacrament can also be conferred on an adult immediately after baptism has been received absolutely and duly, because the effect of this sacrament is both to strengthen the sick against the temptations of the devil and to wipe away the remains of sins; but an adult recently baptized can perceive both of these effects.[1066]

2. That he has attained the use of reason, or that he is capable of sin; for before the use of reason man is not yet capable of the effects of this sacrament, which was instituted as the complement of penance for wiping away the remains of sins. Moreover the form of the sacrament does not apply to one who has not yet attained the use of reason, since he could not yet have sinned through the senses; but as soon as man is capable of sin, he is also capable of this sacrament.

a. Therefore children before the use of reason are not capable of this sacrament; but as soon as they are capable of sin, they are altogether to be anointed, although they have neither approached first communion nor confession, nor completed the seventh year. And in doubt concerning the use of reason they are to be anointed conditionally: if thou art capable.[1067]

Notes

1064. Cn. 944.

1065. Cn. 940, 1.

1066. S. C. de prop. fide, September 26, 1821.

1067. Benedict XIV, *De synodo*, l. 8, c. 6, n. 2. Cn. 941.

b. Those perpetually insane are not capable of this sacrament; nevertheless those who have had lucid intervals are to be anointed absolutely, and those who probably have had them are to be anointed conditionally.

443. 3. That he is in danger of life from disease; for the word of the Apostle: is any man sick, and that other word: shall save the sick man, if not of itself, certainly from the interpretation of the Church, signifies a sick man lying dangerously ill.

a. Grave disease is judged to be that which of itself and by its nature can have a lethal outcome and has progressed to that point at which it can probably be judged that it will bring death. As soon as this probable danger of death is judged to be present, extreme unction can be conferred, because the subject is capable of it; but it ought not yet immediately be given. It ought to be given at least when death with moral certainty is now imminent.[1068] Nevertheless, in order to perceive all effects more certainly, it is expedient that the sacrament be received as soon as the danger of death is judged to be present.

b. Therefore if extreme unction is conferred on a sick man who is thought to be in danger of death, but in reality is not, the sacrament is invalid; for the capable subject from the institution of Christ is a sick man who in reality is in danger of death, just as the capable subject of absolution is a penitent who in reality is disposed.[1069]

If a healthy man, or one oppressed by only a light infirmity which is not joined with probable danger of death, is anointed, the sacrament is invalid, as conferred on an incapable subject.

Likewise those who are constituted in danger of death not from disease but from another cause can receive this sacrament neither licitly nor validly. Therefore those are not to be anointed who are soon to be beheaded; soldiers who are about to enter battle; those who are about to undertake a voyage, even a very dangerous one; women who are about to give birth, even for the first time.

Those who undergo a difficult surgical operation can be anointed before the operation if they are already laboring under a dangerous disease, but not if the operation itself only then brings the danger of death.

c. It suffices, however, that the infirmity will probably have a lethal outcome, even if the danger is still remote. Therefore a sick man who labors under hectic fever or a similar long-lasting disease can be validly and licitly anointed, even if it is foreseen that he will still live for several months or even a whole year.

d. Those can be anointed for whom danger of death is imminent from a wound received, from poison drunk, or from old age without another infirmity; for old age itself is a disease. Therefore when viaticum can be ministered to a sick man who is not fasting, extreme unction can also be given to him.

e. In positive doubt whether the infirmity is dangerous, extreme unction can be given, but conditionally: if thou art capable, lest the sacrament and its effect be frustrated.

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444. In Order That Extreme Unction Can Be Received Licitly and with Fruit, the state of grace is required. Therefore these things are to be observed:

a. Confession is to be premised if the sick man is in the state of mortal sin; and if the sick man cannot confess, sorrow with at least conditional absolution is to be premised.

Notes

1068. St. Alphonsus, n. 714.

1069. Cf. Reuter, n. 438.

If the sick man cannot confess, in order to perceive the effect of the sacrament he ought to try to elicit at least putative contrition, since extreme unction is a sacrament of the living. But if it happens that he elicits only attrition, the sacrament does not lack its effect, because in this case it also confers first grace (n. 430).

alpha. Although the state of grace procured by contrition before reception of extreme unction suffices if only the nature of the sacrament is considered (n. 42), nevertheless, if it can be done, confession must be premised, because for one existing in mortal sin confession in danger of death is necessary by divine law (221). Moreover the Roman Ritual has these words: "From the general custom of the Church this is to be observed: if time and the condition of the sick man permit, before extreme unction the sacrament of penance and of the Eucharist are to be provided."[1070]

beta. Although a dying man is to be absolved before the administration of extreme unction, because extreme unction is a sacrament of the living and the complement of the sacrament of penance, and because the Church so commands, nevertheless this is not required with such necessity that it is not licit to anoint the dying man before absolution where there is deserved fear that time for administering both sacraments will be lacking.

b. From the present practice of the Church, viaticum is to be administered before extreme unction; this precept, however, does not oblige under grave obligation, and therefore for a just cause the order can licitly be inverted. Another practice flourished in the Church in antiquity, since extreme unction was administered to the sick immediately after completed sacramental confession. The Roman Ritual (l. c.) decreed that the present practice is to be observed.

c. This sacrament is not to be conferred on those who, impenitent, persevere contumaciously in manifest mortal sin.[1071]

Therefore one who, while in possession of himself, contumaciously rejected the sacraments of the Church is not to be anointed when he has lost the use of senses or reason; for there is no even probable foundation for supposing the intention of this sacrament.

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445. When It Is To Be Given Conditionally. As often as doubt exists concerning the existence of a condition which is necessarily required for valid administration, extreme unction, no differently from the other sacraments, can and must be administered under the condition that that thing is present: if thou livest; if thou art baptized; if thou hast the use of reason or at some time hast had it; if thou art gravely sick; if this matter is valid; if thou hast not yet been anointed; if thou hast sufficient intention. But as often as there is doubt concerning the existence of the disposition on which fruitful administration depends, extreme unction is to be given not conditionally but absolutely; for, when the obstacle of bad disposition has been removed, extreme unction probably, others say certainly, revives. But if under the condition if thou art worthy it is conferred on an unworthy man, then, as null, it cannot revive.

a. Nor should it be thought illicit to confer extreme unction absolutely where the disposition of the recipient is doubtful and therefore the sacrament is exposed to frustration of its effect, if the sick man is in reality indisposed. For because the sacraments are for men, it is licit to confer a sacrament with danger of frustrating the effect not only when the sacrament is the only means of procuring certain salvation of the soul, but also when it brings great utility to the sick man.

b. To the sick who, while in possession of themselves, had an implicit or interpretative intention of this sacrament, it is to be provided absolutely, even if afterward they lost the use of senses or reason.[1072]

Notes

1070. *Rituale rom.*, tit. 5, c. 1, n. 2.

1071. Cn. 942.

c. Canon 942, which to some seems to offend against the doctrine and practice admitted up to this point by all, is rightly interpreted by Alb. Schmitt as affirming that there the question is not of disposition but of intention, and therefore in doubt the sacrament must be conferred conditionally. For the reason on account of which the sacrament is not to be conferred on those contumaciously impenitent consists in defect of intention.[1073]

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446. The Obligation of Receiving the Sacrament of Extreme Unction cannot be said to be grave; for no precept exists of receiving this sacrament.[1074] But the negligence by which someone, when occasion has been given, does not receive this sacrament from mere sloth is certainly a venial sin.

a. And indeed a precept of receiving extreme unction cannot be gathered: alpha. from the nature of the thing, since it is not of itself necessary for salvation; nor beta. from the words of St. James: let him bring in the priests, which words of themselves ought not to be taken as preceptive any more than the words immediately preceding; but the Church has never declared them to be preceptive; nor gamma. from the will of the Church, which has never given such a precept, for the words of Cn. 944, no one may neglect it, do not contain a precept obliging under grave obligation. Cf. Concerning confirmation, n. 92. Nor finally delta. from the institution of this sacrament; for it cannot be affirmed that it is for the dying the only ordinary means of procuring salvation, and that God denies to him who neglects receiving this sacrament the necessary graces by which he is helped in the last struggle. These things are confirmed from what the Roman Catechism has.[1075]

Concerning the obligation of receiving extreme unction, up to this point the same question was debated as concerning confirmation. The new Code deliberately abstained from settling it, and concerning each sacrament says only: no one may neglect it. Therefore, since the state of the question has not been changed by these words, each opinion of authors retains its probability.

A light obligation of receiving this sacrament is to be presumed from the precept of charity, by which everyone is bound to procure for himself so useful a help in extreme danger. Yet he who refuses to receive this sacrament when occasion has been given can sin gravely either by reason of scandal or by reason of contempt.

b. Although the sick man is not bound under grave obligation to receive extreme unction, nevertheless the parish priest: alpha. is bound under grave obligation to administer it to one asking expressly or interpretatively, especially where it would be the only means of salvation, because the parish priest by force of his pastoral office is bound under grave obligation to procure for his subjects means not only necessary but also very useful for salvation; beta. either by himself or through another is bound to warn the gravely sick man concerning the danger and to induce him to receive the sacrament.

c. To the question what obligation there is of taking care that extreme unction be administered to the sick man, a distinction must be made: alpha. those who, by some special title of office or piety, have spiritual care of the sick man, such as superiors, parents, spouses, can be bound even under grave obligation to warn the sick man about the danger and to procure its administration if he asks for it; beta. those, however, who do not have spiritual care of the sick man, such as doctors, nurses, and other domestics, are not bound under grave obligation, except in the case in which this sacrament is necessary for the sick man's salvation. For these are bound only from charity to procure this sacrament for the sick man; but their obligation of charity

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Notes

1072. Cn. 943.

1073. *Linz.-Quartalschr.* 1918, p. 419.

1074. St. Thomas, *Suppl.* q. 29, a. 3, ad 1; Suarez, q. 44, sect. 1; St. Alphonsus, n. 733, who says that the negative opinion is sufficiently probable.

1075. Part II, c. 6, q. 14.

toward the sick man cannot be greater than the sick man's obligation of charity toward himself, who is not bound under grave obligation to procure it for himself.

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447. Concerning the Iteration of Extreme Unction. This sacrament in the same infirmity and in the same danger of death can be administered only once, because the efficacy of the sacrament lasts as long as the same danger of death lasts in which it was conferred. But it can, or even ought to, be repeated as often as the sick man falls into a new danger of death.[1076]

a. There are those who say that this sacrament can be validly repeated in the same infirmity and in the same danger of death, and that this was in reality done in antiquity; nevertheless, from the present discipline of the Church, it cannot licitly be repeated in the same danger of death. Whatever may be said about this matter, this is certain: the sacrament of extreme unction is given to those lying dangerously ill so that it may provide them the helps which they need in that state; therefore its effect endures until either they have died or have been freed from the danger of dying from that disease.

b. If the sick man received the sacrament of extreme unction validly indeed, but sacrilegiously and therefore without effect, it probably revives when the obstacle has been removed, others affirm that it certainly revives, and nevertheless in the same danger of death it cannot be repeated. For the Ritual, l. c., n. 14, says: "In the same infirmity this sacrament ought not to be repeated unless it is long-lasting"; and Cn. 940, 2 has these words: "In the same infirmity it cannot be repeated unless the sick man has recovered and has fallen into another danger of life." Since in this case the obstacle has been culpably placed, sacramental confession, and, if this cannot be made, perfect contrition, is required for removing it (n. 8).

1. In a new dangerous infirmity, namely if the sick man has recovered from a dangerous disease and has fallen into another likewise dangerous one; and in this case indeed the sacrament ought to be repeated.

2. In the same infirmity, if the sick man has recovered either certainly or at least probably from the danger of death and has fallen into another danger of death, as sometimes happens in phthisis or dropsy; and in this case indeed the sacrament can be repeated.

3. But in the same infirmity the sacrament is not to be repeated as long as certainly the same danger of death endures. But if, with a new disease coming on, the danger of death is increased, it is judged the same danger, not a new one.

The same danger is judged to endure if the sick man has been better only for a short time, namely for some days, unless from the nature of the disease another judgment is established. On the contrary, the danger is judged to have ceased if the sick man in a long-lasting infirmity has been better for a notable time, namely for a month. In doubt whether the danger of death is the same or another, the decision should rather stand for repetition, "because repetition is more conformed to the ancient custom of the Church, and through it a new spiritual help and alleviation will come to the sick man."[1077]

Therefore if it is certainly established that the sick man after anointing has recovered from the danger, as can happen in asthmatics and consumptives, he can be anointed again when a new danger returns after even a brief interval, one week.

But if it is not certain that the danger ceased after the anointing, when a new danger returns he cannot be anointed unless a notable time has elapsed, namely one month after the first anointing.

Notes

1076. Cf. *Rituale rom.*, tit. 5, c. 1, n. 14; Council of Trent, sess. 14, c. 3, *De extr. unct.* Cn. 940, 2.

1077. Benedict XIV, *De synodo*, l. 8, c. 8, n. 4.

Book VII.. Concerning Order.

[1078]

Question One.. Concerning the Nature of Order.

Article One.. Concerning the Nature Itself of Order.

448. Definition. Order is a sacrament by which, through the imposition of the hand and the words of the bishop, spiritual power is conferred and at the same time grace for duly carrying out sacred duties.

a. The name of order is taken in a twofold sense, active and passive. Actively it signifies that sacred action through which spiritual power is conferred, and in this sense it is also called ordination. Passively it can signify two things: first, the effect produced by ordination, namely sacred power; then also the company of those who in the Church are furnished with this sacred power and constitute the hierarchy or hierarchical order.

b. The proposed definition sets forth only the order which is a sacrament; but by usage received from all, under the name of orders there are comprehended also orders which are not sacraments. St. Thomas proposes a definition which sets forth all orders, both sacramental and non-sacramental: "A certain seal of the Church, an ecclesiastical rite, by which spiritual power is handed over to the one ordained."[1079]

c. The spiritual power which is conferred in ordination is indeed manifold, but the principal one is the power of confecting and administering the sacraments, among which the Eucharist is preeminent. To this power several others are added, such as the power of consecrating, blessing, etc. All orders and their manifold power are in some way referred to the Eucharist, either so that it can be confected and distributed, or so that the faithful may be duly prepared for receiving it.[1080]

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449. Number of Orders. In the Latin Church seven orders are numbered: the ostiariate, lectorate, exorcistate, acolyte, subdiaconate, diaconate, and priesthood, which is twofold: the lesser priesthood, which is called the presbyterate, and the greater priesthood, which is called the episcopate. The four prior orders are called minor orders; the others are called greater and sacred. Tonsure is premised to orders.

a. In the Greek Church now before the presbyterate only the diaconate, subdiaconate, and lectorate are conferred, of which the two latter are considered minor orders. If a cleric who received minor orders in an oriental rite is going to receive sacred orders in the Latin rite, he must first receive the omitted orders, Cn. 1004.

b. The greater orders are called sacred both because their acts are concerned with consecrated matter, the presbyterate and diaconate with the body and blood of Christ, the subdiaconate with consecrated vessels; and because annexed to them is the obligation of preserving celibacy and of reciting the divine office.

c. All orders, from the unity of the end to which they are referred, constitute only one sacrament, since all are ordered to the one sacrament and sacrifice of the Eucharist.

Notes

1078. St. Thomas, *Supplementum*, q. 34-40; St. Alphonsus, l. 6, n. 734-830; Sporer-Bierbaum, *Theologia sacram.* III, tract. 7, n. 197-337; Coninck, *De sacramentis* II, disp. 20; Gasparri, *De sacra ordinatione* (Parisiis: Delhome, 1893); Ballerini-Palmieri, *Opus theolog. moral.*, 3rd ed., V, n. 882 ss.; Chr. Pesch, *Praelectiones dogmaticae* VII, *De sacramento ordinis*, n. 383-678; Fr. Wieland, *Die genetische Entwicklung der sog. Ordines minores in den ersten drei Jahrhunderten*, 7th Supplement-Heft of the Roman Quarterly (Freiburg: Herder, 1897); Gutberlet, "Der sakramentale Ritus der Priesterweihe," *Zeitschrift fur k. Theologie* 1901, p. 621 ff.; Rett, *Fragen uber Materie, Form und Spender der Sakramente*, Weidenauer Studien, Bd. 4, p. 273; Van Rossum, *De essentia sacramenti ordinis* (Friburgi: Herder, 1914).

1079. *Supplementum*, q. 34, a. 2.

1080. St. Thomas, q. 37, a. 2.

Article Two.. Concerning the Effects of Order.

450. Concerning Effects in General. 1. There are distinguished the orders which are sacraments: the diaconate, presbyterate, and episcopate. Their effects are:

a. An increase of sanctifying grace, of virtues, and of gifts, since order is a sacrament of the living;

b. Sacramental grace, or a right to actual graces, by which the office received and its obligations can be duly fulfilled;[1081]

c. An indelible character, by which the soul is assimilated to Christ, the supreme priest and pastor of souls;[1082]

d. An indelible spiritual power, by which the one ordained can exercise the functions of the order received.

e. Effects which consist in the conferral of sanctifying grace are not obtained except by those who approach ordination worthily; but effects which consist in the impression of character and in the conferral of peculiar power are obtained by all who validly receive order.

f. The sacrament of order generally imprints character. But if it is asked concerning the individual orders whether they imprint character, according to the more common opinion of theologians in any sacrament a new character distinct from the others is imprinted. It is manifest that non-sacramental orders do not imprint character.

2. Other orders are those which are not sacraments: the subdiaconate and the minor orders. Their effects are:

a. Spiritual power for performing certain ecclesiastical functions.

b. Actual graces conferred by force of the prayer of the Church for worthily exercising the power handed over.

Between orders which are sacraments and orders which are not sacraments there is this difference: the former produce an effect of grace ex opere operato, but the latter from the prayers of the Church and from the pious acts of the ordinand himself.

451. Effects of First Tonsure. First tonsure, which is conferred before orders as a disposition to orders, is not numbered among the orders, because through it spiritual power is not conferred, which belongs to the nature of order. Therefore the Council of Trent says that those who are marked with tonsure can ascend to orders.[1083]

From ecclesiastical institution first tonsure produces several effects and communicates great privileges to the cleric:

a. It transfers the tonsured man from the lay state to the clerical state.

b. It confers the privilege of forum, by which he is exempted from the jurisdiction of the secular forum.

c. It confers the privilege of canon, by which it happens that all who strike him injuriously incur excommunication.

d. It makes him capable of an ecclesiastical benefice.

e. It makes him capable of ecclesiastical jurisdiction.

f. It makes him suitable for receiving orders.

Notes

1081. 2 Tim. 1, 6-7.

1082. Council of Trent, sess. 23, can. 4.

1083. Sess. 23, c. 2. Cf. however Cn. 950.

452. Effects of Minor Orders. 1. The four orders which are called minor are not sacraments, but sacramentals, since they are of ecclesiastical institution; for before the third century they had not been instituted. Moreover the Greek Church instituted some, the Latin Church others.

Most scholastics with St. Thomas had taught that the minor orders are sacraments;[1084] but today among theologians the opinion which denies the nature of a sacrament to the minors has become almost common.[1085] Since it is established that the minor orders do not occur in the Church before the third century, and afterward were not everywhere conferred in the same manner and number, some theologians, in order that they can attribute the nature of a sacrament to them, affirm that the minor orders from the institution of Christ are contained in the diaconate, but that the power of separating them from the diaconate and conferring them distinctly was given by Christ to the Church, which indeed the Church in the course of time effected in reality.

2. The power which the individual orders confer:

a. The ostiariate hands over to the ordinand the power of guarding the church and opening and closing its doors, of summoning the faithful to sacred functions, and of keeping off the unworthy, namely infidels, heretics, and excommunicated persons.

b. The lectorate hands over the power of reading the sacred Scriptures publicly in church, of singing the lessons, of teaching the uninstructed the elements of the Christian faith, and of blessing bread and new fruits.

c. The exorcistate hands over the power of imposing hands over the possessed and reading exorcisms approved by the Church for putting demons to flight.

d. The acolyte hands over the power of carrying lights for the sacrifice of the Mass and of ministering wine and water in solemn Mass. Therefore the acolyte is preferred to the other minor orders; for those marked with these minister directly only around the people, although in order to the Eucharist, but the acolyte, since he serves with the deacon and subdeacon in the sacrifice of the Mass, ministers directly to the Eucharistic sacrifice.

The functions of these orders today, ecclesiastical discipline having changed, are partly abolished and partly, with a few exceptions such as exorcisms, are exercised even by laymen.

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453. Effects of Major Orders. 1. Nature of sacrament. It is not certain that the subdiaconate has the nature of a sacrament; for since formerly it was generally counted among the minor orders, only from the eleventh century onward did it commonly begin to be numbered among the greater and sacred orders.

That the diaconate, presbyterate, and episcopate have the nature of a sacrament is certain.[1086]

Whether the episcopate is an order distinct from the presbyterate, or a certain extension and complement of the priesthood itself, is disputed. Nevertheless this is more commonly affirmed: that the episcopate cannot be validly conferred before the priesthood has been conferred; but the other orders certainly can be validly conferred when the preceding ones have not yet been conferred.

2. Their power. a. The subdiaconate hands over the power of ministering at the altar in solemn Mass, solemnly singing the epistle, and washing palls and corporals.

Notes

1084. St. Thomas, 4, dist. 24, q. 1, a. 2, qc. 2; *Suppl.*, q. 35, n. 2.

1085. Cf. Pesch VII, n. 577 ss.

1086. Council of Trent, sess. 23, can. 3.

b. The diaconate hands over the power of immediately ministering to the priest in solemn Mass and in other sacred functions, and of solemnly singing the Gospel. But this power of ministering extends also to the administration of solemn baptism and of holy communion, yet from the permission of the ordinary or parish priest to be granted from a just cause; and the power of publicly singing the Gospel extends also to the power of preaching from the commission of the bishop.

c. The presbyterate hands over power over the real body of Christ, or the power of consecrating, and over the mystical body of Christ, or of remitting and retaining sins, of feeding the faithful people, that is, of administering the remaining sacraments which do not require the episcopal order, of handing on Christian doctrine, and of blessing the people.

d. The episcopate perfects and completes sacerdotal power, because it hands over the power of confirming, ordaining, ruling the faithful people once legitimate jurisdiction has been received, and consecrating things pertaining to divine worship.

Question Two.. Concerning the Matter and Form of Order.

454. Concerning the Matter and Form of Minor Orders. 1. Minor orders are conferred by the delivery of instruments alone. Hence, for minor orders to be conferred validly, the bishop must hand over the instruments to the ordinand, and the ordinand must receive and touch them. Therefore the remote matter is the instruments proper to the individual orders; the proximate matter is their delivery.

2. It must be noted that there is a great difference between orders which are sacraments and those which are not sacraments. For these latter are of ecclesiastical institution, and therefore it belongs to the supreme pontiff to determine the form and mode by which these orders ought to be conferred. Therefore he can change the rite if he wishes, and can supply and heal by his will defects, if any have occurred in ordination. For this reason it is not necessary that the safer things be chosen in the ordination itself, but it is enough that we follow probable things; for if in reality some defect occurs, the Church supplies it, so that the ordination is certainly valid. But in the conferral of those orders which are sacraments, we must altogether follow the safer things; for a defect which renders an order of this kind invalid cannot be supplied by the Church or healed after the fact.

3. Although the minor orders, and probably also the subdiaconate, are not sacraments, nevertheless they too have their own matter and form, on the right use of which their valid conferral depends. Their matter and form certainly consist in those things and words which are prescribed by the supreme pontiff in the Pontifical for the conferral of those orders; for since it belongs to the supreme pontiff to determine them, and since it is certain that he determined matter and form for the individual orders, which are prescribed in the Pontifical, there can be no doubt about this matter.[1087]

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455. Matter and Form of Minor Orders in Species. 1. In the ostiariate the proximate matter is the delivery of the keys of the church, which each one must touch with the right hand while the pontiff says: So act, etc.

Although by the prescription of the Pontifical at least two keys are to be handed over, nevertheless for value one suffices, whatever it may be, whether of a church or oratory or of a profane house, whether metal or wooden.[1088]

2. In the lectorate the proximate matter is the delivery of the book of lessons, which each one touches with the right hand while the pontiff says: Receive and be, etc.

Notes

1087. Cf. Lehmkuhl II, 586 (n. 733), whose observations are altogether worthy to be read attentively.

1088. S. C. R., May 11, 1820; S. C. de prop. fide, September 27, 1843.

The book to be handed over can be a missal, breviary, or volume of holy Scripture;[1089] if a ritual is handed over, the ordination does not seem invalid.[1090]

3. In the exorcistate the proximate matter is the delivery of the book of exorcisms, the ritual, which each one touches with the right hand while the pontiff says: Receive and commit to memory, etc. In place of the book of exorcisms the Pontifical or the missal can be used.

4. In the acolyte the proximate matter is: a. the delivery of the candlestick with an extinguished candle, which matter each one touches with the right hand while the pontiff says: Receive the candle-bearer, etc.; b. the delivery of the empty cruet, which each one touches in the same way while the pontiff says: Receive the cruet, etc. To the words of the bishop they respond: Amen.

From custom the candlestick and candle ought to be touched, and immediately the cruet itself. Nevertheless the ordination would not be invalid if either the candle alone or only the candlestick were touched, and thus the candle mediately, and the cruet only mediately through the basin.

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456. Concerning the Matter and Form of Major Orders. 1. What the matter and form of the individual orders are cannot be determined certainly. But the controversy which is conducted by dogmatic theologians on this matter is of lesser importance for practice, since we must intend that orders be conferred and received certainly validly. Therefore in conferring and receiving these orders it is necessary everywhere to follow the more probable and safer things, both lest the sacrament be exposed to danger of nullity and so that the precept of the Church be observed, which prescribes that all these rites be used under grave obligation.

2. The subdiaconate is conferred by the delivery of instruments alone, and the episcopate by the imposition of hands alone. In the diaconate and presbyterate both occur: the delivery of instruments and the imposition of hands. Whether each matter is required for the essence of the sacrament is disputed. That the imposition of hands alone is the essential matter is urged by these reasons: a. because the episcopate is conferred by it alone; b. because the Greek Church in these orders uses only the imposition of hands; c. because the Roman Church itself used this alone for several centuries. Nevertheless, in order that ordination be certainly valid, both must be used.

The reason why the delivery of instruments is nevertheless considered as an essential rite is that some judge that Christ the Lord did not determine matter and form specifically in the sacrament of order, but left them to be determined by the Church, and that the Church determined this matter and form as essential.

3. The form of the subdiaconate is certainly the words which are uttered by the bishop in the delivery of the instruments, and the form of the episcopate the words which are uttered in the imposition of hands. But in the diaconate and presbyterate they are the words which are uttered in the imposition of hands, and, if the instruments belong to essential matter, also the words which are recited in their delivery.

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457. Matter and Form of Major Orders in Species. 1. The proximate matter of the subdiaconate is twofold: a. the delivery of the empty chalice with the empty paten placed upon it, which each one touches with the right hand while the pontiff says: See, etc.; b. the delivery of the book of epistles, the missal or Bible, which each one touches in the same way while the pontiff says: Receive the book, etc.

Notes

1089. S. C. R., September 27, 1783.

1090. Lehmkuhl, *Casus consc.* II, n. 686.

2. The proximate matter of the diaconate is twofold: a. the imposition of the right hand of the bishop on the head of each ordinand with this form: Receive the Holy Spirit, etc.; b. the delivery of the book of Gospels, the missal or Bible, which each one touches with the right hand while the pontiff says: Receive the power, etc.

3. The proximate matter of the presbyterate is twofold: a. the imposition of the hand of the bishop reciting as form the prayer: Hear us, with the preface which immediately follows; b. the delivery of the chalice with wine and water and of the paten placed upon it with a host, while the pontiff says: Receive the power of offering, etc.

Three impositions of hands occur in the ordination of a priest: a. the first is that by which the bishop extends both hands over the head of each ordinand, saying nothing; b. the second is that by which the bishop, together with the priests, holds the right hand extended over the ordinands, saying: Let us pray, dearly beloved brethren, etc., Hear us, etc., with the preface: Holy Lord, etc.; c. the third is that by which after communion he imposes both hands on the head of each, saying: Receive the Holy Spirit, etc. Whether only one of these impositions, or two and which ones, or all are necessary for the essence of the sacrament, they dispute. Nevertheless this last does not seem to be required for the essence of the sacrament, as appears both from the fact that it is performed after the new priests have already consecrated with the bishop, and from the fact that in antiquity this imposition was not made, but afterward seems to have been added so that by a visible sign it might be shown that the power of remitting and retaining sins is contained in the sacerdotal power conferred on those ordained.[1091]

4. The proximate matter of the episcopate is the imposition of the hands of the consecrator, and the form seems to be the prayer which accompanies this imposition. Although other things, such as the imposition of the book of Gospels upon the neck and shoulders of the one to be consecrated and the words: Receive the Holy Spirit, do not seem essential, nevertheless in practice they must be observed as if they were essential.

a. If in the chalice which in ordination to the presbyterate is handed over to be touched there is no wine, or the wine which is contained there is invalid matter, the ordination is doubtful and therefore must be repeated conditionally. The same must be said if either no host or an invalid host is placed upon the paten to be touched by the ordinand. But if the bread and wine are only illicit matter, the ordination is certainly valid.[1092]

b. In the ordination of a subdeacon and priest, it is required not for the value but only for the liceity of ordination that the instruments, namely the chalice and paten, be consecrated. St. Alphonsus judges (n. 747) that in practice the opinion which requires consecrated vessels is to be followed. Nevertheless, theoretically the opposite doctrine seems true, because by no law are consecrated instruments required for valid ordination, and for the symbolic representation which the Church intends in handing over the instruments, even non-consecrated instruments suffice.[1093]

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458. Concerning Supplying Defects Committed in Ordination. A defect can be committed in ordination because something which pertains to the rite of ordination is either entirely omitted or badly administered.

1. If a defect has certainly been committed, and indeed concerning a rite certainly essential, e.g., concerning the matter or form, the whole ordination is to be repeated absolutely.

Notes

1091. Cf. Gasparri II, n. 1069 and n. 1074.

1092. The Holy Office, July 6, 1898 and January 17, 1900, decreed that ordination was to be repeated conditionally because in the ordination the host upon the paten was lacking; and on January 11, 1899 it decreed the same because a chalice without wine had been handed to the priests being ordained.

1093. Ballerini-Palmieri V, n. 905.

2. If a defect has only probably been committed, or if it has been committed concerning a rite only probably essential, e.g., concerning the delivery or touch of instruments, the whole ordination is to be repeated conditionally. But if that defect is detected during the ordination itself, e.g., before the canon, it suffices that only the omitted rite or the rite previously performed be supplied in the same ordination.

Unless there is a positive doubt concerning a defect committed, the ordained man ought to acquiesce and continue the celebration. Therefore Busenbaum wisely warns: "even if someone fears that he has been invalidly ordained, or does not remember that he touched the sacred vessels, or imagines that he did not touch them, the order is not immediately to be repeated, since mere forgetfulness or fear does not suffice for a prudent and reasonable doubt or probability."[1094] And this is the reason why the holy see responded to the scruple of Fr. Ephrem, namely that he had not touched physically the chalice in his ordination to the presbyterate, that he "could continue celebration."[1095]

3. If the defect has been committed in a rite which supposes that the essential power has already been conferred, such as the third imposition of hands, by which according to some the power over the mystical body of Christ is conferred, supposing the power over the real body of Christ, this part alone must be supplied.

4. If the defect committed is certainly accidental, but grave, it must be supplied as soon as possible; but if the defect committed is light, nothing must be supplied.

a. The matter is judged grave: alpha. the anointing of hands, and indeed according to the opinion of all; according to the opinion of some, beta. also the delivery of vestments.

b. For the anointing of hands, by the prescription of the Roman Pontifical, oil of catechumens must be used. But if by error sacred chrism is used, the anointing is not to be repeated; rather, the priest without repetition of the anointing can be secure in conscience and without anxiety of soul.[1096]

c. A light matter, which therefore even if omitted must not be supplied, is: alpha. the imposition of hands which is made by the priests; beta. the recitation of the canon with the bishop.

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459. Concerning the Imposition of Hands. 1. The imposition of the hand upon the head of the ordinand must be made by physical or bodily touch, but mediate touch suffices, as if the head of the ordinand is covered by a little cap.[1097]

If the hand of the bishop did not physically touch the head of the ordinand, and the defect is detected during the ordination itself, but before the third imposition of the hand, the imposition with physical touch must be supplied, which can be done in the ordination itself. But if the defect is detected only after the third imposition or after the ordination, the whole ordination is to be repeated conditionally.[1098] If in the ordination of the diaconate physical touch was not present, its repetition would have to be made even after the presbyterate had been received.

2. Ordination is to be repeated conditionally if the first imposition of hands was omitted by the bishop;[1099] likewise if the second was omitted, even if the first was made and all the prayers were duly uttered.[1100] But

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Notes

1094. Cf. St. Alphonsus, n. 757.

1095. S. C. R., December 3, 1661, n. 1221.

1096. Holy Office, July 22, 1874.

1097. Holy Office, June 22, 1892.

1098. Holy Office, August 19, 1851; July 4, 1900.

1099. Holy Office, July 4, 1900.

the ordination is valid if the bishop had the hand extended at least immediately before[1101] or immediately after[1102] the prayer: Let us pray, brethren, or extended the hand during the same prayer.

If in ordination the imposition of hands at the prayer: Let us pray, brethren, was omitted, the ordination is valid, provided the repetition of the form and the imposition of hands were made before the delivery of the instruments.[1103]

3. If, after the first imposition of hands has been made, the right hand is not extended by the bishop or by the priests while other priests impose hands, the ordination is valid and nothing must be supplied, provided the extension of the right hand was made while the bishop pronounced the prayer: Let us pray, brethren.[1104]

According to the Roman usage, which the Sacred Congregation of Rites decreed must be observed, the extension of the right hand is to be made as soon as the individual priests have performed the first imposition, not by all at once when all have completed the first imposition. And this extension of hands ceases when the prayer: Let us pray, brethren, ceases.[1105]

4. The ordination is valid even if the assisting priests omit the second imposition of the hand while the prayer or exhortation Let us pray, brethren, is read.[1106]

5. If the bishop erred in pronouncing the words which accompany the third imposition of hands, e.g., by saying: Receive the Holy Spirit; whose sins thou shalt forgive, they are retained, and whose thou shalt retain, they are forgiven, the same imposition with its form must be supplied secretly, either by the same bishop or by another.[1107]

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460. Concerning the Touch of Instruments. 1. In order that the ordination be certainly valid, each must be touched, both the chalice with wine and water and the paten with the host; but it suffices that they be touched only mediately.

For just as the bishop must hand over each matter, so the ordinand must accept each, which the concept of delivery requires. Moreover just as in offering the sacrifice of the Mass each matter must be consecrated, so in ordination each must be touched. S. C. C., May 28, 1796, decreed that an ordination was to be repeated entirely in which the ordained man had touched the paten, but not the chalice. Yet recently two decrees of the Holy Office have been issued: one, May 8, 1895, by which the ordination of a priest who doubted whether he had touched the chalice is declared valid; the other, March 17, 1897, by which the ordination of a priest who had touched the host with the paten, but not the chalice, although he tried to touch this with his finger, is declared valid. From these declarations Lehmkuhl thinks it certain that the touch of each instrument is no longer necessary for valid ordination;[1108] but Gennari judges that through these decrees the state of the question is not changed, yet that the ordination is at least doubtful.[1109] And rightly indeed, because the sacred

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Notes

1100. Sacred Penitentiary, March 31, 1888.

1101. Holy Office, November 30, 1898.

1102. Holy Office, December 14, 1898.

1103. Holy Office, March 3, 1899.

1104. Holy Office, September 12, 1877; March 17, 1897; Sacred Penitentiary, March 31, 1888. The Holy Office, July 6, 1898, decreed that ordination was to be repeated in which the ordaining bishop, while he recited the prayer Let us pray, brethren, had his hands joined at first before his breast and then separated, but did not extend the right hand over the ordinands.

1105. S. C. R., August 31, 1872, n. 3274.

1106. Holy Office, July 6, 1898.

1107. Holy Office, December 9, 1897.

1108. Lehmkuhl, *Casus consc.* II, n. 692.

1109. Gennari, *Consultazioni morali canon. liturg.* I, cons. 102.

congregation by these decrees does not determine what is necessary by law, but only says that in a case of doubt one must acquiesce.

2. He who touches the host, but not the paten, is validly ordained; for through the host he mediately touches also the paten. And he who touches the chalice and paten, but not the host, is likewise validly ordained, because the touch of the host is not required, as is clear from the Roman Pontifical.[1110]

3. Moral unity or simultaneity between the touch of the instruments and the pronunciation of the form suffices. Therefore both he is judged validly ordained who first touched the chalice and then, when the bishop uttered the form, only the paten with the host;[1111] and he who first touched the instruments but could not touch them when the form was being uttered.[1112]

4. The touch of instruments probably must be physical, but it suffices that it be done with one hand or by some intervening veil or glove; for he who thus touches a thing mediately is truly said to touch.

5. If in sacred ordination the book is not handed over or is not touched, the ordination is not to be repeated; but the defect must be supplied by the bishop.

Question Three.. Concerning the Minister of Order.

461. Concerning the Minister of Valid Ordination. 1. The ordinary minister of valid ordination is any consecrated bishop and only a consecrated bishop, which is established from the definition of the Church.[1113]

a. A bishop elect and confirmed can indeed give permission to his subjects that they be ordained by another bishop, but he himself cannot ordain them unless he has been consecrated. But a consecrated bishop can always validly ordain, even if he has been degraded or has resigned the episcopate.

b. The bishop is the ordinary minister also of the episcopal order, although for conferring this he needs the assistance of at least two other bishops. Yet this assistance is required only for licitly conferring the order, as is clear from the fact that by dispensation of the supreme pontiff either a bishop alone or a bishop assisted only by priests can confer it.[1114]

2. The extraordinary minister of valid ordination is a priest who has received from law or from the holy see the power of conferring some orders.[1115] Furnished with this power are:

a. Cardinals, who can confer first tonsure and minor orders, provided the one to be promoted has dimissorial letters of his own ordinary.[1116] From the new law, cardinals must have the presbyterate.

b. Vicars and Prefects apostolic, Abbots or Prelates nullius, if they are bishops, as to ordination are equated with a diocesan bishop. If they are not bishops, they can confer first tonsure and minor orders both on their own secular subjects and on others who exhibit dimissorial letters. Otherwise an ordination performed by them is invalid.[1117]

Notes

1110. Ballerini-Palmieri V, n. 904.

1111. Holy Office, March 17, 1897; January 17, 1900.

1112. Holy Office, March 17, 1897.

1113. Council of Trent, sess. 23, can. 7. Cn. 951.

1114. Cn. 954.

1115. Cn. 951.

1116. Cn. 239, 1, n. 22.

1117. Cn. 957.

c. Regular abbots who are not bishops and do not have territory can confer first tonsure and minor orders on their subjects by force of at least simple profession. Otherwise an ordination conferred by them, any contrary privilege having been revoked, is invalid.[1118]

A bishop indeed by force of ordination has the power of conferring all orders even on non-subjects. But an abbot by force of blessing has no power of conferring orders, not even first tonsure, but must receive power from the Church. Now the Church had given the power of conferring tonsure and minors on their own regular subjects to all abbots, and further power by special privilege to some; this indeed has now been revoked.

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462. Concerning the Minister of Licit Ordination. 1. It is licit for no bishop to consecrate anyone as bishop unless it is first established that there is a pontifical mandate; for the consecration of a bishop is reserved to the Roman pontiff.[1119]

2. No one can licitly confer orders except the proper bishop or another bishop with the permission of the proper bishop.[1120]

The proper bishop, when not impeded by a just cause, ought himself to ordain his own subjects.[1121]

3. In order that another bishop can ordain someone, he must bring dimissorial letters from the proper bishop.[1122]

4. It is licit for no one to promote one ordained by the Roman pontiff to a higher order without the faculty of the Apostolic See.[1123]

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463. Who Is the Proper Bishop. 1. As regards the ordination of seculars, from a threefold title a bishop can be the proper bishop of the bishop to be ordained:

a. If the ordinand in the diocese has domicile together with origin.

alpha. He who was born by chance in some diocese on the occasion of a journey or another temporary, even lengthy, stay of the father in that place must be ordained by the bishop of the place where the father then had domicile; and if he then had no domicile, where the father was born. Therefore the bishop of the domicile or, this failing, of the origin of the father is the bishop of origin of the son who by chance was born in some diocese, unless afterward the father acquired domicile where the son was born by chance. For in this case the bishop of that place is the proper bishop of the son by reason of origin.

beta. If the ordinand is illegitimate, his domicile is the domicile of the mother; if he is exposed, his domicile is the place where he was found; if he is a baptized infidel, a neophyte, his place of origin or domicile is not, as up to this point, the place of baptism, but the place in which at the time of baptism the father had domicile or quasi-domicile, Cn. 90, 1.

b. If the ordinand in the diocese has domicile without origin and confirms by oath that he has the intention of remaining perpetually in the diocese.

Notes

1118. Cn. 964.

1119. Cn. 953.

1120. Cn. 955.

1121. Cn. 955, 2.

1122. Cn. 955, 1.

1123. Cn. 952.

Nothing prevents someone from having two domiciles in different dioceses and therefore being able to be ordained by either bishop; but once an order has been received by one bishop, he cannot more broadly pertain to each diocese. For by ordination received from his proper bishop he is incardinated into that diocese; but it is repugnant that someone be incardinated into two dioceses.[1124]

c. If in the diocese he is incardinated,[1125] either alpha. by first tonsure,[1126] or beta. by a residential benefice which he obtained in the diocese.[1127]

Note a. If the ordinand has only a diocese of origin, he ought to be incardinated so that he can be ordained by the bishop of origin.

b. A non-proper bishop can ordain someone who is his subject by reason of domicile, although for the future he is destined for the service of another diocese.

2. Religious who have been legitimately dismissed by their superiors to a bishop can licitly be ordained by this bishop.[1128]

Note. Concerning those dismissed from a seminary or from a religious institute. a. A bishop may not admit to his seminary an alien subject unless first by secret letters from the bishop of the petitioner he has learned whether he was dismissed from his own seminary. He is altogether forbidden to admit a dismissed man unless he has found that there is nothing in him which is less fitting to the priestly state.[1129] But if in good faith he admits him and retains him after having known his condition, he is judged ascribed to this diocese, while nevertheless the canonical rules for his incardination and ordination are preserved.

b. Nor can he admit a man dismissed from some religious institute unless first by secret letters from the superiors of the institute he has inquired and established that there is nothing in the dismissed man which is less fitting to the priestly state.

c. Those dismissed from a seminary, if afterward in another diocese they are enriched with sacred orders, are forbidden to return to the diocese from whose seminary they had been dismissed and to have a stable domicile there. The same must be held if those dismissed from a religious institute are ordained and afterward depart from there.[1130]

Question Four.. Concerning the Subject of Order.

Article One.. Concerning the Subject Itself.

464. The Subject of Valid Ordination. The subject of valid ordination is every baptized male and only a baptized male, even if he has not yet arrived at the use of reason. This is established from the institution of Christ, who wished orders to be conferred on men alone.[1131]

Therefore for orders to be validly received, it is required and suffices: alpha. that the ordinand be male; beta. that he be baptized; gamma. that he have at least the habitual intention of receiving order, if he is an adult.

Notes

1124. Cf. Gasparri II, n. 857.

1125. Concerning the nature of incardination and the manner of carrying it out, see the canonists.

1126. Cn. 111, 2.

1127. Cn. 114.

1128. Cn. 965, 966.

1129. Cn. 1363, 3.

1130. S. C. C., December 22, 1905.

1131. Cn. 968, 1.

a. A boy before the use of reason is validly ordained; for an infant is capable of those sacraments which do not require a condition which he himself must furnish, as penance and matrimony require, and order demands no act to be placed by the recipient. But to a boy ordained in this way, after sufficient use of reason, an option is given either of ministering in the order received or of passing over to secular vows; but once the choice has been made he is then bound to fulfill the obligations of the order received and to persevere in them.[1132]

b. Therefore one incapable of order, and indeed by divine law if the order is of divine institution, and by ecclesiastical law if the order is of ecclesiastical institution, is a female and one not baptized.

c. The reason on account of which a woman cannot receive sacred orders is this: that it is fitting for the cleric, as one deputed to the governance of the faithful, to excel by a certain superiority; but woman by nature is inferior and subject to man, although as to her person she may be able to excel man in the gifts of nature and grace.[1133]

465. The Subject of Licit Ordination. 1. For orders to be licitly received, it is required that the ordinand, by the judgment of his own ordinary, be furnished with the required qualities and not be bound by any irregularity or other impediment.[1134]

2. A secular ordinand must, by the judgment of his own bishop, be necessary or useful to the churches of the diocese. Nevertheless even his own subject can be ordained who for the future is destined to the service of another diocese.[1135]

3. Those to be promoted to sacred orders ought to be suitable with canonical suitability, concerning which suitability the bishop must be morally certain by positive arguments.[1136]

4. It is unlawful to coerce anyone in any way whatsoever to receive the clerical state.[1137]

A cleric who, compelled by grave fear, received a sacred order and afterward did not ratify the ordination can be reduced to the lay state by sentence of a judge without any obligations of celibacy and of the hours.[1138]

5. The bishop ought to take care that those who aspire to sacred orders be instituted from tender years in a boys' seminary and educated devoutly. Moreover all through the whole curriculum of sacred theology ought to dwell in the clerics' seminary, unless the ordinary in a particular case dispenses from a grave cause. Those who legitimately stay outside the seminary should be commended to a suitable priest who will watch over them and form them to piety.[1139]

Article Two.. Concerning the Requisites in the Subject.

For orders to be received licitly, several qualities are required in the ordinand either from the nature of the thing or from the prescription of the canons.

1. That he be in the state of grace; for since order is a sacrament of the living, it supposes first grace. Therefore for orders which are not sacraments but only sacramentals to be licitly received, the state of grace is not

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Notes

1132. Benedict XIV, constitution *Eo quamvis*, May 4, 1745.

1133. Cf. Gen. 3, 16; 1 Cor. 11, 3, 14, 34.

1134. Cn. 968, 1.

1135. Cn. 969.

1136. Cn. 973, 3.

1137. Cn. 971.

1138. Cn. 214, 1.

1139. Cn. 972.

required per se, to such an extent that one who is in the state of sin, at least grave sin, would not sin by approaching an ordination of this kind. But by reason of the Eucharist, which is customarily received in ordination, the state of grace is required.

2. That he be confirmed; the Council of Trent says: "Let not those be initiated by first tonsure who have not received the sacrament of confirmation," which the new Code also requires.[1140]

The reason is both because those who are not yet confirmed are not considered sufficiently firm in the faith, and because it is not fitting that they be constituted leaders of others who have not yet been made soldiers of Christ.

3. That he be immune from censure and irregularity,[1141] about which things are spoken elsewhere.[1142]

4. That he have the clerical intention. Already for first tonsure there is required a purpose of ascending to the presbyterate and such a habit of life that it can be expected that the one ordained will in the future be a worthy priest. If, however, the one ordained refuses to ascend to a superior order, the bishop can neither compel him to receive it nor forbid him the exercise of the orders received, unless a grave cause or impediment stands in the way.[1143]

466. 5. That he be cultivated by spiritual exercises. 1. Spiritual exercises must be performed:

a. By those to be promoted to first tonsure and minor orders, at least for three whole days;

b. By those to be promoted to sacred orders, at least for six whole days.

If some are to be promoted to several major orders within a semester, the ordinary can reduce the time of exercises for the diaconate, but not below three whole days.

2. If after the exercises have been completed ordination is delayed beyond a semester from any cause, the exercises must be repeated; otherwise the ordinary judges whether they are to be repeated.

3. Seculars are to perform these exercises in the seminary or in another pious or religious house designated by the bishop; religious in their own or in another house by judgment of the superior.

4. The bishop must be made more certain concerning the performed exercises by testimony of the superior of the house in which they were performed; as regards religious, by the testimony of their own major superior.[1144]

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467. 6. That he be furnished with morals congruent with the order to be received. So that it can be established for the bishop concerning the life and morals of the ordinand and concerning his immunity from any canonical impediment, public denunciations are prescribed.[1145]

1. Before the individual orders are conferred, the names of those to be promoted must be publicly announced in each parish church, except religious who have emitted perpetual vows.

The ordinary, however, can: a. dispense from the publication itself for a just cause; b. prescribe that it be made even in other churches; c. substitute for publication an affixing to the doors of the church for some days,

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Notes

1140. Council of Trent, sess. 23, c. 4, *De reform.* Cn. 974, 1.

1141. Cn. 968, 1.

1142. Cf. *De poenis eccl.*

1143. Cn. 973, 1, 2.

1144. Cn. 1001.

1145. Cn. 998.

among which one at least must be a feast day; d. make also other private investigations, if he has judged them necessary or opportune.

2. Publication ought to be made in the church on a feast day of precept among the solemnities of Mass or on another day and hour at which a greater attendance of the people is had.

3. If the candidate has not been ordained within six months, publication must be repeated, unless another judgment seems good to the ordinary.

The faithful are bound to reveal to the ordinary or parish priest before ordination the impediments which they know.

4. The ordinary can commit to the parish priest, both to him who performed the publication and also to another, that he inquire concerning the life and morals of those to be ordained and transmit testimonial letters about this matter to the curia.[1146]

468. 7. That he be constituted in canonical age.

a. For first tonsure and minor orders a determined age is not prescribed; but since no one, whether secular or regular, is to be promoted to first tonsure before the begun theological course, it can be affirmed that ordinarily it cannot be received before the eighteenth or nineteenth year of age.[1147]

b. For the subdiaconate the canonical age is the completed twenty-first year;

c. For the diaconate, the completed twenty-second year;

d. For the presbyterate, the completed twenty-fourth year;

e. For the episcopate, the completed thirtieth year.[1148]

alpha. To bishops the faculty of dispensing in defect of age of one year is usually communicated by the holy see, but only for receiving the priesthood. The holy see itself very rarely dispenses in age for the subdiaconate, rarely for receiving the diaconate; but for receiving the priesthood it often dispenses even in a defect of one year and a half.

beta. He who maliciously, knowingly and willingly, receives a sacred order before canonical age is ipso facto suspended from the order received.[1149]

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469. 8. That he be instructed with due knowledge. 1. The prescriptions set forth by the Council of Trent on this matter have been adapted by more recent laws of the Church to the needs of the present time. And so:

a. No one, whether secular or regular, is to be promoted to first tonsure before he has begun the theological course, and therefore unless he has completed the regular curriculum of humanities studies.

b. The subdiaconate is not to be conferred unless the third year of the theological course is ending.

c. The diaconate, unless the fourth year has begun.

d. The presbyterate, unless after the middle of the fourth year.[1150]

Notes

1146. Cn. 999; Cn. 1000, 1.

1147. Cn. 976, 1.

1148. Council of Trent, sess. 23, c. 12, *De reform.* Cn. 975.

1149. Cn. 2324.

1150. Cn. 976.

The theological course must be completed not privately but in schools instituted for this according to the norm of the Code of Canon Law.[1151]

Moreover it is required that the scholastic complete a space of nine months after the final examination has been successfully completed.[1152]

2. Concerning the previous examination. a. All ordinands, whether seculars or religious, must undergo an examination before the order to be received; and those to be ordained to sacred orders must be examined also from the other treatises of sacred theology. The bishop determines the treatises themselves, as also the examiners and the method of examination.

b. The ordinary of the place who ordains by his own right or grants dimissorial letters receives the examination of all ordinands. Nevertheless, from a just cause he can also commit it to the ordaining bishop, if this latter wishes to take it on.

c. A bishop ordaining an alien subject, whether secular or religious, with legitimate dimissorials by which it is asserted that the candidate has been examined and found suitable, can acquiesce in the attestation, but is not bound to do so. And if in his own conscience he judges that the candidate is not suitable, he should not promote him.[1153]

470. 9. That he have emitted the profession of faith. From the prescription of the new Code, all to be promoted to the order of subdiaconate are bound to emit the profession of faith, and, until otherwise established, the anti-modernist oath. Moreover the ordinary can compel them to emit it again before the conferral of the individual orders, if he judges this necessary or useful.[1154]

Article Three.. Concerning the Requisites Before Ordination.

471. Documents which the ordinand, whether he is secular or religious, must procure for himself and show to the bishop are these.

Those things which are said here concerning all ordinands, both seculars and religious, hold good; for as regards ordinations religious are ruled by the law of seculars.[1155]

1. Testimonial letters of the ordinary of that place in which the one to be promoted has stayed long enough that he could have contracted a canonical impediment there. The time in which the one to be promoted could have contracted a canonical impediment is a semester after puberty, but for soldiers a trimester, because in the time of military service an impediment is much more easily contracted.

Testimonial letters concerning life and morals, and also concerning the absence of any canonical impediment, must testify and be shown, even if it is morally certain that the candidate has not contracted any canonical impediment.

2. They must be granted by the ordinary himself, the vicar general, and it does not suffice if they are granted by the parish priest or by the rector of the seminary. Moreover they must be granted in order to receiving orders, whether minor or major; a testimony concerning the same matter but given for another end does not suffice.

Notes

1151. Cn. 976, 3.

1152. S. C. Consist., March 24, 1911.

1153. Cn. 996, 997.

1154. Cn. 1406, 1, n. 7; S. C. Consist., March 24, 1911; Holy Office, March 22, 1918.

1155. Cn. 993.

3. The ordaining bishop, according to his prudence, can require testimonial letters also for brief times of stay, and even for the time which preceded puberty.

4. If the ordinary of the place neither by himself nor through others sufficiently knows the one to be promoted so that he can testify concerning him, or if the one to be promoted has wandered through so many dioceses that it becomes impossible or too difficult to obtain all testimonial letters, let the ordinary provide at least by a supplementary oath to be furnished by the one to be promoted.

5. If, after testimonial letters have been obtained and before ordination, the one to be promoted has lived for a notable space of time in the same territory, new testimonial letters of the ordinary of the place are necessary.

6. If someone, after receiving dimissorials from his own bishop, is ordained by another bishop, the testimonial letters of his own bishop must also be added.[1156]

7. Religious must show testimonial letters of the major superior.

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472. 2. Dimissorial letters.[1157] Those who are not ordained by their own bishop because a just cause exists can be ordained by any other bishop having communion with the Apostolic See, once legitimate dimissorial letters from that same bishop have been received, provided he is not of a different rite.

1. Dimissorial letters can be given to seculars by:

a. The proper bishop after he has taken possession of the diocese, even if he has not yet been consecrated;

b. The vicar general, if the bishop has granted him a special faculty for this;

c. The capitular vicar, with the consent of the chapter, after a year from the vacant see. Within a year, to those who actually have or receive a benefice for which a certain order is required within a year, and to those to whom there is committed, or to be committed, an office which because of the necessity of the diocese must be provided for without delay. Nevertheless, to those who have been rejected by the bishop, he cannot grant dimissorial letters.

d. Vicars and Prefects apostolic, Abbots or Prelates nullius, even for major orders, although they lack episcopal character.

2. Dimissorial letters are not to be granted before all things which are required by law have been shown.

3. If the one to be promoted has stayed in the diocese of the ordaining bishop for a time sufficient for contracting an impediment, this bishop should directly gather testimonies.

4. Dimissorial letters can be limited or revoked by the one granting them himself or by his successor; but once granted, they are not extinguished by the death of the one granting them or by his removal from office, because they are graces made.

5. As regards religious, these statutes apply:[1158]

a. Exempt religious must receive dimissorial letters from their own major superior;

b. Religious who emit only simple but perpetual vows can receive dimissorial letters from their superiors for minor orders only.

Notes

1156. Cf. Cn. 993, 4. Cn. 994.

1157. Cn. 958 ss.

1158. Cn. 964 ss.

c. All other religious are ruled by the law of seculars, any privilege of giving dimissorials for major orders being revoked.[1159]

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473. 3. Canonical title for major orders. By the name title is signified provision for the honorable support of the one ordained in sacred orders.[1160]

a. Since it is not fitting that those who are devoted to the divine ministry should have to beg for their support or exercise sordid gain, the Church from most ancient times preserved this rule, that no one be promoted to orders for whose honorable support provision had not been made.[1161]

b. Therefore the title must be truly secure for the whole life of the one ordained and truly sufficient for his suitable support according to norms given by the ordinaries.[1162]

1. The title for secular clerics is the title of benefice, and if this is lacking, the title of patrimony or pension. If none of these is at hand, it can be supplied by the title of service of the diocese, and in places of the Sacred Congregation de Propaganda Fide by the title of mission.

2. A bishop who, without apostolic indult, knowingly ordains his subject without a title or permits him to be ordained must himself and his successors provide for him necessary support until other provision has been made.

3. One ordained in sacred orders who loses a title must provide another for himself, unless by judgment of the bishop provision for his suitable support has otherwise been made. If someone's title perishes after the subdiaconate has been received, he cannot receive a higher order before he has acquired a new one.

4. For religious: a. for regulars the canonical title is the solemn profession itself, or the title of poverty; b. for religious of simple perpetual vows, it is the title of common table, of the congregation, or another similar title; c. all other religious, also as to title, are ruled by the law of seculars.

alpha. To the two titles for seculars in force up to this point, benefice and patrimony, the Code has added the title of pension, which is equivalent to patrimony, if namely the cleric has the right of perceiving a secure and sufficient pension, whether it is furnished by the Church, by the government, or by private persons. To these are added two titles which can supply the defect of benefice and patrimony: service of the diocese and mission. The new Code does not mention other new titles.

beta. A cleric who is ordained to the title of service of the diocese or mission must by oath devote himself perpetually to the service of the diocese or mission.

To these documents are added testimonials:

4. Testimony concerning the examination for ordination;

5. Testimony of the last ordination, and if there is question of first tonsure, of baptism and confirmation;

6. Testimony concerning studies completed, required for the individual orders;

7. Testimony of the rector of the seminary or of the priest to whom the candidate had been commended outside the seminary, concerning good morals;

Notes

1159. Cn. 964.

1160. Cn. 979-982.

1161. Council of Trent, sess. 21, c. 2, *De reform.*

1162. Cn. 979, 2.

8. Testimony of the ordinary of the place in which the ordinand has stayed for a semester or trimester, or of the major superior if there is question of a religious.

Article Four.. Concerning the Requisites in Ordination.

474. That It Be Done at the Due Time.[1163] 1. The episcopate ought to be conferred on a Sunday or on the feasts of the Apostles within the solemnities of Mass.

2. Ordinations in sacred orders are celebrated on the Saturdays of the four seasons, on the Saturday before Passion Sunday, Sitientes, and on Holy Saturday within the solemnities of Mass. When a grave intervening cause exists, they can also be done on any Sunday or feast of precept.

In several places of Germany a custom has been introduced that sacred orders are conferred also on public feast days which are not days of precept. In the new law a custom against the times for ordination prescribed by the same law is expressly reprobated.

3. Minor orders can be conferred on individual Sundays and double feasts, but only in the morning.

4. First tonsure can be conferred on any day and hour, even in the evening.

a. The faculty of ordaining outside the times, which is sometimes granted to bishops, is to be understood of feast days not continuous but interpolated. The faculty of ordaining outside the times and without intervals to be observed is to be understood in such a way that three continuous feast days do not suffice for conferring three sacred orders, unless from the words of the indult something else is established.[1164]

b. The faculty of ordaining outside the times is so personal that the bishop: alpha. can ordain outside the times all dismissed to him from elsewhere, even from bishops lacking this faculty, provided they are furnished with the necessary documents; and beta. can dismiss his own subjects to other bishops lacking this faculty, in order to receive orders outside the times.

5. If an ordination is to be repeated, or if some rite is to be supplied, whether absolutely or conditionally, this can be done even outside the times and secretly.

475. That It Be Done at the Due Place. 1. If the consecration of a bishop is done outside the Roman Curia, it is to be held in the church to which the bishop promoted as residential has been advanced. Nevertheless, in the bull of promotion there is usually granted the faculty of receiving consecration from the bishop whom the promoted one shall have chosen.

2. Sacred orders in general ordinations are to be conferred in the cathedral church with the canons present. If ordinations are held in another place of the diocese, as far as can be done the worthier church is to be approached, with the clergy of the place present. Particular ordinations from a just cause can also be held in other churches, or even in the oratory of the episcopal house, seminary, or religious house.

3. First tonsure and minor orders can be conferred even in private oratories.[1165]

4. Outside their own territory, orders in whose conferral pontificalia are exercised cannot be conferred without the permission of the ordinary of the place.[1166]

Notes

1163. Cf. *Pontificale rom.*, *De ordinibus conferendis.* Cn. 1006, 1007.

1164. Gasparri I, n. 509.

1165. Council of Trent, sess. 23, c. 8, *De reform.*; *Pontificale rom.*, *De ordinibus conferendis.* Cn. 1009.

1166. Cn. 1008.

a. Bishops are not permitted to exercise pontificalia in another diocese without the express consent of the ordinary of the place. Therefore a bishop can confer tonsure on his subjects outside the diocese because it can be conferred privately without pontificalia.

b. Cardinals do not need this permission; nevertheless, if a cardinal performs an ordination in the cathedral church, the ordinary must be forewarned about this matter.[1167]

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476. That the Interstices Be Observed by which those promoted can exercise themselves in the orders received.[1168]

a. It is not licit, except from a peculiar faculty of the Roman pontiff, to confer minor orders with the subdiaconate, nor two sacred orders on the same day, any contrary custom being reprobated.

b. It is not licit to confer first tonsure together with some minor order, nor all the minor orders, but only two or three, at the same time.

c. The interstices to be observed between first tonsure and the ostiariate, and likewise between the individual minor orders, are committed to the prudent judgment of the bishop.

d. Between the minor orders and the subdiaconate an interstice of one year is to be observed; between the subdiaconate and the diaconate, and likewise between the diaconate and the presbyterate, an interstice of three months is to be observed, unless necessity or utility of the Church by judgment of the bishop demands otherwise.

Therefore bishops are granted together the faculty of dispensing from interstices, but they can never dispense without cause in the superior law. From the statute of the law, however, it is clear that a lesser cause suffices so that he can dispense from the interstices between subdiaconate and diaconate, but a greater cause is required for dispensing between the acolyte and subdiaconate or between the diaconate and presbyterate.

477. That It Not Be Done by Leap, that is, that a superior order not be conferred when an inferior order has not yet been conferred; for orders are to be conferred gradually, so that ordinations by leap are altogether forbidden.[1169]

a. Orders conferred with the inferior orders omitted are valid, except the episcopate, because the individual orders are complete and produce an effect independent from the others. Indeed in a superior order, e.g., in the presbyterate, the inferior order, diaconate, is eminently contained and is conferred with it. Nevertheless the Church does not permit one to ascend to a superior order or to exercise the order received unless the omitted or passed-over order has first been conferred.

b. Most theologians teach that the episcopate conferred before priesthood is null, because the complement of the priesthood cannot be conferred without the priesthood. Yet some, relying also on the ancient Pontifical, try to demonstrate that the sacerdotal order is contained eminently in the episcopate and is conferred with it, just as in other orders the inferior orders are contained and conferred.[1170]

Note. Those who receive minor orders are not bound to receive holy communion; but those who are promoted to a sacramental order are bound under light obligation, and priests, who concelebrate with the bishop, under grave obligation.

Notes

1167. Cn. 239, 1, n. 15.

1168. Cn. 978, which adapts the Tridentine dispositions, sess. 23, c. 13, *De reform.*, to the circumstances of our times.

1169. Cn. 977.

1170. Cf. Gasparri I, n. 23 ss.

478. Concerning Obligations Imposed by the Bishop. 1. Not to recite the prayers which after ordination are enjoined by the bishop does not seem to be a sin, since it is not established that they are to be fulfilled under strict obligation under sin. For some teach that the obligation of reciting those prayers is grave because the matter is grave; others that it is light; still others that it is none, because the bishop does not intend to impose a precept.

2. For the nocturn of such a day which, by the Roman Pontifical, the bishop is accustomed to impose on subdeacons and deacons ordained by him, the first nocturn of the feria, feast, or Sunday is to be understood, according as the ordination was held on a feria, feast, or Sunday, unless the bishop, who has the right to do this, expressly designated another.[1171]

By the name nocturn are understood three psalms with their antiphons; for these constitute the nocturn. But those things which are otherwise prefixed to the divine office, Pater, Ave, Credo, Lord, open, hymns, and lessons, do not belong to the substance of the nocturn.[1172]

3. Not to say the three Masses imposed by the bishop on new priests, namely Masses of the Holy Spirit, of the Blessed Virgin, and for the dead, in the same way does not seem to be a sin. It is certain that new priests are not bound to apply them to the intention of the bishop or to the intention of the Church, and therefore they can accept a stipend for them, since the bishop enjoins only the quality of the Mass, not its application. Nor must they be said before the day of the following ordination, because according to the rubrics a votive Mass may be celebrated, and for a reasonable cause they can be deferred still further. If, however, in the meantime there occurs a feast on which the Mass is said of the Holy Spirit, e.g., Pentecost, or of the Blessed Virgin, by the Mass of the feast conforming to the office one satisfies the burden imposed by the bishop of celebrating a Mass of the Holy Spirit or of the Blessed Virgin.

a. The contrary opinion, namely that the bishop imposes the application of those Masses, is held by not a few, including Bouix, Hartmann, and Schuch, distinguished rubricists, whose arguments nevertheless cannot be called probable.

b. Yet it is strongly to be recommended that new priests apply those three Masses for the Church and for the faithful departed. For without doubt the mind of the Church enjoining these Masses is this: that those ordained should honor the Holy Spirit and the Blessed Virgin through them, should carry out thanks for benefits received, first toward the whole Church, then toward the pontiff ordaining, then toward themselves, and finally should show mercy to the suffering Church, namely the faithful departed.

Question Five.. Concerning Impediments to Ordination.

[1173] From the new Code there are two genera of impediments to receiving ordination: irregularities and impediments which it itself calls simple. Irregularities are perpetual impediments, which always endure unless they are removed by dispensation; simple impediments are temporary, which cease of themselves when certain circumstances cease. Some irregularities are from defect, others from delict. Therefore the order to be followed is: a. concerning irregularities in general; b. concerning irregularities from defect; c. concerning irregularities from delict; d. concerning simple impediments.

Notes

1171. S. C. R., June 27, 1899, n. 4042.

1172. S. C. R., July 10, 1903.

1173. Leitner, *Handbuch des kath. Kirchenrechtes, Irregularitaten und Weihehindernisse*, p. 146 ff.; Haring, *Das Ordinationsrecht nach dem neuen kirchlichen Gesetzbuch, Linz. Quartalschr.* 1918.

Article One.. Concerning Irregularities in General.

479. Notion. Division. 1. An irregularity is a perpetual impediment established by ecclesiastical law which renders the reception and exercise of orders illicit.[1174]

a. Irregularity is established per se and directly on account of the dignity and reverence of the divine ministry, namely for avoiding indecency in the divine ministry. For the dignity and excellence of the Christian religion requires that its ministries be performed with great decorum, lest the faithful be offended and their reverence toward sacred functions be diminished. Hence it is a noble work that from the sacred ministry all those should be kept away who, according to the judgment of the Church, cannot exercise it with due decorum and dignity.

b. Therefore an irregularity per se does not have the nature of a penalty, nor even of a vindicative medicinal penalty, but of such an inability or incapacity, which the Roman Catechism calls inhabilitas, that renders a man unsuitable to be taken into the clerical state. Hence it happens that an irregularity is often contracted without any fault.

c. By the name of orders, from which irregularity keeps one away, first tonsure is also understood; for although this properly is not an order, nevertheless by this name it is comprehended here, because it is given in vain to those who are kept away from orders.

2. Division. a. One irregularity is from defect, which proximately arises from a defect of quality required for the reception of orders; another is from delict, which proximately arises from one's own delict. For the indecency which an irregularity intends to guard against can arise both from defect alone without delict and from delict.

An irregularity from defect sometimes supposes delict, either another's, as an irregularity from defect of birth, or one's own, as infamy contracted because of an enormous delict.

b. Irregularity is either total, which impedes the reception of every order or the use of every order received, as homicide; or partial, which impedes only ascent to a superior order or only the exercise of some order. Thus a deacon who lacks his left eye can be incapable of the priesthood, but can exercise his own order; and a priest who without fault is deprived of his thumb is prohibited from celebrating, but not from hearing confessions.

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480. Assertions. 1. The subject of irregularity is every baptized male and only a baptized male, subject to ecclesiastical law.

Therefore all baptized males, whether laymen or clerics, even bishops and cardinals, can contract irregularities by the law as established; 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, that is, he has a defect because of which after baptism or the use of reason he becomes formally irregular.

2. Irregularity primarily prohibits the reception of orders, and secondarily also the exercise of orders received. Yet an irregularity supervening on orders already received prohibits the exercise only of those orders for the exercise of which a man has been made incapable, or which he cannot exercise without offense and scandal. Therefore nothing prevents the man who cannot celebrate publicly without scandal from celebrating privately, or the man who cannot celebrate from hearing confessions.

Notes

1174. Cn. 983.

3. Irregularity does not render the reception of orders invalid but only illicit, since it is not an invalidating impediment but only prohibiting.

Therefore both he who promotes an irregular man, even to tonsure alone, and the irregular man who receives or exercises order, sins gravely, unless smallness of matter or grave inconvenience excuses, because each transgresses a precept in a grave matter.

4. There is no irregularity, whether from defect or from delict, which has not been expressly set forth in the Code.[1175] There are also other inabilities for receiving orders, such as blindness, impotence of celebrating, and psychopathy, which nevertheless are not called irregularities, because by ecclesiastical law alone irregularities are established.

5. Ignorance of irregularities, whether from delict or from defect, and of simple impediments, does not excuse from contracting them.[1176]

6. Someone can contract several irregularities and impediments at the same time. Irregularities and impediments are multiplied from their diverse causes, but not from repetition of the same cause, unless there is question of irregularity from voluntary homicide.[1177]

A Catholic man who defects from the faith and at the same time gives his name to an acatholic sect is irregular in two ways: because of infamy of law[1178] and because of defection from the faith.[1179] On the other hand, a judge who condemned ten men to death contracts one irregularity.

7. Irregularities and impediments, when the required conditions have been placed, are contracted ipso facto, even if the action because of which they are contracted is entirely hidden; for there is no irregularity which from the disposition of law requires a sentence of a judge, not even a declaratory one.

Article Two.. Concerning Irregularities from Defect.

The defects which from the new Code constitute irregularity are these seven: a. defect of legitimate birth; b. defect of body; c. defect of soul; d. defect of sacrament; e. defect of reputation; f. defect of lenity in judgment; g. defect of lenity in bloodshed.

Section 1. Defect of Legitimate Birth.

The reason for establishing this irregularity is especially given as threefold: a. reverence of ecclesiastical order, for the illegitimate are reputed vile by reason of origin; b. detestation of the paternal crime, as a sign of which even sons suffer private punishment; c. danger lest sons imitate paternal incontinence.[1180]

481. From Defect of Birth the irregular are the illegitimate, whether the illegitimacy is public or hidden, unless they have been legitimated or have professed solemn vows.[1181]

a. Those who are born from parents between whom at the time of conception or birth there could exist valid marriage are called natural; those who are born from parents between whom there could not have been valid marriage, such as those born from adultery, sacrilege, or incest, are called spurious.

Notes

1175. Cn. 983.

1176. Cn. 988.

1177. Cn. 989.

1178. Cn. 984, 5.

1179. Cn. 985, 1.

1180. Council of Trent, sess. 25, c. 15, *De reform.*

1181. Cn. 984, 1.

b. Those who are born when marriage already exists are held legitimate, even if no marriage existed at the time of birth.

1. The doubtfully illegitimate, whose illegitimate origin is not certain, are not irregular; for no one ought to be judged illegitimate unless this is certainly proved. Moreover no one can be deprived of his right of receiving orders unless it is established that he is impeded.

alpha. Therefore exposed children are not irregular per se, and therefore without dispensation they can be ordained. Yet for caution they are usually dispensed if they cannot indicate their parents.

beta. If it is uncertain whether offspring was conceived or at least born after marriage had already been contracted, or rather before, he is not irregular, because he is presumed to have been born after the marriage.

gamma. He who was born in marriage, although from adultery and this known to the husband himself, is not irregular unless he is juridically demonstrated spurious: for the father is he whom the marriage points out.

2. Even hidden illegitimate birth induces irregularity, provided the matter is certain.

482. This Irregularity Ceases not only through dispensation as others do, but also through legitimation and through solemn profession.

1. Through legitimation, which is especially done through subsequent marriage. For natural children, if afterward their parents contract legitimate marriage, cease by the law itself to be illegitimate and therefore also irregular. Legitimation is sometimes also done by dispensation from a diriment impediment which stood in the way of marriage, as is said in the treatise on matrimony.

But the spurious, whose parents afterward contract marriage after the impediment has been removed, do not cease to be irregular or illegitimate, because the law does not concede to the spurious a privilege of this kind.

2. Through solemn profession, but not also as regards simple profession unless there is a special privilege such as was granted to the Society of Jesus.

3. Legitimation and solemn profession remove irregularity only as regards orders, but not as regards prelacies, which they cannot obtain unless born from a legitimate marriage. Namely, they cannot obtain the prelacies of the cardinalate, episcopate, abbey or prelacy nullius, and major superior in exempt religion.

alpha. Hence if an illegitimate religious were to be promoted to a prelacy, whether inside or outside the order, he would need dispensation.

beta. Legitimation which civil law introduces cannot remove irregularity; for just as the question of legitimate marriage, so also the question of the legitimacy of offspring belongs to the Church.

Section 2. Defect of Body.

483. From Defect of Body those are irregular who are vitiated in body and who, because of debility or deformity, cannot safely perform the ministry of the altar.[1182] Therefore this irregularity arises from a twofold head: from debility and from deformity of body, which impede the exercise of order.

1. This irregularity absolutely prohibits the reception of orders; for although the defect impedes the exercise of only one order, e.g., the presbyterate, nevertheless no order, not even first tonsure, can be licitly received. But it does not absolutely prohibit the exercise of orders received. Hence if a defect supervenes after the reception of orders, the ordained man is prohibited from exercising only those orders for whose exercise he

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Notes

1182. Cn. 984, 2.

has been made unfit, or which he cannot exercise without offense and scandal. Therefore nothing prevents, for example, the man who cannot celebrate publicly without scandal from celebrating privately, or the man who cannot celebrate from hearing confessions.

2. Greater indecency is required so that one already ordained is bound to abstain from the exercise of order, e.g., from celebrating Mass, than so that one not yet ordained is kept away from receiving orders.

3. In order that someone can celebrate decently, it is required that sacred things not be exposed to danger of irreverence, that horror not be stirred up in the people, and that liturgical laws not be violated in a matter of greater moment.

4. If there is doubt concerning impotence for celebrating about one who has not yet been ordained, judgment belongs both to the proper bishop and to him who will confer the orders. If the same doubt concerns one who is already ordained, judgment belongs to the bishop of domicile or of the place of celebration. In neither case must a bishop stand by the judgment of another bishop.

484. In Species irregularities from defect of body are almost innumerable; therefore it will suffice to recount the more important ones in this place.

1. He who is mutilated in thumb or index finger, whether wholly or in part, so that he cannot break the host, is irregular.

He who lacks one of the three remaining fingers is not irregular; indeed from the opinion of some, not even if two fingers are lacking, if only all three are not lacking, is he irregular, not indeed because of impotence but because of deformity. A priest, however, is not made irregular nor prohibited from celebrating, even if all three posterior fingers have been lost.[1183]

He who lacks an index finger will more easily obtain dispensation because the middle finger can better substitute in the sacred ministry for the index finger. But a priest who has lost the index finger in sacred functions can use the middle finger after the consecration; for, although the entire hand of a priest is consecrated, the index finger is consecrated equally.[1184]

2. He is not irregular who lacks the power of seeing in one eye only, or whose one eye is on the left side; but what is stated by some authors, namely that he is absolutely irregular who lacks the canonical eye, that is, the left, lacks foundation. Therefore this irregularity is to be restricted to the case in which, because the left canon is lacking, he cannot read with the right eye without indecent turning of the head.[1185]

He would be called irregular whose one eye is entirely drawn out or torn out, because then a notable deformity can be present. But one does not seem to be called irregular who has been furnished with a glass eye, since no deformity appears.

A priest who has become blind can receive permission from the holy pontiff of celebrating, if it is established that he will not err, while another priest assists.

3. Irregular are the mute, the blind who are destitute of the power of seeing in both eyes, not those with weak 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 responding minister; and irregular not only are the deaf, but those who lack hearing in one ear only.[1186] Stammerers are not irregular unless they either have a badly lisping

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Notes

1183. Ballerini-Palmieri VII, n. 478.

1184. Ballerini-Palmieri l. c.

1185. Cf. *Acta S. Sedis* XX, p. 380 ss.

1186. *Acta S. Sedis* IV, p. 595.

tongue or one entirely too quick, or they move laughter. Those who have trembling hands to such a degree that they cannot celebrate without danger of spilling blood are irregular.

There are to be added abstemies, who cannot drink even a little wine without danger of vomiting.

4. All are irregular who by defect or blemish of body stir up horror or mockery in spectators, such as the enormously hunchbacked, those having a notable blemish on the face or in the eye, those notably limping, etc.

Note. It belongs to the bishop to judge whether the deformity is great or small, if the ordinand is a secular or a non-exempt regular. But if he is an exempt regular, judgment pertains to the regular prelate; nevertheless the bishop who confers orders is not bound to stand by the judgment of the prelate. If after examination doubt remains concerning the existence of the defect, the ordinary can dispense.

Section 3. Defect of Soul.

485. Who Are Irregular. In the new law, in the third place, chiefly because of defects of soul, these are called irregular: those who are epileptic, or insane, or possessed by a demon.[1187]

1. The epileptic, 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 permission of the bishop they can be admitted to orders.

a. Epilepsy which began before puberty is not rarely healed entirely; therefore he is not judged irregular who labored under this disease before puberty but afterward, by judgment of a physician, altogether recovered. But epilepsy which begins after puberty, not from an accidental cause, e.g., from an inflicted wound, but from an inborn disposition, according to the opinion of physicians is scarcely ever healed fully, that is, without danger of relapse.

b. A priest who after ordination has contracted this disease is not prohibited from celebrating privately if the disease rarely returns, that is, once in a month or every fifteen days; but during this interval a fasting priest ought to stand by and assist him, who, if the disease rushes on, can complete the Mass.

2. The insane. If the insanity is perpetual, the irregularity cannot be removed; if the insanity is temporal and seems now to have ceased, the matter must be defined by the judgment of a physician and the prudent judgment of the bishop. But if by the judgment of a physician it is established that the insanity has ceased, with the bishop consenting, ordination is licit.

3. Those possessed by a demon. From the practice of the holy see it is established that dispensation was not granted two or three years after recovered health; in recent times it has been granted a decade after liberation from the influence of the evil demon.[1188]

4. If an irregularity has supervened after orders have been received and it is certainly established that it has now ceased, the ordinary can again permit his subjects the exercise of the orders received.[1189]

Notes

1187. Cn. 984, 3.

1188. S. C. C., April 27, 1916.

1189. Cn. 984, 3.

Section 4. Defect of Sacrament.

486. From Defect of Sacrament bigamists are irregular, namely those who have contracted two or more valid marriages successively.[1190]

a. Matrimony from its institution, according to the Apostle, signifies the union of Christ with the Church, and this one and indivisible union.[1191] The man represents Christ, the woman represents the Church. But this signification is had fully and perfectly only in marriage entered with a virgin. For just as Christ is joined to one Church only, so the man who contracts marriage with a virgin is joined to one wife only.

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 inheres in bigamy by its nature, the bigamist is declared irregular by the Church. And because the defect lies in this, that he cannot perfectly exhibit the signification which is in the sacrament of matrimony from its institution, it is called irregularity from defect of sacrament, or rather from defect of signifying the sacrament.

b. Bigamy constitutes irregularity even if someone before baptism married two wives successively, or one before baptism and the other after baptism. For the defect on account of which irregularity was established inheres even in an infidel bigamist and cannot be washed away by baptism. Before baptism, however, the bigamist is only radically irregular, not formally; but when baptism has been received, he becomes formally irregular.

1. In the ancient law other species of bigamy also induced irregularity; in the new law only true bigamy, by which someone contracted two or more marriages successively, does so.

2. The marriages entered successively must be valid. It is not required that they have been entered among Catholics; they can be mixed; nor is it required that they have been consummated, provided they have been validly contracted.

Section 5. Defect of Reputation.

487. From Defect of Reputation those are irregular who are marked by infamy of law.[1192]

The ministers of the Church ought to be irreprehensible and without crime. Therefore in antiquity any delict at all kept one away from the sacred ministry; but today only grave delicts, and indeed those which are expressly determined by law, render irregular, and not properly the delicts themselves but the infamy which is contracted because of the delicts.

1. Infamy is privation or diminution of good reputation or good estimation.

2. Infamy is one thing of law, legal, which is incurred by the authority of law because of a delict; another thing of fact, popular, which is contracted from public knowledge of a crime committed.

a. Infamy of law is contracted either ipso facto, namely by the very commission of a crime before every sentence of a judge, or by sentence of a judge which decrees infamy.

b. Infamy of fact is contracted by its nature from public notice of a crime committed. This notice can become public in a twofold way: either by sentence of a judge condemning the accused for the crime, or by actual divulgation.

Notes

1190. Cn. 984, 4.

1191. Eph. 5, 32.

1192. Cn. 984, 5.

3. Infamy of law induces irregularity even if the delict is hidden;[1193] but infamy of fact by its nature requires that the delict be publicly known, either through the sentence of a judge or through actual divulgation.

Infamy of fact existing in reality induces irregularity, even if the sentence of the judge is unjust or the judgment of men about the committed crime is false; for an unjust sentence and a false estimation equally generate infamy, and true infamy.

488. Who Are Infamous. Infamy of law is not contracted except in cases expressly established by common law.[1194]

In the new law those expressly established as infamous ipso facto are:

a. He who gives his name to an acatholic sect or publicly adheres to it, Cn. 2314, 2.

b. He who casts away the consecrated species, or carries them away or retains them for an evil end, Cn. 2320.

c. He who violates the corpses or tombs of the dead for theft or another evil end, Cn. 2328.

d. He who lays violent hands on the person of the Roman pontiff or of some cardinal or legate of the Roman pontiff, and nuncios and internuncios also pertain to legates, Cn. 2343 and 267.

e. Duelists and those who are called their seconds, Cn. 1351. Duels of students in Germany, namely academic Mensuren, are true duels, which bring infamy of law on those dueling and on their seconds, as the Sacred Congregation of the Council declared August 9, 1890.

f. Bigamists who, while the conjugal bond remains, attempt another marriage, even only civil, Cn. 2356.

g. Laymen legitimately condemned because of delicts against the sixth commandment with minors below the age of sixteen, or because of rape, sodomy, incest, or pandering, Cn. 2357, 1.

By sentence of a judge clerics in sacred orders, whether seculars or religious, who have admitted a delict against the sixth precept of the Decalogue with minors below the age of sixteen, or adultery, rape, bestiality, sodomy, pandering, incest with blood-relatives or relatives by affinity in the first degree, must be declared infamous, Cn. 2359, 2.

In the new Code the delicts by which infamy is contracted ipso facto have indeed been increased; but infamy itself is restricted to this extent, that because of the delict of another no one is any longer made infamous. Neither infamy of law nor of fact affects the blood-relatives or relatives by affinity of the delinquent, Cn. 2293, 4.

Section 6. Defect of Lenity.

489. From Defect of Lenity these are irregular: a. a judge who has pronounced a sentence of death; b. one who has undertaken the office of executioner and their voluntary and immediate ministers in executing a capital sentence.[1195]

From the mind of the Church it is plainly unfitting that one who has been the cause of another's death, even justly, should represent the person of Christ the most meek, who never injured anyone. Therefore this irregularity is established as coming from a twofold head: from a sentence of death and from the execution of a capital sentence. These are usually called irregularities from defect of lenity or meekness; but this defect is contracted only after baptism.

Notes

1193. Gasparri I, n. 288, following Suarez.

1194. Cn. 2293, 2.

1195. Cn. 984, 6, 7.

1. A judge bearing a sentence of death is irregular: a. if the judgment is just, for if the judgment is unjust, irregularity is contracted not from defect of lenity but from the delict of homicide; b. if death has really followed, even without shedding of blood; c. in a case in which several, a college of judges, concur in bringing the sentence of death, if they have efficaciously influenced it; d. if he is baptized.

2. The executioner who executes a pronounced sentence of death, and his immediate and voluntary ministers, are irregular: a. if they act by force of office; b. if they in reality execute the capital sentence; c. as to ministers, if they act voluntarily; d. if they are baptized.

Soldiers who are led to kill by arms a soldier punished with death by legitimate authority after sentence of execution are not irregular. Not the leaders, who condemn to death, but soldiers, because they do not act voluntarily, since they have been ordered, are immune from irregularity.[1196]

Article Three.. Concerning Irregularities from Delict.

490. Conditions. In order that irregularity from delict be contracted, these conditions are required:

a. That the delicts be grave and external sins.

Therefore everything which excuses from mortal sin also excuses from incurring irregularity from delict, such as inadvertence, good faith, grave fear, smallness of matter; ignorance is excepted.

b. Irregularities arise not only from public delicts but also from hidden delicts.

c. That the delicts were committed after baptism; sentence is excepted.[1197]

Section 1. Defection from Faith.

491. Because of Defection from Faith these are irregular: apostates from the faith, heretics, and schismatics.[1198]

a. For making a just judgment about this irregularity, attention must be paid to the notions as they are determined in the Code: if someone after receiving baptism: alpha. totally recedes from the Christian faith, he is an apostate; beta. while retaining the Christian name, pertinaciously denies or doubts some truth to be believed by divine and Catholic faith, he is a heretic; gamma. if he refuses to be subject to the supreme pontiff or refuses to communicate with members of the Church subject to him, he is a schismatic.[1199]

b. From these definitions it is gathered that to contract this irregularity it is not necessary that someone give his name to an acatholic sect, provided that he denies the Catholic faith either wholly or in part, even if he does not outwardly break communion with the Catholic Church.

A Catholic Christian who denies or calls into doubt the infallibility of the Roman pontiff is irregular, provided he outwardly manifests heresy.

c. He who lives in a heretical or schismatic sect in good faith, whether he is a material heretic or schismatic only, does not contract irregularity, because his delict is not a grave sin.

Notes

1196. Leitner, l. c., p. 161.

1197. Cn. 986.

1198. Cn. 985, 1.

1199. Cn. 1325, 2.

Section 2. Baptism Received from an Acatholic.

492. Because of Baptism Received from an Acatholic these are irregular: those who, except in a case of extreme necessity, allowed baptism to be conferred on themselves in any way by acatholics.[1200]

a. Acatholics here are understood as heretics and schismatics, whether they exist outside the Catholic Church in good or bad faith.

b. One receiving baptism from an acatholic does not contract irregularity unless by receiving it he commits a grave sin. Therefore those are not irregular who, before the use of reason, receive baptism from an acatholic; nor those who in danger of death have no one else who can baptize them except an acatholic.

Section 3. Attempted Marriage.

493. Because of Attempted Marriage these are irregular: those who have dared to attempt marriage, or to place only a civil act, while they themselves are bound either by a matrimonial bond, or by sacred order, or by religious vows even simple and temporary; or those who have attempted marriage with a woman bound by the same vows or joined in valid marriage.[1201]

a. It does not matter whether the diriment impediment existed on the part of the man or of the woman; whether they attempted marriage before the Church or placed only a civil act.

b. In all cases which the cited canon enumerates, the marriage is invalid because the same marriage is opposed by either a marriage still existing, or sacred order, or solemn vow. Yet in that case in which a man bound by simple vows, or an entirely free man, contracts marriage with a woman bound by simple vows, the marriage is indeed valid, but irregularity is nevertheless contracted, even if the simple religious vows are temporary only.

Section 4. Homicide, Procurement of Abortion.

494. Because of Homicide or Procurement of Abortion these are irregular: those who have perpetrated voluntary homicide or procured the abortion of a human fetus, the effect having followed, and all cooperators.[1202]

a. Every and only voluntary homicide gravely sinful, but not also homicide from an indirect cause, induces irregularity; for in an odious matter homicide must be restricted to directly voluntary homicide.

b. Cooperators are understood as all who by command, counsel, or consent effectively influence the homicide. But those are not irregular who only do not impede homicide, although they could impede it, indeed are bound to impede it either from charity or even from justice. In either case, cooperators in homicide and in procurement of abortion also become irregular.

Concerning abortion and its procurement, see the declaration of the terms in the volume on the Precepts.

Section 5. Mutilation, Attempt of Suicide.

495. Because of Mutilation or Attempt of Suicide these are irregular: those who mutilated themselves or others, or attempted to take life from themselves.[1203]

Notes

1200. Cn. 985, 2.

1201. Cn. 985, 3.

1202. Cn. 985, 4.

1203. Cn. 985, 5.

1. 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 when it must be determined what part of the body has a proper function and therefore is signified by the name of member. For although almost all parts of the body are paired, it may be asked whether one part, an eye, ear, leg, can be considered as having a proper office. Now, with regard had to common estimation, it seems it must be said that those parts which are distinct and separated as the eyes are, have a proper function, but those which are not distinct and separated, as the nostrils, do not have a proper function and therefore are not members. And certainly where the eye is torn out, a member is cut off; where the nostril is cut, a part of a member, the nose, is cut off.[1204]

a. Therefore he who harms some member or renders it useless, e.g., does not tear out an eye but blinds it, does not become irregular, because he did 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 ear, the cartilage of the ear, or cuts off a finger, is not made irregular, because he has not cut off a member; for these do not have a proper function in the human body.

2. Attempt to take life from oneself must be gravely sinful in order to induce irregularity. It can happen that with this irregularity a twofold other irregularity is joined, one from the delict of mutilation, another from deformity of body.

Section 6. Exercise of Medical or Surgical Art.

496. Because of the Exercise of Medical or Surgical Art these are irregular: clerics who exercise the medical or surgical art forbidden to them, if death follows from it.[1205]

a. This irregularity affects only clerics who exercise the medical or surgical art forbidden to them. Those to whom by apostolic indult it is licit to exercise medicine or surgery, as not rarely happens in regions of missions, do not become irregular even if death follows from their care.

b. A cleric contracts irregularity whatever kind of medicine or surgery he exercises; for all are forbidden to clerics in an equal way.[1206]

c. In order that irregularity be induced, it is necessary that the very exercise of his art be the cause, not only the occasion, of death, if death follows from it.

Section 7. Abuse of Order.

497. Because of Abuse of Order these are irregular: those who place an act of order reserved to clerics constituted in sacred order, either while lacking that order or while prohibited from its exercise by a canonical penalty, whether personal, medicinal or vindicative, or local.[1207] Therefore this irregularity can arise from a twofold head: from usurpation of order and from violation of censure.

1. Through usurpation of order he becomes irregular who exercises an order which he does not have. It must be noted:

Notes

1204. Ballerini-Palmieri VII, n. 444 ss.

1205. Cn. 985, 6.

1206. Cn. 139, 2.

1207. Cn. 985, 7.

a. Not only clerics but also laymen contract irregularity if they exercise a sacred order, e.g., celebrate Mass, act as deacon or subdeacon in solemn Mass.

A seminarian, although not yet a cleric, who acts as subdeacon in solemn Mass does not become irregular, because this exercise of sacred order is not prohibited to clerics constituted in minor orders, at least those marked with tonsure, in a case of necessity and without maniple.[1208]

b. It is required that they exercise a sacred order; therefore those who exercise a minor order which they do not have, e.g., bless fruits and breads or perform the office of exorcist, although they can sin gravely by doing this, do not contract irregularity.

c. It is required that they exercise the order solemnly with the ceremonies and ornaments proper to that order. "Solemnly," says Laurentius, "is understood as that exercise which either from the nature of the thing supposes a certain order, as the consecration of the Eucharist, absolution, or sacramental anointing, or if the act according to its substance can be validly done by laymen, is done with a certain apparatus." Therefore a deacon singing the Gospel in Mass with a dalmatic indeed, but without stole, or a subdeacon singing the epistle with a tunicle but without maniple, does not exercise a solemn or proper act of the order.

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 sings the Gospel with stole, supplies the ceremonies of baptism, acts as hebdomadary in choir by saying the prayer with The Lord be with you; a cleric who solemnly sings 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, nor a deacon who solemnly baptizes without commission or distributes holy communion; nor a subdeacon who sings the Gospel without stole; nor a cleric who sings the epistle without maniple, because they either do not exercise an order which they lack, or at least do not solemnly exercise it.

2. Through violation of censure he becomes irregular who, bound by censure, exercises an order whose exercise the censure prohibits, whether the censure is excommunication, or suspension from order, or a personal or local interdict, as by celebrating in an interdicted place.

a. Only through the exercise of sacred order does one censured become irregular.

b. Since grave fault is required for contracting irregularity, neither the man ignorant of censure nor the censured man who exercises order to avoid grave inconvenience becomes irregular.

c. It is required that the censured man place an act of sacred order, not of jurisdiction.

Therefore a censured bishop who approves confessors or dispenses in vows, or a parish priest who while under censure assists at matrimony without nuptial blessing, is not made irregular, because these are not acts of order but of jurisdiction or simple power, whose exercise the censure does not violate.

Article Four.. Concerning Simple Impediments.

498. Irregularities differ from simple impediments in this, that irregularities are perpetual impediments, but simple impediments are temporary. Seven are established by the new Code.[1209] Simply impeded are:

1. Children of acatholics, as long as the parents remain in their error.

a. They are equally impeded whether born from an acatholic father or from an acatholic mother.

Notes

1208. S. C. R., July 17, 1894, n. 3832.

1209. Cn. 987.

The Commission for interpretation of the Code declared on October 16, 1919, that one whose father or mother only is acatholic, even in that case in which matrimony had been contracted mixed with ecclesiastical dispensation, is to be counted among the impeded.

b. By acatholics are understood not only heretics but also schismatics, indeed even the non-baptized, such as infidels, Jews, Muslims.

c. It does not matter whether the parents persist in error in good or bad faith.

d. The impediment ceases if both parents recede from error through conversion. After the death of parents who died in error, the impediment still seems to remain.

e. The illegitimate son of an acatholic father is impeded. But if the father is unknown, or if it is doubtful whether he was acatholic, the son needs dispensation because of defect of birth; but from a doubtful impediment the ordinary can dispense.

2. Men having a wife. Therefore a husband can be ordained if the marriage has been dissolved either by the death of the wife, or by solemn profession, or by marriage of the wife in the case of the Pauline privilege, or by dispensation of the Roman pontiff. Otherwise he always needs apostolic dispensation in order to be ordained, even if, as it seems, perpetual separation from the wife has intervened; for he is always one having a wife.

3. Those who exercise an office or administration which clerics are forbidden to exercise, until, after the office and administration have been laid down and accounts have been rendered, they have become free.

Those bound to render accounts or reckoning are said to be those who from their office are bound to render account of money administered for another, whether public or private, such as magistrates, administrators, curators, tutors.

Those, however, who manage offices and administrations which are not forbidden to clerics can be ordained, even if they do not yet resign the office, provided they do not render account; thus they licitly manage the administration of money of their blood-relatives, of miserable persons, and of pious causes.

4. Servants in servitude properly so called before accepted liberty.

Servants properly so called, or slaves, subject contrary to nature to another's dominion, are impeded by defect of liberty.

5. Those who are bound by civil law to ordinary military service before they have completed it.

The canon regards those republics which by a law made compel all young men, even clerics, to military service, even in time of peace.

6. Neophytes, until in the judgment of the ordinary they have been sufficiently proved.

Neophytes are understood as those who from pagans, Jews, or other sects are converted to the faith in adult age and recently baptized,[1210] until there is certainty concerning their firm faith from the declaration of the bishop.

7. Those who labor under infamy of fact, while by the judgment of the ordinary it endures. Infamy of fact arises not only from delicts determined in law, but from any enormous delict, such as homicide, perjury in court, adultery, sodomy, simony, public exercise of usury, etc. Good reputation can be restored by serious amendment of life or by divulgation of innocence, and it can cease by stay in a place to which the bad reputation has not come. Judgment concerning cessation of bad reputation is committed to the ordinary.

Notes

1210. Cf. instruction of S. C. Ep. et Reg., January 11, 1908.

But if a cleric is condemned by a civil judge because of a crime of this kind, this condemnatory sentence itself is not yet of itself infamy, but the ordinary, after the cause has been examined in the ecclesiastical forum, ought either to absolve the cleric or to condemn him. By the fact that he condemns him, the cleric becomes infamous. Nevertheless, even by the sentence of a civil judge, at least because of actual divulgation of the crime, he is already held infamous.

Article Five.. Concerning Dispensation from Impediments of Ordination.

1. Impediments of ordination can cease in several ways: a. by removal of the cause, a temporal irregularity ceases; thus an irregularity from defect of liberty or reputation ceases when liberty or reputation has been recovered; b. by religious profession, irregularity from defect of birth ceases.
2. Nevertheless, irregularity properly so called is removed only through dispensation; for irregularity is established by law, and a law in force can be removed only by relaxation of the law or dispensation.

Not only religious profession but also dispensation removes irregularity by itself only for receiving orders, but not also for obtaining dignities and prelacies.

499. 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 him. Yet 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 court; c. irregularity from defect of body which is very deformed.

To obtain this dispensation, recourse must be had to the Congregation of the Discipline of the Sacraments if the irregularity is public and the dispensation is sought for the external forum; but to the Penitentiary if the irregularity is hidden and the dispensation is sought for the internal forum only.

2. The ordinary can dispense: a. his own subjects from all irregularities coming from hidden delict, except those which are contracted from homicide, procurement of abortion and cooperation in these delicts, or other delicts brought to the judicial forum;

b. both for receiving and for exercising orders;

c. either by himself or through another;[1211]

d. for the internal forum, whether sacramental or non-sacramental;

e. in all doubtful irregularities when there is doubt of fact.

3. The confessor can dispense: a. his penitents, e.g., priests or clerics indiscriminately, whether seculars or regulars of any diocese;

b. in hidden and urgent cases in which the ordinary cannot be approached and danger of grave harm or infamy is imminent;

c. only in irregularities from delict, except that which comes from voluntary homicide, from procurement of abortion and cooperation in these delicts, or others brought to the judicial forum;

d. but only to this extent, that the penitent can exercise orders already received;[1212]

e. both within and outside confession.

Notes

1211. Cn. 990, 1.

1212. Cn. 990, 2.

A determined form by which the dispensation is granted is not prescribed. This or a similar one can be used: I dispense thee in the irregularity which thou hast incurred from this cause, in the name of the Father, and of the Son, and of the Holy Spirit. Amen.

500. Supplicatory Petitions for obtaining dispensation from irregularities or impediments are drawn up for the external forum under the true names of the petitioner.

a. All irregularities and impediments are to be indicated, and if there is question of irregularity from voluntary homicide, also the number of delicts must be expressed under penalty of nullity of the dispensation to be granted;

b. The causes of dispensation are to be reviewed;

c. The commendatory letters of the ordinary are to be added;

d. If irregularities or impediments are concealed in bad faith, the dispensation, even a general one, is not valid for those concealed, though whether it is valid for those not concealed is not clear from the text. But if they are concealed in good faith, a general dispensation, from all irregularities and impediments, is valid also for those concealed.

e. But if, although in good faith, an irregularity coming from voluntary homicide, procurement of abortion or cooperation in these delicts is concealed, or if the number of delicts is not indicated, or another delict brought to the judicial forum is concealed, the dispensation, even a general one, is not valid.

f. A general dispensation for receiving orders is valid also for major orders;

g. Dispensation granted in the internal non-sacramental forum must be consigned in writing, and there must be record of it in a secret book of the episcopal curia.[1213]

Book Eight.. On Matrimony.

[1214]

Question One.. On the Nature of Matrimony.

Article One.. On Its Nature Itself.

501. Notion. Institution. 1. Matrimony (conjugium, connubium, nuptials), if it is considered as a natural and social institution, is the union of a man and a woman, legitimately entered, for generating and educating offspring.

Notes

1213. Cn. 991.

1214. St. Alphonsus, bk. 6, nn. 831-1147. Thomas Sanchez, *De sancto matrimonii sacramento* (Antwerp, 1626). Basilius Pontius, *De sacramento matrimonii* (Lyons, 1640). Mich. Rosset, *De sacramento matrimonii* (Paris: Roger et Chernoviz, 1895-1896). Jos. Carriere, *De matrimonio* (Paris, 1877). Petrus Gasparri, *Tractatus canonicus de matrimonio*4 (Paris, 1904). H. J. Feije, *De impedimentis et dispensationibus matrimonialibus*4 (Louvain: Peeters, 1885). Julius de Becker, *De sponsalibus et matrimonio*2 (Brussels, 1904). Ballerini-Palmieri, *Opus theologicum morale*3 (Prato: Giachetti, 1900), vol. VI, *De matrimonio.* Lehmkuhl, *Theologia mor.* (Freiburg: Herder), II, tract. VIII, *De matrimonio.* M. Matharan, *Casus de matrimonio* (Paris: Victor Retaux, 1893). Fr. Heiner, *Grundriss des katholischen Eherechtes*4 (Munster: Schoningh, 1892). Joseph Schnitzer, *Katholisches Eherecht*2 (Freiburg: Herder, 1898). Rud. v. Scherer, *Handbuch des Kirchenrechtes* (Moser, Graz, 1898), II, pp. 84-593. M. Leitner, *Lehrbuch des katholischen Eherechtes* (Paderborn: Schoningh, 1902). Fr. Wernz, *Ius decretalium* IV (Prato: Giachetti, 1912). Freisen, *Geschichte des kanonischen Eherechtes* (Tubingen, 1888). Van de Burgt-Schaepmann, *Tractatus de matrimonio*3 (Utrecht: Van Rossum, 1908). Encyclical letter of Leo XIII, *Arcanum* (*On the Sacrament of Matrimony*), February 10, 1880. The Code of Canon Law treats matrimony in Cn. 1012-1143. J. Chelodi, *Ius matrimoniale iuxta Codicem iur. can.* (Trent: Comitato diocesano, 1918). Tim. Schafer, *Das Eherecht nach dem Codex iur. can.* (Munster: Aschendorff, 1918). H. Goller, *Das Eherecht im neuen kirchlichen Gesetzbuch* (Freiburg: Herder, 1918). Linneborn, *Grundriss des Eherechts nach dem Codex iur. can.* (Paderborn: Schoningh, 1919).

a. The union of life for preserving and propagating the human race is perfect conjugal life, which carries with it the right and duty of coming together, and community of bed, table, and dwelling; for these things are plainly necessary, so that the end of matrimony intended by nature can suitably be obtained.

b. For establishing this union, which is the means of preserving and propagating the human race and at the same time the foundation of civil society, the author of nature established the diversity of the sexes; for promoting the same he inserted fitting appetites (Triebe) in human nature.

c. By this union of persons of different sex, in some measure they mutually complete and perfect one another, insofar as male and female constitute the adequate and complete principle of generation, education, and domestic life; but it can in no way be affirmed that male and female through matrimony mutually complete one another in the order of personality, as though an unmarried human being were imperfect and needed a complement in order to be a perfect human being.

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2. God instituted matrimony in the earthly paradise, as is clear from the words which Adam pronounced from divine inspiration: *This now is bone of my bones and flesh of my flesh. Wherefore a man shall leave his father and mother and shall cleave to his wife, and they shall be two in one flesh.*[1215] From the beginning God instituted matrimony in such a way that it would be an image and representation both of the union of the divine Word with human nature and of the union of Christ and the Church,[1216] and from the beginning he marked it with the property of unity and indissolubility, which by right it retained at least until the flood. Afterward, however, matrimony fell away from its primitive institution; for besides the fact that after the fall of the first parents it began also to be a remedy for concupiscence, it lost besides the prerogative of unity and indissolubility, since polygamy was granted to the patriarchs and even to gentiles by dispensation, and the bill of repudiation to the Israelite people.[1217] But Christ, after removing for all men the dispensation concerning polygamy and the bill of repudiation, restored matrimony to the dignity and purity of its first institution and elevated it to the rank of a sacrament, where, referring to the words of Genesis, he added: *What therefore God has joined together, let not man separate.*[1218]

a. The words by which matrimony is instituted, *Wherefore he shall leave*, etc., are indeed attributed by the author of Genesis to Adam; but Adam could utter them only with the Lord inspiring him. Therefore Christ attributes these words to God himself.[1219] The unity and indissolubility of matrimony are contained in the words, *And they shall be two in one flesh*, from which Christ the Lord infers: *Therefore now they are not two, but one flesh. What therefore God has joined together, let not man separate.*

b. In fact unity was already violated earlier in particular cases, e.g., by Lamech;[1220] nevertheless, by right, as regards polygamy, a divine dispensation was made, according to some, to Noah and his sons, so that the human race might be multiplied more quickly;[1221] according to others, it was first granted to Abraham. Polygamy was also granted by God to gentiles, but the bill of repudiation seems to have been permitted to the Jews alone.

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1215. Gen. 2, 23, 24.

1216. Eph. 5, 22-33.

1217. Cf. Gen. 16, 1 ff.; 25, 4; 29, 27. Deut. 24, 1 ff.

1218. Matt. 19, 6.

1219. Matt. 19, 4.

1220. Gen. 4, 19.

1221. Benedict XIV, *De synodo*, l. 13, c. 21, n. 8.

c. It is indeed disputed whether the bill of repudiation effected the dissolution of the bond of matrimony, or only this, that the spouses could separate with impunity; but the opinion which holds that through the bill of repudiation matrimony was dissolved is to be preferred, so that each party could pass validly and licitly to other nuptials.[1222]

3. Matrimony can be considered in two ways, according as it is a contract and according as it is a sacrament. Although matrimony has the nature of a contract, nevertheless it differs from other contracts chiefly in these things: a. other contracts are not founded in nature in the same special way, nor are they ordered to the natural good of the whole human race; b. in other contracts the contracting parties can determine the conditions of the contract according to their choice, but in the matrimonial contract the object, conditions, and also duties are so determined by natural or ecclesiastical law that they cannot be changed by the choice of the contracting parties; c. other contracts can be dissolved by the mutual consent of the contracting parties, but the matrimonial contract cannot be dissolved by the consent of the contracting parties, so that the obligations and burdens once assumed by force of the contract cannot be cast off as long as both contracting parties are alive; d. other contracts are merely profane, but the matrimonial contract, considered in its nature alone, is a sacred thing.

That matrimony, considered only in the nature of the thing, abstracting from the character of sacrament, is a sacred and religious thing is clear, because it was instituted immediately by God; because it is a sketch of the union of the Word and human nature, of Christ and the Church; because by reason of its end it is ordered to God, since it was established for perpetuating the human race, which is destined to worship and glorify God. Therefore the more cultivated peoples of antiquity considered matrimony as a thing joined with religion and sanctity.[1223]

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502. On the Necessity of Matrimony.[1224] a. Matrimony instituted by the author of nature must be called necessary for the human race, since only through matrimony can the human race suitably be preserved and propagated. Therefore by the same author of nature both the right to matrimony and also, generally, an inclination toward it have been inserted in all and each. Nevertheless it cannot be affirmed that a divine law, whether natural or positive, of contracting matrimony has been imposed per se and directly either on all and each human being, or on the human race as a community.

For a true precept which obliges the human race, but no determinate persons, can scarcely be understood. Moreover, for obtaining the end of propagation of the human race, the general inclination of men to entering matrimony is sufficient; for by it it happens that most contract and consummate matrimony. Finally, the Church teaches from sacred Scripture that celibacy is licit, indeed more perfect than the matrimonial state.[1225]

b. Nevertheless it can happen that indirectly and per accidens, for some singular man from a special reason, there exists an obligation of entering matrimony, namely for avoiding incontinence, for repairing harm inflicted, for fulfilling a promise; besides, from the beginning of the world there existed for the first parents a positive obligation toward matrimony and its use, which God signified by these words: *Increase and multiply, and fill the earth*;[1226] for the end of propagation of the human race, which had necessarily to be obtained, in that order could not be obtained by another means.

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1222. Cf. Pesch, *Praelectiones dogmaticae*, VII, n. 772 ff.

1223. Cf. the encyclical *Arcanum*, around the middle.

1224. Wernz IV, n. 34; Gasparri I, 212 ff.; Leitner, section 4.

1225. Council of Trent, sess. 24, can. 10.

1226. Gen. 1, 28.

503. The Ends of Matrimony. Some ends of matrimony are essential and internal, which God intended in the institution of matrimony; others are accidental and external, which the contracting parties can intend besides the essential ends; the essential ends again are primary or secondary.

a. The essential primary end is the procreation and education of offspring: *Increase and multiply and fill the earth*;[1227] the essential secondary ends are mutual help in life, both in caring for domestic affairs, in educating offspring, and in giving holy love: *Let us make him a helper like unto himself*;[1228] then the quieting of concupiscence, which does not incite to illicit things if satisfaction is licitly given to it through the conjugal act, which the words imply: *But if they do not contain themselves, let them marry: for it is better to marry than to burn.*[1229]

b. Many accidental ends can be conceived, e.g., to reconcile peace between families, to preserve the honor of a family, to compose peace among blood-relatives, to obtain honors, riches, licit pleasures, etc.

Before the sin of the first parents matrimony was ordered to the office of nature, that is, to procreating and educating children and therefore to preserving and propagating the human race; after their fall it was also ordered to a remedy of concupiscence, that is, to avoiding sins of the flesh through the use of matrimony according to the laws of reason.

The principal end of matrimony, considered as it is instituted unto the office of nature, is not profane but sacred; for the primary end of matrimony is the procreation and education of offspring; but the adequate end of offspring is not temporal happiness, but God, to be worshiped by religion and afterward possessed in eternal beatitude and thereby glorified; therefore the direct end of matrimony is the generation and education of offspring for glorifying God. But this end is sacred and religious. Therefore matrimony is subject to that power to which the care of the last end of human life has been entrusted, that is, to the religious power.

504. The Goods of Matrimony. Following St. Augustine,[1230] theologians distinguish a threefold good of matrimony: a. the good of offspring, which consists in the generation and education of offspring; b. the good of fidelity, which consists in the mutual fidelity which each spouse must preserve for the other, both because one grants to the other the use of the body, and because one concedes that use to no other; c. the good of sacrament, which consists in the inseparability of the spouses. Matrimony indeed has indissolubility by its nature; but because through the sacrament it is confirmed, it is commonly called the good of sacrament.

These three goods of matrimony are essential, namely such as pertain to the essence of matrimony, so that without them matrimony cannot be had. But they are essential in this way: a. the good of offspring, insofar as it consists both in the obligation of using matrimony in such a way that offspring can be generated, and in the obligation of preserving and educating offspring once received; b. the good of fidelity, insofar as it consists in the obligation of admitting one's own spouse, but excluding every other from use of the body; c. the good of sacrament, insofar as it consists in the indissoluble matrimonial bond.

Article Two.. On Matrimony as It Is a Sacrament.

505. Definition. Matrimony, as it is a sacrament, can be defined: the matrimonial contract entered between baptized persons capable by law, by which grace is signified and conferred *ex opere operato*. Or, according to

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1227. Gen. 1, 28.

1228. Gen. 2, 18.

1229. 1 Cor. 7, 9.

1230. *De bono coniugali*, I, 32.

the analogy of the other sacraments: matrimony is a sacrament by which, through the mutual handing over and acceptance by man and woman of power over the body, grace is conferred for sanctifying their union.

a. Only matrimony *in fieri* is a sacrament properly so called, producing grace *ex opere operato*; matrimony *in facto esse* is not a sacrament properly so called, but the matrimonial state arisen from sacramental consent, which can be called a sacrament in a broader sense to this extent, insofar as it signifies the union of Christ with the Church.

b. The matrimonial state consists in the conjugal bond, or in the mutual rights and obligations by which the spouses are bound to one another. Both the natural contract and the sacramental contract produce an indissoluble bond, but with this difference, that the bond arisen from a sacramental contract has a greater and peculiar firmness.

506. Assertions. 1. Christian matrimony is truly a sacrament of the new law.

a. That the matrimonial contract entered by an external sign was raised by Christ to a sacrament is clear from the definition of the Council of Trent: "If anyone shall say that matrimony is not truly and properly one of the seven sacraments of the evangelical law instituted by Christ, let him be anathema."[1231] From the sources of revelation dogmatic theologians show that the matrimonial contract by the institution of Christ is an efficacious sign of grace.[1232]

b. Matrimony can be called a sacrament in a twofold sense: in the broad sense, insofar as it is a sacred thing, in which sense the marriages of infidels also are called sacraments; in the proper sense, insofar as the matrimony of the faithful is a true sacrament of the new law.

2. The sacrament of matrimony does not differ from the matrimonial contract, but the matrimonial contract itself was raised by Christ to the dignity of a sacrament, so that the matrimonial contract cannot be separated from the sacrament. Hence it is that among Christians (even heretics and schismatics) a matrimonial contract cannot be had without at the same time having the sacrament of matrimony.[1233]

a. This question, formerly disputed, has in recent time been defined by various declarations of the supreme pontiffs. Pius IX proscribed this proposition: "The sacrament of matrimony is nothing except something accessory to the contract and separable from it";[1234] Leo XIII declares: "No distinction of this kind can be approved, since it is evident that in Christian matrimony the contract cannot be separated from the sacrament; and therefore a true and legitimate contract cannot exist without being by that very fact a sacrament. For Christ the Lord increased matrimony with the dignity of a sacrament; but matrimony is the contract itself, provided it has been made according to law."[1235] The cited canon (1012, 2) proposes the same doctrine.

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b. If Christian contracting parties absolutely do not wish to receive the sacrament, they do not enter a valid matrimony either; for he who does not wish the sacrament cannot wish true matrimony either. But if they wish to enter true matrimony, they also receive the sacrament, although they do not wish to effect the sacrament; for those who contract in this way in fact have two intentions, one of contracting true matrimony, the other of excluding the sacrament; now if the prior intention prevails, the other is destroyed

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1231. Council of Trent, sess. 24, can. 1. Cn. 1012, 1.

1232. Pesch VII, n. 699 ff.

1233. Cn. 1012, 2.

1234. Syllabus, condemned proposition 66; cf. also prop. 83.

1235. Encyclical *Arcanum*, February 10, 1880.

through it. But the prior intention will prevail the more easily because contracting parties for the most part do not know that matrimony and sacrament cohere with one another by an indissoluble bond.

c. Therefore even matrimony entered between absent persons is a true sacrament, just as it is a true contract. Wherefore one contracting through a procurator must take care that he is in the state of grace at that time at which the contract is perfected; for at the same time he receives the sacrament. It is clear that not the procurator, but the principal agent, is the minister of the sacrament; likewise that the matter and form of the sacrament are not the consent of the procurator but of the principal agent. Therefore a procurator who is in the state of sin at the time at which he contracts for another does not sin.

507. Matter and Form. Since the matrimonial contract is not distinguished from the sacrament, the matter and form of the sacrament are the same as the matter and form of the contract.

a. The remote matter is the bodies of the contracting parties, or the right over bodies, which the contracting parties mutually hand over to each other; the proximate matter is the mutual handing over itself of this right, expressed by a sensible sign.

b. The form of the sacrament is the mutual acceptance of the right, expressed by a sensible sign. And because the handing over and acceptance are signified by words from the precept of the Church, it can also be said that the words by which the mutual handing over and acceptance of the right is impressed constitute the matter and form of the sacrament: the matter, insofar as they express the handing over of the right; the form, insofar as they express the acceptance of the same.

508. The Ministers of this sacrament are the contracting parties themselves; for if the sacrament does not differ from the contract, those effecting the contract also effect the sacrament. And indeed this doctrine, formerly controverted, today has been placed beyond every doubt.[1236]

Nevertheless both the faithful who are ignorant that they are ministers of the sacrament and heretics who do not believe matrimony to be a sacrament, and therefore do not explicitly intend to effect a sacrament, confer the sacrament. The former do so because they have the general intention of doing what the rest of the faithful do when entering matrimony, and therefore of doing what Christ instituted; heretics, however, do so because for the most part they have at least the general intention of contracting as Christians contract in the Church instituted by Christ, which intention suffices for conferring the sacrament. But for receiving the sacrament of matrimony in baptized persons, matrimonial consent suffices, provided the character of sacrament is not expressly excluded; for by the very fact that they wish the matrimonial contract, they implicitly wish also the sacrament.

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509. The Subject of Matrimony, insofar as this constitutes a mere contract, is any human being made incapable by no impediment of natural or divine law.[1237]

The subject of matrimony, insofar as it at the same time constitutes a sacrament, is any baptized human being made incapable by no impediment of natural, divine, or ecclesiastical law.

a. Therefore between two infidels matrimony cannot be anything except a contract, and is not a sacrament except in the broader sense.

b. If two infidel spouses are converted to the faith, their matrimony by the very reception of baptism becomes a sacrament without express or tacit renewal of consent. This opinion today can be called certain, after the

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1236. Cf. Pesch VII, n. 868 ff.

1237. Cn. 1035: All can contract matrimony who are not prohibited by law.

Roman pontiffs expressly declared that every matrimony between the faithful is a sacrament. And indeed, on the one hand, the union of infidels after baptism has been received perfectly represents the union of Christ and the Church; on the other hand, conjugal consent virtually perseveres; therefore all things are present which are required so that their matrimony can become a sacrament without renewal of consent.

c. Whether matrimony in the faithful party is a sacrament if a faithful person contracts with an infidel through dispensation of the pontiff, or if one of two infidel spouses is converted to the faith, is not clear. Sanchez, with many others, more probably denies it; for the matrimonial contract which is elevated to a sacrament is one, effected by both contracting parties; there are not two partial contracts from which one total contract coalesces. Therefore, in order that it can be a sacrament, each contracting party must be capable of the sacrament, just as, in order that it be a contract, each must be capable of contracting.

510. Matrimony Enjoys the Favor of Law.[1238] This signifies:

a. If the celebration is established, the matrimony must be held valid until its nullity is proved. Hence the principle: In doubt, whether of law or of fact, one must stand for the value of matrimony.

b. If the celebration is not established, the same principle holds, provided the joined persons themselves and others think the union is legitimate. If, however, the nullity of the doubtful matrimony redounds to the harm of the faith, it is declared null, because in a doubtful matter the privilege of the faith enjoys the favor of law.[1239] Therefore doubtful marriages of converted infidels are declared invalid.

511. Effects of Matrimony. The effects of matrimony are manifold: some are supernatural, which follow from matrimony as sacrament; others natural, both canonical and civil, which are produced from matrimony as contract. There will be discussion below concerning the effects produced from matrimony as contract.

The effects of matrimony, insofar as it is a sacrament, are: a. an increase of sanctifying grace, habits, and gifts; b. a right to actual graces necessary for the conjugal state, namely for preserving and perfecting mutual love, for keeping conjugal fidelity and chastity entire, for educating offspring well, and for bearing the burdens of matrimony in a Christian manner.

Note. The good of matrimony perfected through the sacrament is especially discerned in the good of sacrament, because matrimony receives greater firmness through the sacrament. For the more perfectly matrimony represents the indissoluble union of Christ with the Church, the greater is its indissolubility. Now the most perfect image of that union is consummated Christian matrimony, in which to the unity of souls through the contract is added the unity of bodies effected through copula. Therefore consummated Christian matrimony is simply indissoluble, just as the union of Christ and the Church is indissoluble.

Article Three.. On the Divisions of Matrimony.

512. Matrimony is divided: 1. Into legitimate, ratified, and consummated matrimony.[1240]

a. Legitimate is matrimony validly entered between non-baptized persons, such as now is contracted among Jews, Turks, and gentiles.

Formerly this reason of distinction was referred by canonists even to the marriages of the faithful, since legitimate matrimony, by force of the name, signifies matrimony entered according to laws, and therefore valid matrimony whether of the faithful or of infidels; but today it is commonly restricted to marriages of

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1238. Cn. 1014.

1239. Cn. 1127.

1240. Cn. 1015.

infidels alone.[1241]

b. Ratified is valid matrimony entered between baptized persons, which therefore has the character of sacrament, but has not yet been consummated by carnal copula. It is called ratified because the Church holds and approves it as ratified; ratified only, because it is not consummated.

c. Consummated is valid matrimony which has been completed by carnal copula and effects that the spouses become one flesh.

It is clear that both the legitimate matrimony of infidels and the ratified matrimony of the faithful can become consummated. In order that matrimony can be called truly consummated, it is required: that the carnal copula be perfect, that is, of itself apt for generation; that before the copula true matrimony was present; hence if two have copula before matrimony and then contract matrimony, this is not called consummated before a new copula carried out in the matrimony itself.

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2. Into true, putative, attempted, and presumed matrimony.

a. True is matrimony validly entered, and such as such is proved from those arguments, e.g., the testimony of the parish priest, by which also other affairs are customarily proved.

Valid matrimony to which no prohibiting impediment stands opposed is called licit; that to which a prohibiting impediment stands opposed, illicit.

b. Putative is called invalid matrimony which has been celebrated duly before the Church in good faith by at least one party, until each party becomes certain of its nullity.

c. Putative matrimony has the appearance of true matrimony and produces the juridic effects of the same; but in order that it may in reality produce effects of law, and especially that offspring born in it be considered legitimate, it is required that it be contracted in good faith by at least one of the spouses, who was ignorant of the impediment; that it be contracted publicly and in the face of the Church, that is, before the parish priest and two witnesses and with proclamations sent beforehand, unless there has been dispensation upon these.

d. Because the new Code says that putative matrimony is that which has been celebrated in good faith by at least one party, but is silent concerning the condition that it must also have been celebrated duly before the Church, even if heretical or schismatic,[1242] some think that this condition is no longer required, so that even civil marriage could be putative matrimony and obtain the effects of the same.

e. Attempted is called that which has been entered invalidly, and indeed with knowledge by both parties or by at least one of them that a diriment impediment of vow, order, or bond stands opposed to the matrimony.

Although every act which knowingly is placed invalidly against an invalidating law is called attempted, nevertheless in a special way this term is applied to matrimony.

Note. Presumed matrimony used to be called that matrimony which perhaps did not exist, but which, once copula had been had by betrothed persons, was nevertheless presumed by law to exist.

Before the Council of Trent, the mutual consent of the contracting parties was sufficient for valid matrimony, which after Trent held in places where the Tridentine decree concerning clandestine marriages did not have force. Now if, after betrothals had been entered, carnal copula was had between the betrothed, this was presumed to have been performed from a marital rather than a fornicarious affection; and since consent alone

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1241. Cf. Benedict XIV, *De synodo*, l. 8, c. 12, n. 5.

1242. Cf. Cn. 1015, 4.

was sufficient for contracting valid matrimony in those circumstances, the spouses were presumed to have given consent to matrimony before the copula was had; hence the matrimony contracted through subsequent copula is called presumed. But in the new law, as in Tridentine law, presumed matrimony has been done away with.

Article Four.. On the Power of the Church Over Matrimony.

513. On the Power Itself. Since the few laws which exist from natural and divine law concerning matrimony do not suffice for ordering this contract, equally frequent and entangled with difficulties, it is asked whether God has entrusted the power of making laws concerning matrimony to ecclesiastical or civil authority. But to the Church and to it alone, not by concession of civil authority but by its own right, belongs power over the marriages of the faithful.[1243] And indeed, to the Church and to it alone there has been committed by God the power of administering the sacraments and therefore of determining what is required for validly and licitly conferring and receiving the sacraments; but the matrimonial contract is a sacrament; therefore it pertains to the Church alone to determine what is required for validly and licitly entering the matrimonial contract. From this general canon it is inferred in species that the Church alone has power:

a. of positively prescribing conditions (rite, solemnities), which are required for the valid and licit celebration of matrimony;

b. of establishing diriment impediments;

c. of establishing prohibiting impediments;

d. of adjudicating matrimonial causes, and indeed:

concerning the value and nullity of matrimony, whether to be contracted or already contracted;

concerning the dissolution of matrimony;

concerning the separation of spouses from bed and table; for there is question of judging an obligation which immediately arises from matrimony itself;

concerning the legitimacy of offspring; for there is question of an effect which immediately results from valid matrimony.

Note. a. Concerning this matter a threefold error must be noted.

The error of Protestants, who deny that matrimony is a sacrament, and accordingly adjudge the power of ordering matrimony, as a simple contract, to civil authority.

The error of those Catholics who concede that matrimony is a sacrament, but in it really distinguish contract from sacrament and contend that the contract is subject to civil power alone, but the sacrament to ecclesiastical power. But if the Church in fact for centuries, by establishing diriment impediments, has exercised power over the matrimonial contract, they say this arose from usurpation and tacit concession of rulers.

The error of those Catholics who indeed do not really distinguish between contract and sacrament, but nevertheless attribute the power of establishing diriment impediments both to the Church and also, with the Church consenting, to the civil power. But if in fact the Church alone establishes diriment impediments, this was done, they say, because the Church reserved this power to itself.

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1243. Cn. 1016.

b. Against these errors the certain doctrine of the Church must be urged. In matrimony the aspect of sacrament cannot be separated from the aspect of contract. Therefore the power of ordering matrimony, by making laws concerning it, belongs to the Church alone.

This power of the Church does not belong to it from concession of rulers, nor from a positive law by which the Church reserved this power to itself, but from divine law immediately granted to it by Christ the Lord.

Article Five.. On the Power of Civil Authority Over Matrimony.

The power of civil authority must be considered in relation to the matrimony of the faithful and in relation to the matrimony of infidels. Moreover the supreme ruler whose power over matrimony is to be examined can himself be faithful or infidel.

514. Over the Marriages of the Faithful. 1. Civil power has no right with respect to the marriages of the faithful, and consequently it can establish neither diriment nor prohibiting impediments, nor decree anything concerning the essential effects of matrimony; therefore it cannot effect that marriages of the faithful are per se either invalid or illicit. Reason dictates this, and the declaration of the Church confirms it.[1244]

But if civil power nevertheless establishes something concerning matrimony which is not evil in itself, the faithful not only can licitly comply with it, but it must also be enjoined upon them to observe the conditions which civil power prescribes for valid or licit matrimony; not because those conditions directly oblige in conscience, but lest the marriages of the faithful lack civil effects to the detriment of themselves and their children. Therefore indirectly, from charity toward themselves and their children, they are held to observe those laws.

2. Although civil authority cannot exercise influence over the essential effects of matrimony, nevertheless it can rule the civil effects of matrimony by its own power.[1245] The reason for the first: he who judges concerning the matrimony itself and its value must also judge concerning those things which necessarily follow from it. The reason for the second: since matrimony is a social contract, it also produces civil rights and obligations, which are commonly called civil effects; now civil power, and it alone, makes laws concerning these effects, that is, can determine them and for a just cause deny them to certain marriages.

a. Some effects of matrimony are essential, others civil. Essential effects are: the obligation of cohabiting, paternal power over children, and the legitimacy of offspring. These effects are called essential because they necessarily follow from the matrimonial contract itself. The civil effects of matrimony, which by proper right pertain to political power, are: the contract of the spouses concerning temporal goods; the right of wife and children to participate in the goods, dignities, and titles of the husband or father; the right of succeeding as legitimate heir to the goods of the deceased; the amount of dowry, the amount of the legitimate portion, etc.

b. Political laws by which the civil effects of matrimony are ruled oblige in conscience; for they are laws made by competent authority for the common good; therefore nothing is lacking to them by which they would fail to oblige in conscience.

c. Which marriages are valid and which invalid, political power must learn from the Church; now to marriages which are held valid by the Church, it is held per se to grant civil effects, and to those which are held invalid by the Church, it is held per se to deny them. But if a matrimony which is valid in the face of the Church were truly contrary to the common good, political power cannot deny civil effects to such matrimony, but it must be left to the Church itself to meet the difficulty.

Notes

1244. Cn. 1016. Cf. Pesch VII, n. 881.

1245. Cn. 1016.

515. Over the Marriages of Infidels.[1246]

a. The practical importance of this question increases day by day; for not only do Catholic missionaries continually enter new regions of infidels and lead their inhabitants to the Christian faith, but the lands of infidels are from time to time also subjected to the power of Christian rulers; indeed among the faithful themselves the number of those who do not even care to have their children baptized grows day by day; these therefore live in the manner of infidels.

b. There is controversy whether the marriages of infidels are subject to civil power. The older theologians indeed, Sanchez, Pirhing, Schmalzgrueber, Suarez, etc., defended the affirmative opinion as true and certain. Afterward, however, especially in the past century, several theologians, Perrone, Taparelli, Liberatore, Zigliara, etc., attacked this doctrine, denying to civil authority the power of making laws concerning the matrimonial contract of infidels. Today nevertheless the affirmative opinion has again become common among theologians; D'Annibale, Ballerini, Gasparri, Lehmkuhl, Rosset, De Becker, Leitner, Wernz, and others uphold it. Yet not all explain it in the same way; for some think that civil authority by its own right can make laws concerning the marriages of its infidel subjects, since matrimony is a natural contract; others, on the contrary, teach that civil authority indeed by its own right rules the marriages of infidels, but not by force of merely civil power, since matrimony is a sacred thing, but by force of religious power, which in an infidel ruler is connected with that power. For in a society in which there is no religious authority distinct from civil authority, it belongs to the civil power to order sacred things, not as it is civil, but as it is at the same time religious. Finally, others think that civil authority can order the marriages of infidels not by its own right, but by a right devolved per accidens; for since in society there must be a power which can order the matrimonial contract, but the religious authority to which that power properly belongs does not exist in an infidel ruler, that power is devolved per accidens and by reason of necessity to the authority which alone legitimately presides there, namely to civil authority.

Assertion. Civil power has the right of ruling marriages of infidels among themselves; therefore it can establish diriment and prohibiting impediments, provided they are not opposed to natural law, and it can also adjudicate their matrimonial causes.

The arguments for this opinion are these.

1. The matrimony of infidels is a natural contract; but every natural contract, besides the norms of natural and divine law, is ruled by the laws of civil power; therefore the matrimony of infidels is ruled by the laws of civil power, whether by its own right or by a transferred right, just as also an oath and sacrifice in societies of this kind are ruled by civil authority.

2. Besides the norms of natural and divine law, matrimony requires several positive laws; for innumerable inconveniences would follow if the marriages of infidels were ruled by the laws of natural and divine law alone; therefore there must be an authority which makes laws concerning the marriages of infidels; but besides civil authority there is no other which can make laws of this kind.

3. Although the Church has not explicitly manifested its mind concerning this question, nevertheless it favors this opinion; for from the declarations of the sacred congregations it is gathered that it holds as invalid the marriages of infidels to which a diriment impediment established by civil power stands opposed.[1247] Hence it is that missionaries also in places of infidels judge the marriages of those who are converted to the faith according to this opinion.[1248]

Notes

1246. Cf. Resemans, *De competentia civili in vinculum coniugale infidelium* (Rome: Desclee, 1887). Leitner, p. 26 ff.

1247. S. C. de Propaganda Fide, June 26, 1820.

Question Two.. On the Properties of Matrimony.

There are two principal properties of matrimony which arise from its nature: the unity and the indissolubility of matrimony.[1249]

Article One.. On the Unity of Matrimony.

516. What the Unity of Matrimony Is. The unity of matrimony, or monogamy, consists in this, that it is the union of one man with one woman. The unity of matrimony is perfect if neither spouse contracts another matrimony after the dissolution of the prior matrimony; it is imperfect if at least one of the spouses contracts another after the dissolution of the prior matrimony.

Polygamy is opposed to the unity of matrimony; it can be simultaneous and successive. Simultaneous polygamy is either polyandry, if one woman has several husbands, or polygyny, if one man has several women at the same time. Successive polygamy is called bigamy, whether one man successively marries several women, or one woman successively marries several men.

The Church at every time vindicated the unity of matrimony, which also the Roman civil laws prohibiting polygamy defended, and it never permitted polygamy, although it was importunately sought by supreme rulers. Among Protestants there are several examples of polygamy admitted by the heresiarchs. Polygamy, which the Mormons exercised for a long time, the Turks and pagans exercise today. Socialists, at least theoretically, admit not only polygyny but even polyandry itself.[1250]

1. Polyandry is repugnant to natural law, because it is repugnant to the primary end of matrimony, namely the generation and education of offspring: to generation indeed, because a woman to whom several men approach is rendered sterile; but to education, because the father of the offspring received is unknown, and consequently no father cares for its education. Hence polyandry was always and everywhere prohibited, so that not even God can dispense from this law.

2. Polygyny is repugnant to natural law and to the secondary end of matrimony; it is also repugnant to positive divine law: *Every one who puts away his wife and marries another commits adultery.*[1251]

a. There are several reasons on account of which polygyny is contrary to natural law: a. it is physically impossible, since the number of persons of each sex is almost the same; therefore nature intends monogamy; b. it is repugnant to the equality of rights which belongs to each sex and universally to human beings; c. it is repugnant to the common good, since it weakens the man and deprives the woman of her dignity; d. it disturbs the tranquil fellowship of life and mutual help between the spouses.

b. God can dispense from this law and in reality did dispense from it; for after the flood polygamy was granted to the patriarchs and to the Israelite people, which concession was also extended to gentiles. Through Christ, however, who restored matrimony to its primitive integrity, this dispensation was removed even with respect to infidels, so that even among infidels a second matrimony during the prior one is invalid, and among the Jews matrimony is no longer dissolved through the bill of repudiation.[1252]

3. Bigamy or successive polygamy is permitted to both man and woman even in the new law: *A woman is bound as long as her husband lives; but if her husband dies, she is free: let her marry whom she wishes, only in*

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1248. Gasparri I, n. 284. Wernz IV, n. 75 ff.

1249. Cn. 1013, 2.

1250. Bebel, *Die Frau* (Stuttgart).

1251. Luke 16, 18. Cf. Council of Trent, sess. 24, can. 2.

1252. Matt. 19, 3 ff.

the Lord.[1253] Therefore the Church always held second nuptials entered after the death of the prior spouse to be valid and licit, although it approved them less.

Article Two.. On the Indissolubility of Matrimony.

517. What the Indissolubility of Matrimony Is. A twofold indissolubility must be distinguished, internal and external. Internal indissolubility consists in this, that matrimony cannot be dissolved by an internal cause or by the mutual consent of the contracting parties; external indissolubility consists in this, that matrimony cannot be dissolved by an external cause, namely divine or ecclesiastical. Concerning this matter dogmatic theologians establish the following theses.

1. Every matrimony is intrinsically indissoluble both by natural law and by positive divine law, so that it can never be dissolved by the consent of the contracting parties.
2. Ratified and consummated matrimony of the faithful is also extrinsically indissoluble, so that it cannot be dissolved except by the death of one spouse.[1254]

Indissolubility must also be asserted of consummated matrimony which is contracted by a faithful person with an infidel through dispensation of the supreme pontiff;[1255] but it is not clear whether it is simply indissoluble, or only has in fact never been dispensed in.

3. But the ratified matrimony of the faithful and the consummated matrimony of infidels can be dissolved by external power.

Section 1. On the Ratified Matrimony of the Faithful.

518. How It Is Dissolved. 1. Ratified and non-consummated matrimony of the faithful can be dissolved through a dispensation of the Supreme Pontiff granted for a just cause, with both parties petitioning or with one party petitioning, even if the other is unwilling.[1256]

In order that the pontiff can grant dispensation validly and licitly, it is required: that the matrimony be ratified and not consummated; that it be established that it has not been consummated by a conjugal act; that a grave cause requiring dissolution be present. Theologians in antiquity contended that this cause had to be public; but from the new Code and from the present practice of the Church, this dispensation is granted also from a grave cause of private good.

b. Formerly an acute controversy was carried on among doctors as to whether this power was divinely conferred on the supreme pontiff; but now it can no longer be doubted: a. for besides the fact that the new Code attributes it to the Supreme Pontiff in express words, the Church rather often uses this power of dissolving ratified marriages of the faithful; but it would be not only rash but even impious to deny to the Church a power which it uses. b. Obligations of divine law whose existence in a particular case depends on human will can be dissolved by the Church through dispensation for a just cause, as is clear concerning vows and oaths. c. The bond of religious profession is stronger than the bond of marriage, because religious profession dissolves ratified matrimony; but the supreme pontiff can dissolve religious profession; therefore a fortiori ratified matrimony.

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1253. 1 Cor. 7, 39. Cn. 1142.

1254. Cn. 1118.

1255. S. Office, August 1, 1759; July 4, 1855.

1256. Cn. 1119.

c. More frequently in recent than in ancient time the supreme pontiffs use this power. Now they use it especially in those circumstances in which there is a question concerning the nullity of matrimony, but nullity cannot be demonstrated certainly. For in this case the bond, if any exists, is dissolved, and indeed, when one party seeks dissolution for just causes, even against the will of the other party. Indeed examples are not lacking of dispensation of a valid matrimony, which is granted especially when one party has already entered civil marriage with a third person.[1257]

519. 2. Ratified and non-consummated matrimony of the faithful is dissolved by law itself through the solemn profession of one spouse in a religion, strictly so called, approved by the Church, which is certain from faith: "If anyone shall say that ratified non-consummated matrimony is not dissolved through solemn religious profession of one of the spouses, let him be anathema."[1258]

a. In order that matrimony be dissolved in this way, it is required: a. that it be established that it has not been consummated by a conjugal act; b. that a valid religious profession be emitted; for religious profession has the force of dissolving matrimony by reason of the solemn vow of chastity which is contained in it, not however by divine power, but by ecclesiastical power. For after these conditions have been verified, the Church grants dispensation ipso facto to all. Therefore the following do not dissolve matrimony: a simple vow of chastity emitted outside religion; nor a simple vow of chastity, simple profession, emitted in religion; nor a solemn vow emitted in the subdiaconate.

b. As long as matrimony has not been consummated, a spouse can enter religion. Nevertheless it must be noted that today during matrimony a spouse cannot validly be admitted to the novitiate without dispensation of the Roman pontiff (Cn. 542, 1). The other spouse remaining in the world must wait until profession, and cannot enter other nuptials; for if before the profession of the other one entered a new matrimony, this would be invalid, since the prior matrimony is dissolved only through profession. But once matrimony has been consummated, neither party can enter religion unless the other party consents or has given cause for perpetual separation through adultery.

c. Because now even in religious orders strictly so called solemn profession cannot be emitted unless three years after simple profession have elapsed, if one party before consummated matrimony enters religion, the party remaining in the world, when the novitiate of the other party has elapsed, can approach the holy see to obtain dissolution of ratified matrimony not yet consummated, lest he or she be obliged to wait longer. But if one of the spouses enters a religious congregation and wishes to persevere in it, there is no other means of dissolving the matrimony except dispensation of the supreme pontiff, since profession emitted in a congregation does not dissolve matrimony.

Note. The privilege granted to spouses in the old law, by which in the first two months they were not bound to consummate matrimony, so that they might deliberate concerning taking up religion, is no longer granted in the new law.

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1257. Cf. *Acta S. Sedis* XXVIII, p. 400.

1258. Council of Trent, sess. 24, can. 6. Cn. 1119, which expressly affirms the same not only concerning matrimony between baptized persons, but also between a baptized party and a non-baptized party.

1259. "If any brother has an infidel wife, and she consents to dwell with him, let him not put her away. And if any faithful woman has an infidel husband, and he consents to dwell with her, let her not put away her husband. But if the infidel departs, let him depart: for a brother or sister is not subject to servitude (of matrimony contracted in infidelity) in such things; but God has called us in peace." 1 Cor. 7, 12 ff. Cn. 1120.

Section 2. On the Consummated Matrimony of Infidels.

How it is dissolved. Even consummated matrimony of infidels can be dissolved by divine law in the case of the Pauline privilege, or in the case of the Apostle, as they say,[1259] and through dispensation of the supreme pontiff.

This privilege is called Pauline because it was promulgated to us by St. Paul; it is also called the privilege of the faith, because it was divinely granted in favor of the faith or baptism. In interpreting the words of St. Paul theologians disagree to this extent, that some affirm an immediately divine power is promulgated by them, while others think they present a power only mediately divine, but immediately conceded to the apostles and the Church. But the former opinion is to be preferred, since the Holy Office expressly declares that this privilege was granted by Christ the Lord in favor of the faith and promulgated through the Apostle Paul.[1260]

520. On the Pauline Privilege.[1261] The Pauline privilege is a right divinely granted, in certain circumstances, to the spouse converted from infidelity and baptized of entering another matrimony, by the entering of which the matrimony contracted in infidelity is dissolved.

1. That matrimony contracted and consummated in infidelity can be dissolved is declared by these words: *But if the infidel departs, let him depart: for a brother or sister is not subject to servitude in such things.* Namely, by the will of Christ care must be taken that conversion to the faith not be troublesome and burdensome to him who is converted; but conversion would be very burdensome to the faithful party if it were not licit for that party to pass to other nuptials: for the party would have either to remain unmarried or to cohabit with the infidel spouse with trouble of life and danger to the faith. Therefore Christ willed that the bond of matrimony contracted in infidelity could be dissolved.

By force of the Pauline privilege, the converted party does not have the faculty of entering new nuptials except with another Catholic party. Therefore, if that party contracted with an infidel party, the matrimony would be invalid because of the impediment of disparity of cult; and if that party contracted with a heretical or schismatic party, the matrimony would indeed be valid, but illicit because of the impediment of mixed religion. In the former case the pontiff dispenses; in the latter, however, no dispensation is given.[1262]

2. Matrimony contracted in infidelity is not dissolved when baptism is received, nor when the infidel party declares that he or she does not wish to cohabit with the faithful party, but when the faithful party enters another matrimony.[1263]

Therefore if the faithful party does not contract a new matrimony, and afterward the other party also is converted, it is no longer licit to use the Pauline privilege, because when the end of the privilege ceases through the conversion of the infidel party, the privilege itself ceases; indeed per se they are held to restore the fellowship of life, since matrimony still exists between them.

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521. Four Conditions are required so that the faithful party can pass to other nuptials:

1. That the matrimony was contracted in infidelity; therefore if a spouse defects from the faith through apostasy, the other faithful party cannot enter a new matrimony.

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1260. S. Office, July 11, 1886. Cf. *Zeitschrift f. k. Th.* XVI (1892), p. 158 f.

1261. Cf. De Becker, p. 438 ff.; Wernz IV, n. 701 ff.; Biederlack, "Uber das sog. paulinische Privilegium" (*Zeitschr. f. k. Th.* VII [1883], p. 308 ff.).

1262. Cf. Genicot II, n. 559, 5.

1263. S. Office, July 11, 1866. Cn. 1126.

Two spouses born of heretical or schismatic parents can use the Pauline privilege if it is established that they were not baptized before matrimony.[1264] But the infidel party who had contracted matrimony with a faithful party through dispensation of the supreme pontiff cannot use it if that party is converted to the faith.[1265]

2. That one party be converted to the faith through received baptism; for the privilege was granted in favor of those who are converted to the faith, lest they be deterred from embracing the faith.

Therefore a catechumen cannot use this privilege; but since conversion to the faith is made through reception of baptism, even an infidel who is converted to a heretical sect can enjoy this privilege, provided he or she is validly baptized.[1266]

3. That the infidel party depart; and one is said to depart when these two things concur: a. if the infidel does not wish to be converted, b. and does not wish to cohabit peacefully with the faithful party.

a. The infidel does not wish to cohabit peacefully if he or she does not wish to cohabit at all, or only with contumely of the Creator, that is, in such a way that either directly or indirectly the faithful party is induced to grave sins: as if the faithful party, because of cohabitation with the infidel party, is exposed to the danger of losing the faith; or if the infidel prohibits the praise of God and the conversion of domestics, if the infidel does not permit the Christian education of offspring, if the infidel refuses to dismiss concubines, etc.

b. If the infidel party indeed refuses to be converted but wishes to dwell peacefully with the converted party, the latter cannot by force of the Pauline privilege pass to other nuptials; for St. Paul says: *If he departs, let him depart*; therefore only under the condition of departure are new nuptials permitted by St. Paul. Nevertheless the faithful party can separate from the infidel as to bed and table, indeed through dispensation of the supreme pontiff can also pass to other nuptials.

c. This privilege has force not only where the infidel party departs before or shortly after the baptism of the other party has been received, but also where the infidel departs afterward, when already for many years he or she had cohabited with the faithful party and had consummated the matrimony, provided the faithful party after baptism did not give the infidel a just cause of departing, e.g., through committed adultery.[1267]

d. The faithful party cannot use the Pauline privilege if not the infidel spouse personally but the infidel's relatives do not allow the faithful party to cohabit peacefully with the spouse.

4. That an interpellation of the infidel spouse precede, unless dispensation from it has been obtained.

Note. On the extension of the Pauline privilege. The supreme pontiffs Paul III, Pius V, and Gregory XIII had granted for certain regions of missions that matrimony contracted in infidelity, if one party is converted to the faith and receives baptism, would be dissolved even in those circumstances in which the Pauline privilege could not be applied. Now those concessions previously given for particular places are extended also to other regions in the same circumstances, that is, to all regions in which the same circumstances recur.[1268]

Paul III, by the constitution *Altitudo*, June 1, 1537, granted that a faithful husband who had several wives may retain the one who is converted with him, or at least wishes to cohabit with him without contumely of the Creator, even if she is not the first or legitimate wife.

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1264. S. Office, March 14, 1901.

1265. Cn. 1120, 2.

1266. Cf. Palmieri, *De matrim. christ.*, thesis 27; Arendt, *Archiv f. k. Kirchenrecht* XXXXVI, p. 402 ff.; Wernz IV, n. 702.

1267. S. Office, August 5, 1759; July 11, 1886. Cn. 1124.

1268. Cn. 1125.

Pius V, by the constitution *Romani Pontificis*, August 2, 1571, granted that a faithful husband may retain from his wives the one who is converted with him, even if she is not the legitimate one.

Gregory XIII, by the constitution *Populi*, January 25, 1585, not only granted dispensation from interpellation if this could not be made, but also declared valid a matrimony contracted with interpellation omitted, even if the infidel party who was not interpellated would have wished to cohabit, indeed even if in the meantime that party was converted to the faith.

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522. On the Interpellation to Be Made.

1. After baptism has been received, before a new matrimony is contracted, the infidel spouse must be interpellated: a. whether he or she also wishes to be converted to the faith; b. whether at least he or she wishes to cohabit peacefully with the faithful party.[1269]

The interpellation is prescribed for this end, that the departure of the other party be certainly established.

2. Interpellation must always be made, unless the Holy See has declared otherwise.[1270]

a. The departure of the infidel spouse can be established not only from interpellation, but in particular cases without interpellation from other facts, as if the infidel husband casts the converted wife out of the house. But if the will of the infidel party to depart is already abundantly established, the interpellation is not for that reason to be omitted.

b. There are regions in which the faithful party, because of the common danger of perversion and because of scandal of the faithful, is not permitted to cohabit with the infidel party. In general cohabitation is permitted in regions of infidels and prohibited in Christian regions; everywhere, however, cohabitation with Jews is prohibited to converts, unless the Jews themselves wish to be converted. In regions in which, for removing danger of perversion or scandal, cohabitation with an infidel is prohibited to the faithful party by ecclesiastical law, it is licit for the faithful party to pass to other nuptials if the infidel does not wish to be converted, even if the infidel wishes to cohabit.

3. Interpellation is necessary for the validity of the new matrimony: "Before the converted and baptized spouse validly contracts a new matrimony, he or she must interpellate the non-baptized party."[1271]

4. The infidel spouse must be interpellated.

If a husband converted to the faith had several wives, only the legitimate one, who is the first, must be interpellated, unless it is established that the matrimony with the first was invalid. But if one of the wives is converted to the faith, the converted husband by dispensation of the supreme pontiff, after dismissing the others, can retain her as legitimate wife, even if she is not the first whom he had married, and even if the first consents to cohabit without contumely of the Creator, unless she herself also wishes to be converted.[1272]

5. As regards the formality of the interpellation, it must be made a. after the baptism of the faithful spouse, and this by ecclesiastical law;

b. by the authority of the ordinary of the converted spouse, in judicial form, or at least summarily and extrajudicially;

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1269. Cn. 1121, 1.

1270. Cn. 1121, 2.

1271. Cn. 1121, by which the controversy previously carried on was resolved in that sense which Gasparri (II, n. 1090) had already previously defended.

1272. S. Office, March 28, 1860. Cf. constitution of Pius V, *Romani Pontificis*, August 2, 1571; S. Office, November 22, 1871; Wernz, n. 703 ff.

c. a private interpellation by the converted person personally is always valid, and if the form prescribed above is not possible, also licit, provided the fact of the interpellation can be established either by an authentic document or by two witnesses;

d. at least one; several interpellations are not required for satisfying the precept.

The ordinary can also grant to the infidel spouse, if he or she has sought them, delays for deliberating, but the person must be warned that, if the delays have passed uselessly, the response will be presumed negative.

6. From making interpellation, the supreme pontiff grants dispensation for a grave cause; a grave cause will be present then, if it is morally established that the infidel spouse cannot be interpellated, or that the interpellation will be useless or gravely dangerous.[1273]

Once an interpellation has been made, the faithful party can enter new nuptials whenever it pleases him or her, even much time afterward, without need of a new interpellation. But if dispensation from interpellation has been obtained, a new dispensation is needed if the matrimony is delayed beyond a year.[1274]

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523. Note. Just as the faithful party can enter other nuptials, so also can that party enter religion or receive sacred orders. Whether matrimony contracted in infidelity is dissolved through religious profession, just as it is dissolved through another matrimony, is not certainly established; but that matrimony contracted in infidelity is not dissolved through reception of sacred orders is certain.

a. Sanchez indeed thinks that there is no reason to doubt concerning dissolution of matrimony through religious profession; for although neither in law nor in the divine letters is there attributed to religious profession the force of dissolving consummated matrimony in infidelity, nevertheless there exists a certain reason for attributing that force to profession, because profession dissolves ratified matrimony of the faithful, whose bond is firmer than consummated matrimony of infidels. But since this efficacy of religious profession is established neither from the divine letters nor from canon law, the matter remains doubtful until the Church defines it.

b. If an infidel woman is converted after her faithful husband has already received sacred orders, and she desires to pass to other nuptials, dispensation must be sought, either so that the husband may return to his wife or so that the wife can enter new nuptials.[1275]

524. On the Dispensation of the Supreme Pontiff. Matrimony contracted in infidelity, even if it has been consummated, can be dissolved through dispensation of the supreme pontiff, if either one or both parties are converted to the faith. The matrimony of infidels, as long as each party remains in infidelity, even if it has not yet been consummated, cannot be dissolved by the supreme pontiff, because infidels are not subject to his jurisdiction; but as soon as at least one of the spouses is converted to the faith, the matrimony by reason of the faithful party is subjected to the jurisdiction of the supreme pontiff, who by his power can dissolve it, even if it was consummated in infidelity, provided it has not been consummated after the conversion of both. This is clear from the fact that the supreme pontiff has already rather often dissolved marriages of this kind.

Theologians still dispute today concerning this question. Those who deny this power of the supreme pontiff say that the acts of the Holy See concerning the marriages of infidels are authentic declarations of divine law or of the Pauline privilege;[1276] but those who attribute this power to the supreme pontiff draw especially from

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1273. S. Office, March 13, 1901.

1274. S. C. de Propaganda Fide, June 26, 1829.

1275. Sanchez, l. 7, disp. 77, n. 9. Ballerini-Palmieri VI, n. 472 ff. Lehmkuhl I, n. 709 (n. 932).

1276. Pontius, Schmalzgrueber, Benedict XIV, De Angelis, etc.

the acts themselves of the Holy See the argument for asserting it.[1277] The Holy See itself purposely abstains from deciding the question, and in its decisions now uses those modes of speaking which do not expressly signify the dissolution of matrimony contracted in infidelity, but only dispensation from interpellation.[1278]

The power of dissolving consummated marriages of infidels, which is attributed to the supreme pontiff, seems to be explained thus: the very power by which marriages are dissolved in favor of the faith is immediately divine and of divine law, but the supreme pontiff by his power can determine the conditions under which marriages of this kind are dissolved, just as St. Paul by his apostolic authority determined that matrimony can be dissolved if the infidel party departs.[1279]

a. The internal reason on account of which the supreme pontiff can dissolve consummated matrimony in infidelity as soon as it is subject to his power must be taken from the lesser firmness which belongs to marriages of infidels: for consummated matrimony of infidels is less firm than ratified matrimony of the faithful, because it less perfectly signifies the indissoluble union of Christ and the Church; but ratified matrimony of the faithful can be dissolved by the supreme pontiff; therefore so also can matrimony contracted and consummated in infidelity.

b. The external reason is taken from fact: for there is a constant practice of the Holy See of permitting to newly converted infidels another matrimony even in those circumstances in which the Pauline privilege cannot be applied, because the required conditions are lacking, but especially because the infidel party does not depart; but this could not be permitted unless the prior matrimony were dissolved by declaration of the supreme pontiff.

c. The supreme pontiffs attribute this power to themselves in express words: "We, considering that marriages of this kind contracted among infidels are indeed true, yet are not to be considered so ratified that they cannot be dissolved when necessity urges."[1280]

Question Three.. On Betrothals.

Article One.. On the Promise of Matrimony.

525. Preliminary Notions. 1. Although betrothals do not have to be premised necessarily before matrimony, so that matrimony can be contracted both validly and licitly without betrothals, nevertheless several reasons exist on account of which betrothals are premised before matrimony.

The reasons on account of which betrothals are customarily premised before matrimony are: that the betrothed may meanwhile prepare those things which are necessary for leading conjugal life; that one may meanwhile test the character and morals of the other; for although this investigation is already necessary before betrothals, nevertheless during the time of betrothals it can and should be continued, and if from it it were established that the matrimony would have an unhappy outcome, this foresight would be a sufficient reason for withdrawing from the betrothals; that desire for the future matrimony may grow; that meanwhile the future matrimony may be announced, and that it may be examined whether any impediment exists between the betrothed.

Notes

1277. Sanchez, Pirhing, St. Alphonsus, D'Annibale, Ballerini-Palmieri, Gasparri, Feije, De Becker, and the twelve distinguished theologians of the Society of Jesus must not be passed over, among whom are numbered Bellarmine, Azor, and Ledesma, who in 1589 offered to the supreme pontiff a disputation written by themselves concerning this power. Cf. Zitelli, *De dispens. matr.*, n. 183 ff.

1278. Wherever dissolution of matrimony contracted in infidelity was sought because the interpellation, or rather the response to the interpellation, was impossible, as in the case in which an infidel wife had fallen into insanity, the Holy See granted dispensation from interpellation. Cf. S. Office, December 9, 1803, *Monitore eccl.* 1904, p. 241.

1279. Cf. Lehmkuhl, *Theol. mor.* II, 709 (n. 932).

1280. Gregory XIII, constitution *Populis ac nationibus* (January 25, 1585); Urban VIII has similar things.

2. The new Code distinguishes a twofold promise of matrimony: unilateral (*Eheversprechen*), made by one party and accepted by the other, and bilateral (*Eheverlobnis*), made and accepted by each party. This is customarily called betrothals.[1281]

526. Unilateral Promise. 1. From the definition it is clear that this promise of matrimony constitutes a gratuitous contract, which obliges the promisor in conscience, whether from fidelity or from justice, to stand by the promises.

2. In order that this promise be valid and licit, the following conditions are required: a. that in the promisor there be a will of obliging himself or herself to entering matrimony; b. that the promise be accepted by the other party; c. that the promise and acceptance be confirmed in writing; for if this form is not observed, no obligation of entering matrimony now arises in conscience.[1282]

Those things which are said below concerning the conditions and effects of betrothals must also be referred here.

Article Two.. On the Nature of the Promise of Matrimony.

527. On Its Nature Itself. 1. Any promise induces an obligation; whether grave or light, from fidelity or from justice, depends on the intention of the promisor. He who intends to oblige himself from justice is held under grave obligation in a grave matter to fulfill the promise. A promise which is made with some solemnity, e.g., in writing, before witnesses, with an oath, is judged to oblige from justice and under grave obligation in a matter of great moment.[1283]

2. The object of the betrothal contract is matrimony to be entered in its time, and indeed both valid and licit matrimony; for no one can oblige himself to invalid or illicit matrimony. Therefore those things which render matrimony invalid or illicit render betrothals invalid on the part of the object.

The difference between an illicit promise and the promise of an illicit thing must be noted; for the latter never obliges, since an obligation of furnishing an illicit thing cannot be given; but the former obliges if the thing illicitly promised can be furnished licitly. Hence if someone bound by a vow of chastity has promised matrimony, the promise is invalid; but if someone has promised matrimony without his parents' knowledge, he acted illicitly, but the promise is valid.

528. Bilateral Promise. The conditions required for its validity are these: it must be true, deliberate, mutual, expressed by the sensible sign of writing, between persons capable of contracting.

1. True, that is, internal and serious, with the mind of obliging oneself and of fulfilling the obligation, not only external and fictitious.

Whether one must stand by a promise by which someone fictitiously promises matrimony.

a. In the external forum a promise is held true and valid unless it is proved fictitious; but in the internal forum, he who promises matrimony with the mind indeed of obliging himself, but not with the mind of fulfilling the promise, makes true betrothals, and therefore is held to stand by his promise.

b. He who outwardly indeed promises by words, but without the mind of obliging himself, does not make true betrothals; therefore by force of the betrothals he is not held to enter matrimony, even if he had added an

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Notes

1281. Cn. 1017, 1.

1282. Cn. 1017, 2.

1283. Cf. *De praeceptis*12, n. 546 f.

oath to the fictitious promise. If, however, from the fictitious promise harm has arisen to the other party, the one fictitiously promising is held to repair this; but if it cannot be repaired in another way, he is held per se from justice to enter the promised matrimony, not indeed by force of the contract, which is null, but to repair the harm unjustly inflicted.

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529. 2. Deliberate, that is, entered with full knowledge of the obligation which arises from the contract of betrothals, and with a perfect will of obliging oneself; for no one is judged to impose a grave obligation upon himself unless he exists as master of himself and with full consent.

a. Therefore, for validly contracting betrothals, per se the age of seven years suffices; before the seventh year has been completed they cannot be contracted validly; for by the new Code a human being before the completed seventh year is judged not to be master of himself, but after the seventh year has been completed is presumed to have the use of reason.[1284]

b. Betrothals which are contracted in the heat of passion, e.g., while anger or vehement love impels, are ordinarily valid, both because this heat of passion rarely removes the deliberation which is required for sinning gravely and therefore for contracting betrothals, and because betrothals entered from vehement passion are declared invalid by no law.

c. Error and fear stand most in the way of the freedom of betrothals, just as of other contracts. Error which makes the matrimonial contract invalid also invalidates betrothals;[1285] but concerning betrothals entered from fear, these things must be noted.

530. On Betrothals Entered from Unjust Fear. a. If the fear is grave, whether absolutely or only relatively, the betrothals are indeed valid both by natural law and by ecclesiastical law, which does not declare betrothals entered from grave and unjust fear invalid, provided it is established that the consent was true and internal; nevertheless they can be rescinded on the part of the one who suffered the fear.

b. If the fear is light, whether absolutely or relatively, the betrothals are certainly valid, but in like manner they can be rescinded on the part of the one who suffered the fear, provided the fear was the sole cause of the contract.

There are indeed those who teach that betrothals extorted unjustly by grave fear are invalid by each law, natural and positive; but the proposed opinion seems to be preferred. And indeed by natural law every contract which has been extorted by grave fear unjustly inflicted is judged valid, except matrimony and religious profession;[1286] but there is no reason for excepting betrothals from other contracts, although matrimony is excepted.

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531. 3. Mutual: for betrothals are a bilateral contract, by force of which the contracting parties are mutually obliged to one another. Therefore it does not suffice that one party promises and the other accepts the promise, but it is required that the other party promise back; for only if an accepted promise is confirmed by a reciprocal promise is there a mutual obligation of each party.

a. Before the reciprocal promise, the promisor is held to stand by the promises if he intends to promise absolutely and gratuitously, provided the other party has accepted the promise: a unilateral promise of matrimony. But ordinarily one who intends to contract betrothals is obliged to nothing before a reciprocal promise; for the words of the contracting parties must be understood according to the nature of the contract.

Notes

1284. Cn. 88, 3.

1285. Cf. *De praeceptis*13, n. 536.

1286. Cf. *De praeceptis*13, n. 537, where the reason for this assertion is explained.

But betrothals, a bilateral promise of matrimony, by their nature are a mutual contract, which does not contain a simple pledge but a conditional one: I promise, if you also promise. From this arose the adage used among canonists: betrothals do not limp, that is, they produce an obligation either in each betrothed or in neither.

b. Frequently in the acceptance of the promise the reciprocal promise is virtually contained. Thus an honorable woman who after acceptance of betrothals consents to fornication, or who accepts the promise after there has been discussion of contracting betrothals here and now, is judged virtually to promise back.[1287]

4. Expressed by a sensible sign, namely by writing; for neither the acceptance of the promise nor the reciprocal promise can be established unless external signs are used by each party. By natural law, indeed, those signs are required and suffice which either from themselves, from usage, or from circumstances signify a promise made to a determinate person, such as words, nods, letters, handing over of a ring, extension of the hand, etc.; but by recent positive law writing is altogether required.[1288]

532. 5. Between capable persons. Those are said to be capable of contracting betrothals who at some time can enter matrimony validly and licitly; therefore those who have the due age and are prohibited by no impediment, whether diriment or prohibiting. But those who cannot enter valid and licit matrimony with one another are incapable of contracting betrothals, because their betrothals, as concerning an impossible or illicit thing, are invalid.

For contracting betrothals it is not necessary that the contracting parties be able to enter matrimony with one another at the time at which they contract betrothals, but it suffices that they can enter it at some time, namely at that time for which the promise of matrimony was made. Therefore the following are incapable:

a. The demented, who are so captured in mind that they are not capable of grave sin, unless they have lucid intervals.

b. The drunk, who lack the use of reason; indeed even the half-drunk, as also the half-witted and half-asleep, are incapable.

c. The deaf, mute, and blind at the same time, from birth, are ordinarily incapable. Whether they are absolutely incapable or not, authors, Sanchez, Schmalzgrueber, Pirhing, disputed long ago. Absolute incapacity can be denied still more in our age, since now means are at hand for instructing even these human beings. But the deaf or the mute, indeed even the deaf and mute, are not incapable of contracting betrothals.

d. Infants and those below puberty, who do not yet have necessary knowledge of the matter, are incapable from the nature of the thing.

e. Those who are bound by a diriment or prohibiting impediment; concerning which matter below, n. 538.

533. The Form of Betrothals.[1289] 1. Valid betrothals, which must be made in writing, with the placing of day, month, and year,[1290] can be contracted in two ways: a. before the parish priest or ordinary, by a writing signed by the parish priest and the betrothed; b. before two witnesses, by a writing signed by the betrothed and witnesses.

Under the name of parish priest also comes a quasi-parish-priest and a parochial vicar.

Notes

1287. Ballerini-Palmieri VI, n. 22.

1288. S. C. C., August 2, 1907, *Ne temere*. Cn. 1017.

1289. Cn. 1017.

1290. S. C. C., July 27, 1908. The placing of day, month, and year, which from this decree was necessary for validity, is not required in the new Code; therefore now it is to be counseled, but is no longer necessary.

The reason for establishing a new form in contracting betrothals is the evils and dangers which have often arisen from private betrothals, namely freer and sinful association between the betrothed with a view to future matrimony, betrothals rashly entered, doubts concerning betrothals truly entered, frauds by which especially incautious girls are deceived under promise of matrimony, suits and enmities arising because of rescinded betrothals between the betrothed and their families.

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a. Any parish priest or ordinary, even if he is not the proper one of the betrothed or of either of them, can be present at the betrothals and sign the writing as a qualified witness, provided this is done in his own territory.[1291] But it is altogether to be advised that they be made before the proper parish priest. But if the betrothed dwell in different parishes, it is better that the betrothals be contracted before the parish priest who will take care of the necessary documents and proclamations.

b. The parish priest cannot substitute another priest for himself; therefore if a priest who is not the parish priest is present at the betrothals as witness, another witness must sign at the same time.[1292]

c. All persons can be witnesses, men, women, acatholics, who can testify duly concerning the betrothals entered and sign the writing. Therefore it is necessary that the witnesses know how to write.

d. If each party or one party does not know how to write, or indeed knows how but now cannot, this must be noted in the writing itself, and another witness must be added, who besides the parish priest or local ordinary or the two witnesses signs the writing.

It is not established whether betrothals are invalid if another witness is not added to sign the writing in the case in which each or one of the betrothed does not know letters.

e. If an impediment stands in the way of matrimony, the betrothals must be contracted only after dispensation has been obtained, because diverse opinions of authors exist concerning the value of betrothals which are contracted by those who are bound by a diriment impediment.

f. In order that betrothals be valid, the betrothed must be present together and sign the writing together with the parish priest or two witnesses. Nor can a writing signed by one party and the parish priest or witnesses be sent to the other party, so that the other in turn signs with his or her parish priest or witnesses. Therefore if the betrothed remain in different places and cannot appear together before the parish priest or witnesses, the betrothals must be entered through a procurator.

2. Acatholics, even if among themselves or with Catholics, whether baptized or non-baptized, contract betrothals, unless for a particular place or region something else has been established by the Holy See.

a. Whether acatholics are held by force of the Code to observing this form is not established among authors. Those who affirm it say: baptized acatholics, who in the decree *Ne temere* are excepted from observing this form, are no longer excepted by the new Code, so that betrothals which are made by heretics or schismatics among themselves without observing the form are by strict law invalid.

b. In Spain, in all Latin America and the Philippine Islands, betrothals did not have force, either in the external or internal forum, unless they had been made by a public writing before a notary, not before a parish priest.[1293] This special law, however, has been abrogated by the decree *Ne temere*.[1294]

Notes

1291. S. C. C., March 28, 1908.

1292. S. C. C., March 28, 1908.

1293. S. C. C., April 10, 1891; S. C. pro neg. eccl. extraord., November 5, 1901.

1294. S. C. C., March 12, 1910.

3. A hidden promise of matrimony, whether unilateral or bilateral or betrothal, by the new Code is invalid by each law,[1295] and therefore produces neither moral effects of fidelity, nor canonical effects of betrothed faith.

Note. Who is to be understood under the name parish priest in the Code, and who are considered Catholics, will be said below, where there is discussion of clandestinity.

534. Betrothals Are Divided: a. Into solemn, which are made with the intervention of public authority, namely the parish priest or ordinary; private, which are made without intervention of public authority, before private witnesses.

b. Public, which are made so manifestly, through a writing before the ordinary, parish priest, or witnesses, that they can be established in the external forum; hidden or clandestine, which are made secretly, so that they cannot be proved in the external forum.

From the old law betrothals, whether public or clandestine, were equally valid, because the consent of two persons sufficed for valid betrothals; but now the Church declares clandestine or hidden betrothals invalid by an invalidating law.

c. Into simple and penal, in which a penalty is agreed upon if either party withdraws from the betrothals without a legitimate cause.

d. Into absolute and conditional, according as they are entered with some condition or without it.

In betrothals not only a suspensive condition but also a resolutory one can licitly be placed; but in the celebration of matrimony, although a suspensive condition can be placed for a grave cause and with the license of the bishop acceding, nevertheless a resolutory condition cannot be placed, unless it is a resolutory condition which inheres in the matrimonial contract from the disposition of law, unless the supreme pontiff shall have dispensed, unless I shall have chosen religion, because the matrimonial contract by its nature is irresoluble.

535. Note. a. From the penalty added to betrothals must be distinguished the arrha, earnest-money (*Angeld*), which is everything which the betrothed mutually hand over to each other as a sign of betrothals entered and as a pledge of matrimony to be contracted. He who withdraws from the betrothals loses those things which he gave and must return those things accepted; but once matrimony has been contracted, the betrothed recover the arrha which they had given. Arrhae are not illicit.

b. Again from arrhae must be distinguished gifts or presents, which frequently are customarily handed over by the bridegroom to the bride. Presents of this kind, if according to the condition of the betrothed they are of small value, are judged absolutely donated, and therefore are not to be restored if matrimony does not follow. But if they are of great value, they are judged donated with a view to the future matrimony, and therefore must be restored if matrimony does not follow. Nevertheless, according to a probable opinion, they can be retained if the betrothals are dissolved by fault of the bridegroom.

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536. On Betrothals Entered Through a Procurator. Betrothals under certain conditions can be entered both validly and licitly through a procurator: for matrimony and other contracts can be entered through a procurator; therefore also betrothals.

The required conditions are: a. that the procurator have a special mandate of contracting betrothals with a determinate person; b. that he execute the mandate himself personally and not through another, unless he has power of substituting another for himself; c. that the mandate has not been revoked, even if the revocation has

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1295. Cn. 1017, 1.

become known neither to the procurator nor to the other party with whom he contracts betrothals.[1296] The mandate does not need the conditions which from Cn. 1089 are required for a mandate for matrimony.

537. On Betrothals Entered Without the Parents' Knowledge or Against Their Will. a. Betrothals entered without the consent of parents are per se valid even where the matrimony itself is not illicit: for the consent of parents is required neither by natural law nor by positive law for valid betrothals. For although minors are subject to the power of parents in the exercise of their rights,[1297] nevertheless as regards matrimony they are of their own right and can make promises of matrimony. Therefore even if betrothals entered without the knowledge and against the will of parents are per se valid, nevertheless children are held to seek the counsel of parents.[1298]

b. But per accidens it can happen that not indeed the matrimony but the betrothals which are made against the will of parents are invalid. Namely, if the parents have a just reason for dissenting, the betrothals are invalid, not because of the dissent of the parents, but because matrimony in this case is illicit; but there is no obligation to an illicit thing. Hence if parents dissent without a just reason, the betrothals are not only valid but also licit, provided their counsel has been duly sought.

All agree that parents justly dissent if the matrimony redounds to the dishonor of the family or if grave scandals or dissensions are foreseen to arise from it; for children are held to guard against dishonor of the family from justice, and against scandals and dissensions from charity; whence their matrimony in this case would be illicit. Whether parents justly dissent because of a notable disparity of condition of each betrothed, whether it arises from nobility or from riches, or whether the betrothed in this case are held to stand by the promises, authors do not equally agree. It must be noted that the question supposes that the betrothed at the time of the betrothals were conscious of the disparity existing between them; for if they had been ignorant of it, the betrothals would be either invalid or at least rescindable. Therefore: a. if the matrimony, because of disparity of condition of each betrothed, brings either dishonor of the family or scandals or hatreds and dissensions of relatives, the betrothals are invalid because of these effects of the future matrimony. But if b. none of these things is to be feared from the future matrimony, the betrothals must be judged valid; and indeed it is not illicit that a noble marry a commoner, or a rich person a poor person.

538. On Betrothals Between Incapable Persons, or between those who labor under some impediment, whether diriment or prohibiting.

1. Betrothals between persons laboring under an indispensable impediment are invalid; for since matrimony, because of the impediment, can never be entered validly, those promising oblige themselves to an illicit and impossible thing; but there is no obligation to an illicit or impossible thing.

An impediment is called indispensable in which the Church either cannot dispense, or is never accustomed to dispense, or indeed is accustomed to dispense but in a particular case the causes which suffice for obtaining dispensation are lacking.

2. The same must be said about betrothals entered absolutely between persons laboring under a dispensable impediment: for as long as the impediment exists, they cannot contract licitly; therefore neither can they oblige themselves absolutely to contracting.

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1296. Nothing prevents a woman from acting as procurator; for it is not necessary that he who acts as procurator himself be capable of that right which is acquired for the mandator. Hence it can happen that two men or two women, fulfilling the office of procurators, contract betrothals for absent betrothed persons. Cf. Sanchez, l. 2, disp. 11, n. 15.

1297. Cn. 89.

1298. Cn. 1034.

Besides, if two who are bound by a dispensable impediment enter betrothals, the condition of seeking dispensation, if the pope shall have dispensed, is always understood as tacitly placed.[1299]

3. Betrothals entered conditionally:

a. They are certainly valid if the impediment ceases either of itself or from the will of the contracting parties, and the betrothals are made under an express or tacit condition of celebrating matrimony when the impediment shall have ceased.

Hence one who is bound by a temporary vow of chastity contracts betrothals validly and licitly, to be fulfilled when the vow has ceased. The Catholic party contracts betrothals validly and licitly with an acatholic party, to be fulfilled after the conversion of the acatholic party. By force of these betrothals the acatholic party is held to conversion, which was implicitly promised with matrimony.

b. If the impediment ceases only through dispensation, and the betrothals are made under the express or tacit condition, if the pope or bishop shall have dispensed, they also are valid from the nature of the thing; for they are a contract entered under a possible and honorable condition, which, once the condition has been verified, becomes valid of itself.[1300]

And although there are some more recent authors, Feije, De Becker, etc., who say that betrothals of this kind are simply invalid, both because those incapable of entering matrimony are also judged incapable of contracting betrothals whether absolutely or conditionally, and because various decisions of the Roman congregations declare them invalid, nevertheless the opinion concerning the value of these betrothals cannot be effectively attacked by arguments taken from the nature of the thing. As regards the decrees of the Roman congregations, first it must be conceded that the Church can establish by positive law that persons laboring under an impediment, even a dispensable one, are incapable of validly contracting betrothals, or at least that dispensation from the impediment in question is granted only on the condition that the betrothed, after dispensation has been obtained, renew consent. Although neither has hitherto been established by a general decree, nevertheless several particular decrees exist from which it seems possible to gather that the Holy See considers these betrothals as invalid and requires of the betrothed that, after dispensation has been obtained, new consent be placed.[1301]

Betrothals entered with an acatholic person, if they are made under the condition of obtaining dispensation, are valid once this has been obtained and accepted, at least after consent has been renewed; but for the Catholic party, before matrimony has been entered, the faculty of withdrawing from the betrothals remains, unless matrimony is the necessary means of repairing an injury. For since mixed matrimony is rarely plainly licit, and the Church always dissuades it, there is a sufficient reason for dissolving the betrothals.

Article Three.. On the Effects of Betrothals.

539. Four Are the Effects of Betrothals: 1. An obligation of justice, and a grave one, to contract matrimony afterward.

a. An obligation arises because betrothals are a contract, and every contract produces a true obligation. An obligation of justice arises because betrothals are an onerous contract; but every onerous contract produces an obligation of justice. A grave obligation arises because the object of the contract is a grave thing, namely matrimony. It is an obligation to matrimony or, if one withdraws from the betrothals unjustly, at least to

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1299. St. Alphonsus, l. 8, n. 650, with Lugo cited there.

1300. Cf. Schmalzgrueber. Among more recent authors Ballerini-Palmieri VI, n. 57, Gasparri, De Angelis, Rosset, etc., uphold this opinion.

1301. Cf. Wernz IV, n. 95 f.

repairing the harm which has arisen from the unjust dissolution. It binds afterward, that is, at the determined time, if any was established in the betrothal contract, or if none was defined, when one party reasonably seeks matrimony. Therefore to defer matrimony notably beyond that time without a just cause is a grave sin.

b. To the obligation of each betrothed of contracting matrimony with the other there corresponds in each the right of demanding matrimony from the other at the proper time. Therefore it is not licit for a young man who had contracted betrothals with a girl to abandon her without injury in order to marry another, even if he wishes to endow her abundantly; for the bride can demand the very matrimony by her right.

c. Betrothals, because they oblige to contracting matrimony afterward, also oblige to omitting all things which can impede the future matrimony or render it more difficult and burdensome, and therefore to omitting those things which furnish the innocent party a cause of rescinding the betrothals, especially carnal intercourse with a third person.[1302]

2. The invalidity of betrothals which are contracted with another person against the faith of the prior betrothals; for what by force of a promise is already owed to one cannot be promised to another.

Hence if a young man has contracted betrothals with two women and sinned with the second:

a. He is held to marry the first, unless she freely yields her right; for the first betrothals do not lose their force, even if afterward he contracted others. Therefore the first bride can be advised to renounce her right freely, but she is not held to this, even if she herself would suffer no detriment or only a light one, while the second would suffer a great detriment.[1303]

b. If the first freely yields her right, the young man is held to marry the second, not indeed by force of the promise, which was null, but to repair the harms inflicted on the second, where she consented to copula because of hope of future matrimony and from it became pregnant.

c. But if the second, when she had copula with him, knew that betrothals had already been entered with the first, the young man has no other obligation toward the second except to pay for the education of offspring perhaps received, because no injury is done to one who knows and wills.

3. The illicitness of matrimony with a third person, unless the betrothals already contracted have been duly dissolved. For although betrothals no longer constitute a prohibiting impediment of matrimony, nevertheless the moral obligation of not contracting against faith given remains.

4. From betrothals, although they are valid and no just cause excuses from not fulfilling them, no action is given for seeking the celebration of matrimony; there is given, however, for reparation of harms which from the faith given happen to the other party.[1304]

a. The action for reparation of harms is of the mixed forum, so that the Church and civil power are equally competent; but they do not suspend the celebration of matrimony. Commission for Interpretation of the Code, June 2-3, 1918.

b. By this disposition of law, ecclesiastical law concerning the effects of betrothals is conformed to the civil law of Austria, section 45 ff., and of Germany, section 1298 f., which admit judicial action only for repairing harms.

Notes

1302. What kind of sin carnal copula of the betrothed with a third person is, is said in the fascicle *De sexto praecepto*7, n. 20, 2.

1303. St. Alphonsus, n. 540.

1304. Cn. 1017, 3.

c. Hitherto betrothals brought two other effects: a prohibiting impediment of matrimony and the diriment impediment of public honesty. Now, therefore, if someone tries to impede a proclaimed matrimony by this, that matrimony had been promised to him or her by one or the other of the betrothed, he effects nothing.

d. The bishop, although competent as judge in this matter, cannot, as formerly, compel one who refuses to fulfill valid betrothals and has no cause of withdrawing from them to observe the faith given.

540. To What Betrothals Entered Under a Condition Oblige. a. Betrothals entered under a possible and honorable condition, e.g., if I shall have received this office, oblige under grave obligation from justice to waiting for the event of the condition; but when the condition has been fulfilled, without another consent they pass into absolute betrothals and produce the obligations of other betrothals, provided neither party meanwhile has revoked consent.

Betrothals which are contracted with a third person before the event of the condition are invalid, because they are against the right of the other party.

Whether, when the condition has been fulfilled, betrothals become valid if one party before the condition was fulfilled illicitly revoked consent, some, Lugo, Wernz, Lehmkuhl, affirm, because an illicit revocation of consent is also invalid; others, Sanchez, Gasparri, D'Annibale, deny it, judging the revocation valid.

b. Betrothals entered under an impossible condition are invalid, unless it is proved that the condition was placed in jest and the betrothals were entered seriously.

c. Betrothals entered under a base condition are invalid before the condition has been fulfilled; therefore they do not oblige to waiting for the event of the condition. But when the condition has been fulfilled, they pass into absolute betrothals and produce the obligation of entering matrimony, unless the condition is opposed to the substance of matrimony.

Since betrothals entered under the condition, if the pope shall have dispensed, are, from what has been said above, not certainly valid betrothals, one who after dispensation has been obtained refuses to enter matrimony is not held to entering matrimony.

Article Four.. On the Dissolution of Betrothals.

541. How They Can Be Dissolved. Betrothals are a contract dissoluble by its own nature, since neither divine law, as in matrimony, nor human law, as in religious profession, requires their perpetuity. Betrothals can be dissolved in two ways: either by law itself on the part of each party, or by the will of one party to whom a just cause of withdrawing is given. Therefore now the causes by which betrothals are dissolved by law itself on each side must be indicated, and the causes which excuse one party from fulfilling the promise or grant that party the faculty of rescinding the betrothals.

Since valid betrothals now exercise their force only before God and in conscience, but confer no right of action for urging the celebration of matrimony, those things which follow here will be useful only to pastors and confessors. But it will be clear that the causes which excuse from fulfilling the promise are so various that a pastor of souls can rarely urge the obligation of contracting matrimony if one or the other party wishes to withdraw from the betrothals.

Section 1. Causes on Account of Which Betrothals Are Dissolved by Law Itself.

When a cause exists which dissolves betrothals by law itself on each side, liberty of entering another matrimony is granted to each party. Three causes of this kind are numbered: mutual consent, a supervening impediment, and choice of a more perfect state.

542. Mutual Consent, by which the betrothed can remit to each other the obligation of the betrothals, even if they had been confirmed by oath; for every contract can be dissolved by mutual consent, just as it arose by mutual consent, unless its dissolution is resisted by right; but right does not resist the dissolution of the betrothal contract.

a. This has force even in the case in which the betrothed after the betrothals have had carnal copula; for by copula the betrothals do not acquire greater firmness. Yet other obligations must be fulfilled if the bride has become pregnant.

b. He who adds an oath to betrothals obliges himself before God to contracting the promised matrimony; but God accepts the obligation in favor of him or her to whom the matrimony was promised; therefore if that person remits the obligation, God also is judged to remit it. Hence even betrothals confirmed by oath are dissolved by mutual consent. Therefore an oath which is added to betrothals is made with this tacit condition: unless it is remitted by the other party.

543. A Supervening Impediment, by which the promised matrimony is rendered impossible: for what renders the betrothed altogether incapable of entering the promised matrimony entirely removes the obligation of the betrothals. Supervening impediments can be:

a. Indispensable impediments either of natural law, such as insanity, impotence, or of ecclesiastical law in which one is not accustomed to be dispensed.

Supervening impediments in which dispensation cannot be given are, besides insanity of one party and impotence, validly entered matrimony, solemn vow, sacred order. Two supervening impediments in which dispensation could be given and concerning which authors used to treat in this place, namely spiritual relationship and affinity from illicit copula, after the dispositions of the new Code can no longer supervene.

b. Religious profession, whether solemn or simple, and reception of sacred order; for he who emits profession or receives sacred order is rendered incapable of contracting, since religious profession and sacred order constitute an impediment perpetually diriment of matrimony. As regards solemn religious profession, another reason is added: for if by disposition of law betrothals *de praesenti* are dissolved through profession, a fortiori betrothals *de futuro* are dissolved, so that they no longer revive.

c. Matrimony contracted with another person, which nevertheless does not certainly but only probably dissolve betrothals.

All concede that the other betrothed party has the right at once of entering another matrimony; but the question whether the obligation of betrothals is entirely extinguished through a subsequent matrimony entered with another person, or only suspended during the matrimony, so that when the matrimony has been dissolved it revives again, is controverted. Those who teach that betrothals are altogether dissolved bring forward this reason: the firmer obligation of matrimony extinguishes the less firm obligation of betrothals. Moreover one who contracts matrimony is rendered per se incapable of entering the promised matrimony, since he assumes a state perpetual of itself, which is repugnant to the promised matrimony. But if the matrimony is dissolved by the death of the other party, this happens per accidens and does not change the nature of the thing. But those who with St. Alphonsus, n. 875, teach that betrothals are only suspended argue in this way: he who contracts matrimony is not rendered absolutely incapable, since the contracted matrimony is not repugnant to the promised matrimony for the time at which the prior matrimony will have been dissolved by the death of the other party. Moreover he who after emitting a vow of chastity contracted matrimony is held, once the matrimony has been dissolved, to fulfill the vow; therefore also he who after entering betrothals contracted matrimony is held, once the matrimony has been dissolved, to fulfill the betrothals, if the other party wishes. Finally, one's own fraud ought to patronize no one. Since each opinion is truly probable, Ballerini rightly writes:

a confessor cannot compel a widow to fulfill that former promise.[1305]

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544. Choice of a More Perfect State. 1. For betrothals are always made with this tacit condition: unless I shall have chosen a more perfect state;[1306] therefore each betrothed reserves to himself or herself the right of passing freely and licitly to a more perfect state, the matrimonial state having been left.

There are indeed those who do not attribute this force of dissolving betrothals to the choice of any more perfect state, but only to the choice of the religious state or to the will and vow of professing religion; for they say that the choice of another state and consequently the vow of assuming a more perfect state is illicit and therefore invalid, because God does not accept what has already been promised to another. But since the same reason militates for every more perfect state, it must be extended equally to all. But the reason is the tacit condition under which betrothals are made. For betrothals are dissolved because of a notable supervening change, such that, if foreseen, betrothals would not have been entered; but a change of this kind is vocation to a more perfect state and the will of assuming it.[1307]

2. A more perfect state of this kind is: a. the state of virginity, which one chooses who emits a vow of perpetual chastity.

In the external forum indeed betrothals because of a private vow of perpetual chastity are not judged dissolved; but in the internal forum this vow renders one immune from the obligation of betrothals, provided it was emitted from a true and sincere will.

b. The clerical state in sacred order, which is chosen both by one who makes a vow of receiving sacred orders and by one who receives minor orders or enters a clerical seminary with a true and sincere will of receiving sacred orders.

c. The regular state in an order or congregation with perpetual vows, which is chosen both by one who makes a vow of entering religion and by one who enters religion with a true and serious will of emitting profession in it.

Authors dispute whether by the choice of a more perfect state betrothals are dissolved on the part of each party, or whether only the right of withdrawing from the betrothals is given to the other party, if that party wishes. According to the first opinion, betrothals, in the internal forum, are dissolved through the very act of the will by which one of the betrothed sincerely dedicates himself or herself to divine service in a more perfect state. According to the second opinion, through the will of choosing a more perfect state the other party becomes free, because the one choosing a more perfect state yields his or her right; but that one becomes free only after taking up the more perfect state, that is, after receiving sacred order or emitting religious profession.

Since the opinion affirming the dissolution of betrothals on each side is truly probable, the confessor does not have the right of compelling to fulfilling the betrothals one who does not execute the conceived will of embracing a more perfect state, but, e.g., after some time leaves the novitiate or the seminary. Nevertheless it is supposed that he acted sincerely from true love of the more perfect state; for if he had deceitfully only affected the intention of a more perfect life, he certainly is not freed from the obligation of betrothals.[1308]

Notes

1305. Gury-Ballerini II, n. 733.

1306. St. Alphonsus, n. 870 ff.

1307. Cf. Ballerini-Palmieri VI, n. 185.

1308. Cf. Ballerini-Palmieri VI, n. 174 ff.; Gasparri I, n. 92 f.; De Becker, p. 14; Wernz IV, n. 113.

Section 2. Causes on Account of Which It Is Licit to Rescind Betrothals.

When a cause exists which grants one party the faculty of rescinding the betrothals, this party can dissolve the betrothals at pleasure; but if that party does not wish to withdraw from the betrothals, it is not licit for the other party, who had given the occasion of dissolving them, to withdraw, unless perhaps matrimony exists as notably more burdensome to that party. Three causes of this kind can be numbered: a. breaking of betrothal faith; b. a state of things different from what was known; c. notable change.

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545. Violation of Betrothal Faith; for faith is not to be kept with one not keeping faith. But the actions through which betrothal faith is judged to be violated are chiefly the following:

a. To delay excessively the matrimony to be contracted. For either a term for contracting matrimony was fixed in the betrothals, or none was fixed. If the first, either the fixed term was set for ending the obligation, in which case, after the term has elapsed, the betrothals are dissolved by law itself on each side; or the term was fixed for urging the obligation, in which case, whether by culpable or inculpable delay of one party, the time has elapsed, the innocent party can withdraw from the betrothals. But if no term for contracting matrimony was fixed, that party which draws out the delays for too long is judged to give the other party power of withdrawing from the contract. But how much time the latter ought to wait so that it can withdraw by right from the betrothals must be determined by the judgment of prudent persons after considering the circumstances.

b. To betake oneself to another place without the consent of the other party. If one party migrates to another place while the other party does not know or is unwilling, and there is no hope that the migrant will return shortly, the party remaining can at once withdraw from the betrothals, whether the cause of migration was necessary or voluntary; for he who migrates elsewhere is judged by this very fact to renounce the betrothals, but the other party acquires freedom of contracting with another.

If the remaining party had notice of the migration and consented, he or she must wait for the return. But if the other party has gone to a nearby place or there is hope that he or she will return shortly, that party's return must be awaited, or the party must be warned to return within a certain time for celebrating the promised matrimony, and if he or she does not return, the remaining party is free.

c. To enter other betrothals. And betrothals contracted against the faith of prior betrothals are invalid, even if they had been confirmed by oath, as illicit; and the party which violated betrothal faith is held to the first betrothals, but the other innocent party is freed from the obligation.

d. To commit fornication with another person. Fornication committed before the betrothals and after the betrothals must be distinguished; besides, in fornication which the betrothed commit, two things must be attended to: first, one who fornicates with an extraneous person breaks betrothal faith; and then because of fornication is rendered of less value; this effect, however, affects the bride more than the bridegroom.

Because of fornication committed before the betrothals and known after the betrothals, both the bridegroom and also the bride have the right of withdrawing from the betrothals, although some deny this right to the bride.[1309]

Because of fornication committed after the betrothals, the innocent party, both bridegroom and bride, can withdraw from the betrothals, because the other party has broken faith.

Notes

1309. Lehmkuhl, *Casus consc.* II, 848.

If fornication has been committed on each side, there is indeed a mutual compensation of delict; nevertheless the bridegroom can withdraw, because the bride, who has been made notably of less value, has gravely injured the right of the bridegroom. But according to the common opinion the bride cannot withdraw, unless the bridegroom has had offspring from another or has contracted a habit of fornicating;[1310] for the bridegroom is not judged to have been made notably worse from fornication, and therefore has not gravely injured the right of the bride. Yet there are those who rightly say that the bride's obligation of entering matrimony with a fornicating bridegroom is not certain, and that she therefore cannot be compelled to matrimony.[1311]

If one of the betrothed commits immodest acts with a third person, the bridegroom can withdraw from the betrothals, indeed also the bride if disgraceful acts of this kind are admitted so frequently that it must rightly be feared that the bridegroom will violate conjugal faith.

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546. A State of Things Notably Different from that which had been known before. Namely, if after betrothals have already been contracted, one party comes to knowledge of a circumstance already existing at the time of the betrothals which, if that party had known before, he or she would not have made the betrothals, this party has a just cause of withdrawing from the betrothals; for betrothals do not oblige beyond the will of the contracting parties, and the contracting parties are not judged to have wished to oblige themselves to a future matrimony so grave and difficult. Now it is asked:

Whether the bride is held to manifest to the bridegroom the defects under which she labors, and conversely the bridegroom to the bride.

1. In general it must be said:

a. Each betrothed has the right of knowing notable defects of the other party, so that full freedom may be preserved for the matrimonial contract. Therefore one who conceals defects of this kind sins gravely against justice, just as one acts against justice who sells useless merchandise to him who is ignorant of the defects of the merchandise.

b. Not every defect which, when known, grants the betrothed the right of withdrawing from the betrothals must be manifested under grave obligation; for sometimes defects of this kind are such that they do not render matrimony more difficult for the other party because they are unknown, but when known they grant the right of withdrawing. Now in this case the right of the other party is not gravely injured if the defects are wholly concealed.

2. In species these things must be noted:

a. Defects which render matrimony invalid, however disgraceful, must be manifested, or matrimony must be abstained from.

A defect of this kind is of a twofold kind: either it is a defect whose absence the betrothed requires as a condition without which not, e.g., if you are a virgin, if you have not committed that crime; or it is a defect which contains a hidden diriment impediment.

b. Defects which will render matrimony either harmful or notably more difficult for the other party, although disgraceful, must be manifested under grave obligation, both before and after betrothals if they have supervened after these have already been entered.

Notes

1310. St. Alphonsus, n. 862.

1311. Lehmkuhl, *Casus consc.* II, n. 849; Matharan, Genicot, and Wernz consent.

Defects of this kind are: a disease, especially a contagious one, grave infamy of person or family, offspring left from another man, sterility, state of widowhood, another religion, grave moral defects, etc.

As regards fornication, it must be distinguished thus: if the bridegroom has had offspring from it, this must be manifested to the bride, unless the circumstances are such that the bridegroom will never come to knowledge of the thing. If the bride has become pregnant from it, she must reveal the matter to the bridegroom; if, however, before matrimony she can give birth and wholly conceal the birth from the man, the defect can be judged as if it were simple fornication.

The bridegroom is not held to reveal simple fornication, because that defect is not judged notable in the bridegroom; but the bride must reveal fornication, because this defect in the bride is judged notable, unless by artifice she can wholly conceal the matter, or unless from the known character of the bridegroom it can prudently be judged that he would not value this defect greatly.

c. There is no obligation, at least no grave one, of manifesting either before or after betrothals defects which do not render matrimony notably more difficult, although they render it less desirable and bring some sadness to the other party, just as there is no obligation in contracts of manifesting lighter defects of merchandise. For no one is held to defame himself or herself and deprive himself or herself of the hope of marrying where by silence no right of another is injured. But if it were to be feared that after matrimony the matter would become known and from this there would arise an unhappy matrimony, at least from charity they would be held to manifest the defect or abstain from the union.

Defects of this kind are: deformity, ignobility, poverty, harsh and irascible character, incapacity for conducting affairs, for administering the home, etc.

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547. Notable Change which supervenes upon the betrothals; for betrothals are judged to have been entered under this tacit condition: if things remain in the same state, and that lest the matrimony be going to have an unhappy outcome.

Notable change is judged to be induced by any circumstance which, if it had existed or been known before the betrothals were entered, would have drawn one back from contracting the betrothals; but of this kind is any circumstance by which the promised matrimony is truly rendered much more burdensome, difficult, and troublesome. This change can happen either in goods of soul, or in goods of body, or in goods of fortune.

a. In goods of soul: grave harshness of morals, inclination to drunkenness, gambling, impiety; if someone commits an atrocious crime: that crime is judged atrocious which brings grave harm or infamy, such as heresy, homicide, grave theft.

b. In goods of body: incurable or contagious disease, loss of beauty especially in the bride, blindness, cutting off of a member. It is asked whether there is a just cause of abandoning the bride if she has been corrupted against her will. This indeed must be affirmed, because she has been made notably of less value; for that which is valued greatly in a bride is bodily integrity, and when this has been lost, even without fault of the bride, the condition of things has notably changed. The same must be said if she had been corrupted before the betrothals and afterward at length this defect was discovered.

c. In goods of fortune: supervening poverty in each betrothed grants each the faculty of withdrawing, because on each side a notable change happens and matrimony is rendered more burdensome to each; if either one loses a notable part of goods, the other party, whose goods remain unchanged, can withdraw; if the bride is discovered not to have a dowry; if a rich inheritance comes to the bridegroom. But if the goods of the bridegroom remain unchanged and only a rich inheritance comes to the bride, commonly the right of withdrawing from the betrothals is not granted to her; but the opinion which also attributes to the bride in

this case the right of withdrawing does not seem improbable, because if she had foreseen the future change, she would not have contracted the betrothals; if either is burdened by excessive debt and there is no hope that he or she will be able to pay; if the bridegroom becomes inept for acquiring an office necessary for the sustenance of the family.

Note. Betrothals can be rescinded if, with all circumstances considered, it is rightly feared that the matrimony to be celebrated will have an unhappy outcome. But for this reason betrothals can in no way be dissolved because another and better occasion of entering matrimony offers itself. Indeed ordinarily the rescission of betrothals must at least be dissuaded, not to say prohibited, although another bride much richer and not inferior as to other qualities offers herself to the bridegroom.

548. Whether, When a Just Cause of Dissolving Betrothals Exists, These Can Be Dissolved by One's Own Authority. If a just cause of dissolving betrothals certainly exists, the sentence of a judge is not required for dissolving them, but by one's own authority they can be dissolved or rescinded by mutual consent; for it is prescribed neither by natural law nor by positive common law that betrothals not be dissolved unless the authority of a judge intervenes.

Per se: for from a threefold cause it can happen that the authority of a judge is required for dissolving betrothals: a. by natural law for averting scandal, if the betrothals are publicly known but the cause of dissolution is unknown; b. from a particular statute of many dioceses, by which it is not permitted that betrothals which were celebrated publicly or afterward became publicly known be dissolved without the cause being referred to the bishop; c. finally where there is doubt about the existence or sufficiency of the cause, dissolution of betrothals is not to be permitted without the authority of a judge, so that the danger of injustice or enmity between the betrothed may be guarded against.

549. To What Is One Held Who Withdraws from Betrothals Without Just Cause?

a. Not only one who withdraws from betrothals without a just cause, but also one who either concealed a just cause of withdrawing or brought it about by his or her fault, is held to repair the harm which is inflicted on the other party withdrawing.

b. Full reparation of harm includes both positive harm and negative harm. The former consists in gifts and expenses made by the other party with a view to the future matrimony; the latter arises both where the bride for this reason cannot find another man, or has conceived offspring from the bridegroom.

c. If the bride withdraws, ordinarily it suffices that the positive harm inflicted be repaired to the bridegroom, because a man more easily finds another bride; but if the bridegroom withdraws, full reparation of harm is usually had only if the bride is also suitably endowed.

Question Four.. On the Requisites Before the Celebration of Matrimony.

Before the celebration of matrimony, it must be established for the parish priest that nothing stands in the way of its validity and liceity. In order that he may be made more certain concerning this matter, from office he must a. institute the examination of the betrothed, b. publicly announce the matrimony.[1312]

Article One.. On the Examination of the Betrothed.

550. By Whom and How It Must Be Instituted. 1. The parish priest before the proclamations, both by force of office and by positive law, is held under grave obligation to institute the examination of the betrothed,

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Notes

1312. Cn. 1020, 3.

so that it may be established whether anything stands in the way of the matrimony to be celebrated by the betrothed, so that it could not be celebrated validly and licitly.

The parish priest from office is held to procure those things which are required for the valid and licit administration of the sacraments. Benedict XIV, by the constitution *Nimiam licentiam*, May 18, 1743, enjoined by positive law the obligation of diligently examining the betrothed, which the new Code confirms.[1313]

2. The examination must be instituted by the parish priest to whom belongs the right of assisting at the matrimony.[1314] If this right belongs to several, the parish priest of the bride is to be preferred.

With the consent of the parish priest of the bride, the parish priest of the bridegroom also can institute the examination and procure those things which are necessary. But if the bridegroom is impeded from betaking himself to the place of the bride in order to carry out the examination, his parish priest, at the request of the parish priest of the bride, institutes the examination and transmits his testimony to the parish priest of the bride.

3. The examination must be instituted: a. concerning impediments both public and occult; b. concerning the freedom of consent, especially of the woman; c. concerning the Christian religion.[1315]

a. As regards the mode of carrying out the examination concerning impediments, which first is instituted with the betrothed and two witnesses present together concerning public impediments, then with the bridegroom and bride separately concerning occult impediments, the diocesan rituals should be consulted. It belongs to the local ordinary to give special norms for the examination of the betrothed.[1316] Therefore diocesan statutes issued concerning this matter retain their force.

b. If a public impediment stands in the way of matrimony, the parish priest should warn the betrothed to desist from matrimony, unless there is a sufficient cause of dispensation and grave inconveniences would arise from omitting the matrimony. If a civil impediment stands in the way of matrimony, dispensation from this also must be obtained. In like manner documents are to be procured, if civil law requires any.

4. The examination concerning the Christian religion is never to be omitted, unless the parish priest knows from elsewhere that the betrothed are sufficiently instructed. For since they themselves are about to receive the sacrament of matrimony and, as it is permitted to hope, must instruct future offspring in the Christian religion, they must be instructed in due knowledge of religion. The knowledge necessary for this refers to those things which each person must know by necessity of means and of precept, to which also pertain the obligations of one's own state.

If one or each is found ignorant of Christian doctrine, the parish priest should teach him or her at least the first elements of Christian doctrine; but if they refuse, the betrothed are not for that reason to be rejected from matrimony.[1317]

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5. Besides these things the Code warns: a. Unless the betrothed are from his own parish, the parish priest must require from each party a testimony of baptism.[1318]

Notes

1313. Cn. 1020, 1.

1314. Cn. 1020, 1.

1315. Cn. 1020, 2.

1316. Cn. 1020, 3.

1317. Commission for Interpretation of the Code, June 2-3, 1918. Cf. Cn. 1066.

1318. Cn. 1021, 1.

a. From the will of the Code, Catholic persons about to marry who have not yet received the sacrament of confirmation should receive it before matrimony, if they can do so without grave inconvenience.[1319] For although there is no necessity of this matter, nevertheless it is very fitting that it be done.

b. If testimony concerning the received sacrament of baptism cannot be had, the affirmation of one witness above every exception suffices, or the oath of the bridegroom or bride personally, if he or she received the sacrament in adult age.[1320]

c. Finally, the parish priest should vehemently exhort the betrothed that before the celebration of matrimony they confess their sins and receive holy communion.[1321]

Particular statutes which in some dioceses, even under penalty of denial of the nuptial blessing, strictly oblige the betrothed to the reception of the sacraments have been abrogated after the new Code, which establishes no obligation in this matter.[1322]

6. In danger of death, where time is not available for providing these things and matrimony nevertheless is either necessary or at least very opportune, it suffices, unless contrary indications are present, that the contracting parties affirm under oath that they are baptized and are detained by no impediment.[1323]

Note. 1. Once the examination is completed, an occasion offers itself to the parish priest of warning and exhorting the betrothed that they spend chastely the time which precedes the celebration of matrimony and prepare themselves religiously for receiving the sacrament of matrimony.

2. From the examination of the betrothed must be distinguished the instruction of the betrothed (*Brautunterricht*), whose object is constituted by the mutual obligations of spouses, especially as regards conjugal life, and also obligations toward offspring. Care must be taken lest this instruction be had in a passing and perfunctory way, and at the same time lest chaste and pious ears be offended; wherefore it must be diligently premeditated and prepared. It must not be had together with the examination of the betrothed, nor in the confessional on the occasion of the confession of the betrothed; but either shortly before, or if it can be done, shortly after the celebration of matrimony.[1324]

Article Two.. On the Proclamations of Matrimony.

551. On the Law of Proclamations. The law of the Church obliging under grave obligation prescribes that matrimony, before it is contracted, be publicly announced three times by the proper parish priest of the contracting parties, on three continuous Sundays and other feasts of precept, in the church during the solemnities of Masses or during other divine offices to which the people come in numbers.[1325]

a. Public announcements of matrimony are customarily called banns; this word seems to be Germanic and to signify public proclamation, although in this sense it is now no longer used.

Notes

1319. Cn. 1021, 2.

1320. Cn. 779; 800.

1321. Cn. 1053.

1322. Cn. 6, 6.

1323. Cn. 1019, 2.

1324. For preparing this instruction these can be of use: Krick, *Das Brautexamen* (Passau: Bucher, 1883); Lauterborn, *Das kirchliche Brautexamen* (Paderborn: Bonifacius-Druckerei, 1887); *Braut-Unterricht* (Kempten: Kosel, 1898). Almost all pastoral journals contain such an instruction suitably composed: Paderborn, 1895; Munster, 1894, 1899, and 1917; Cologne, 1884; Passau, 1892; finally also Leitner, l. c., p. 528 ff.; Keller, *Geburtenruckgang und kath. Seelsorge* (Paderborn, 1917); Ehrler, Bauer, Gutmann, *Gluckliches Eheleben* (Mergentheim a. d. T.).

1325. Council of Trent, sess. 24, c. 1, *De reform. matr.* Cn. 1022, 1023, 1024.

b. The law of banns, existing first in Gaul, the Fourth Lateran Council under Innocent III extended to the universal Church; but by the Council of Trent, and now by the new Code, the same law, renewed and more accurately determined by several added prescriptions, has been established.

c. With the obligation of proclaiming the matrimony there belongs to the parish priest the right of making proclamations, which is a proper parochial right. But the faithful seeking a proclamation acquire the right that their matrimony be proclaimed by the parish priest.

1. That this law is grave is gathered: a. from its grave end, for obtaining which proclamations contribute much; b. from the grave penalty established by the Council against transgressors; nevertheless it admits smallness of matter.

a. The end of the law is threefold: that impediments to contracting matrimony, if any perhaps exist, may be detected; that clandestine marriages may be eliminated; that children not contract marriages against the will of parents. But the principal end is the first.

b. Small matter: to omit only one proclamation from the three required, or to make two on the same day, does not exceed light sin;[1326] indeed, in the probable judgment of some, to omit two is not grave if the danger of a hidden impediment is removed, e.g., by waiting several days before the matrimony is made.[1327] Likewise to fulfill the prescribed circumstances not formally but only equivalently does not exceed venial sin. For a grave cause, to omit those things which oblige only under venial sin is free from all fault.

2. The law of proclamation binds as regards all marriages of Catholics: a. even if the matrimony to be contracted is publicly known; b. even if it is established that no impediment underlies it, because the universal law urges, even if in a particular case the end of the law ceases.

Nevertheless there is excepted a. the matrimony of rulers, which is not customarily proclaimed, because their family is so known that an impediment, if any underlies it, can easily be known; b. a case of urgent necessity, as if in danger of death matrimony had to be contracted for legitimating offspring.

3. Marriages which are celebrated with dispensation from the impediment of disparity of cult or mixed religion are by law not to be published. Nevertheless the ordinary can permit this, these conditions being observed: that scandal be absent, that dispensation in the impediment has preceded, and that mention of the religion of the non-Catholic party be omitted.[1328]

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552. On the Proclamations Themselves. Proclamations must be made: 1. By the proper parish priest of the contracting parties,[1329] or by another with his license.

a. The proper parish priest is he in whose parish those about to marry have domicile or quasi-domicile. If they have domicile or quasi-domicile in two parishes, each parish priest is their proper parish priest. Of those who have only a diocesan domicile, the proper parish priest is he in whose parish they actually live. Of vagi likewise the proper parish priest is he in whose parish they are actually staying.

b. The parish priest can delegate another priest or cleric to make the announcements. But he cannot delegate a layman, unless from legitimate custom, as in Spain.

Notes

1326. St. Alphonsus, n. 900.

1327. D'Annibale III, n. 453; Gasparri I, n. 152.

1328. Cn. 1026.

1329. Cn. 1023.

2. On three continuous Sundays or feasts on which, from the universal precept of the Church or the particular precept of the diocese, the obligation of hearing Mass urges, so that there may be a gathering of the people; but not on abrogated feast days, although the people are accustomed to flow together in numbers. Continuous, that is, succeeding one another in such a way that no feast day is passed over without announcements, lest perhaps the people forget the announcements. If nevertheless a feast day is passed over from any cause, the announcement is to be continued on the following feast day.

a. Announcements can also be made on feast days immediately succeeding one another; but if three feast days immediately succeed one another, it is better that one be passed over without proclamations.

b. The law is not satisfied if proclamations are made on feasts of devotion or on weekdays, although the people come to the church in numbers.

3. In the church, namely the parish church, during the solemnities of Masses or during other divine offices to which the people come in numbers.[1330]

Formerly announcements could be made only during the solemnities of Masses; now it is expressly permitted that they can also be made during other divine offices, e.g., at vespers or on the occasion of a procession or sermon, provided the people are present in numbers.

4. By living voice according to common law; nevertheless the ordinary can for his territory substitute for publications the public affixing at the doors of the parish church or another church of the names of the contracting parties for the space of at least eight days, yet in such a way that during this space two feast days of precept are included.[1331]

a. This exception, which already long ago, S. C. C., March 28, 1908, was granted to the archbishop of Paris for parishes which contain more than 10,000 souls, has now been made universal.

b. If the parish priest had forgotten to make the announcement in Mass, or if the names of the betrothed had in no way been understood by the hearers, the proclamation could either be deferred to the following feast day or be made in the afternoon.

c. If on some feast day in another, filial, church there were a parochial Mass and a numerous gathering of the people, the announcement could be made there, because the end of the law is better obtained there.

5. With the law considered, the following rules indicating whether publications must be made in one or in several parishes are to be established:

a. If the betrothed belong to the same parish, publications must be made in that parish only; if they belong to different parishes, they must be made in each parish.

b. If one or both of the betrothed has domicile or quasi-domicile or two domiciles, publications must be made in all these parishes; for each parish priest is proper.

Minors who outside the domicile of parents or guardians have a quasi-domicile must be proclaimed both in the domicile of fact which they themselves have and in the domicile of parents, which is their domicile of law.

c. If either of the betrothed after the years of puberty has stayed elsewhere for six months, the matter is to be referred to the ordinary of the place, whose office it is to prescribe proclamations to be made elsewhere and other investigations.[1332]

Notes

1330. Cn. 1024.

1331. Cn. 1025.

1332. Cn. 1023, 2.

d. If there is suspicion of a contracted impediment, the parish priest, even if the person about to marry stayed elsewhere for a shorter time than six months, should consult the ordinary, who should not permit the matrimony unless the suspicion has first been removed.[1333]

e. In the parish of origin, if the betrothed do not have domicile there, and in the parish of simple habitation, by strict law publications do not have to be made, unless particular statutes prescribe otherwise, because the parish priest of those places is not the proper parish priest. But ordinarily it is prescribed that publications be made in the parish of origin if the betrothed left it in adult age, and in the parish of habitation if they stayed there for a notable time, namely for six months.

f. If those about to marry change domicile or acquire domicile while the proclamations are taking place, the parish priest of the new domicile, not of the prior one, is their proper parish priest; nevertheless proclamations are not to be made in the new domicile except from civil law.

553. On Dispensation from the Law of Proclamations. 1. From the law of proclamations not only the Roman pontiff, but also the bishop, can dispense for a just cause; the new Code determines his power thus:[1334]

a. The proper ordinary can dispense from publications to be made even in another diocese. Now, therefore, it is certain that the dispensation of one ordinary suffices, namely of the one in whose diocese the matrimony is celebrated.

b. If there are several proper ordinaries, that one has the right of dispensing in whose diocese the matrimony is celebrated. But if the matrimony is entered outside the proper dioceses, any proper ordinary to whom those about to marry have chosen to have recourse can dispense.

The parish priest cannot dispense from proclamations unless he has been delegated for this by the bishop; but if necessity urges, he can declare that the law of the Church does not oblige with such great inconvenience. Afterward, however, the bishop must be warned concerning this matter.

2. A just cause of dispensing does not have to be grave, provided the end of the law is obtained, especially if dispensation is given from only one or two proclamations.

Just causes of dispensing are some gracious, on account of which dispensation can be given; others necessary, on account of which dispensation must be given, because otherwise inconvenience would arise for the betrothed. Causes of this kind are:

a. If there is danger that the matrimony may be maliciously impeded.

b. If there is danger that the bridegroom may abandon a girl violated by him.

c. If from delay of matrimony infamy of the contracting parties would follow.

d. If because of the necessity of a journey the matrimony cannot be deferred.

e. If the betrothed because of age or because of a plainly dissimilar condition would be exposed to ridicule.

f. If, when civil marriage has already been contracted, the husband indeed wishes the ecclesiastical rite to be performed, but does not wish proclamations to be made.

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554. On the Obligation of Revealing Impediments. 1. Per se there exists a grave obligation of revealing impediments of matrimony, both diriment and even merely prohibiting, even occult ones, provided truly

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Notes

1333. Cn. 1023, 3.

1334. Cn. 1028.

probable knowledge of them is had, and indeed as soon as possible, lest through delay the difficulty of contracting matrimony be increased.

a. This obligation arises both from the precept of charity, because there is question of preserving one's neighbor from grave sin and other evils which arise from invalid matrimony, and from the precept of the Church, which by the very precept of proclamations implicitly, and in the new Code explicitly, prescribes the manifestation of impediments.[1335]

b. If the impediment arises from an occult sin, the betrothed should first be warned to desist from matrimony or to procure a dispensation for themselves. But if it is not hoped that the warning will be useful, the matter must immediately be referred to the parish priest, lest enmities arise if the betrothed, warned in vain, are kept away from matrimony.

2. Everyone who has knowledge of them must reveal them, of whatever sex, age, parish, or diocese, even if that person alone knows them and cannot juridically prove them, because the revelation does not tend to this, that some accused person be condemned, but that the evil of one's neighbor and the nullity of the sacrament be guarded against.

3. From the obligation of revealing impediments there is excused: a. one who cannot reveal them without grave harm to himself or others; b. one who judges that revelation will be useless; c. one who knows that dispensation for the internal forum has already been sought.

He who knows an impediment under secret is certainly not excused if he knows the impediment under a natural or promised secret; but if he knows the impediment under an entrusted secret, authors do not have one opinion. More commonly they teach that even in the case of an entrusted secret the impediment must be manifested, unless by reason of office, such as of physician, advocate, midwife, parish priest, etc., it had been entrusted; because the common good, which requires this secret, must be preferred to the good which follows from manifestation, namely the validity of the matrimony. Likewise, unless from the revelation there follows grave infamy of the one entrusting, who is not one of the contracting parties; because the manifestation redounds to the harm of the one entrusting the secret, so that that person personally would not be held to manifest the matter.[1336]

555. What Must Be Done After the Proclamations.[1337] 1. If no impediment has been detected, those about to marry must be admitted to the celebration of matrimony.

2. If a certain impediment has been detected:

a. If the impediment is occult, the parish priest should carry out or complete the publications and refer the matter, with names concealed, to the ordinary of the place or to the Sacred Penitentiary.

b. If it is public and is detected before the publications have been begun, no further progress is to be made until the impediment is removed, even if dispensation for the internal forum has been obtained. If it is detected after the first or second publication, the parish priest should complete the publication and refer the matter to the ordinary.

3. If a doubt arises concerning the existence of some impediment:

Notes

1335. Cn. 1027.

1336. Ballerini-Palmieri VI, n. 582.

1337. Cn. 1031.

a. The parish priest should investigate the matter more accurately, by interrogating under oath at least two trustworthy witnesses, provided there is not question of an impediment from whose knowledge infamy would arise for the parties, and, if necessary, the parties themselves also.

b. He should carry out or complete the publications if the doubt arose before the publications were begun or completed.

c. He should not assist at the matrimony without having consulted the ordinary, if he prudently judges that doubt still remains.

Therefore it is not licit for the parish priest, from the known adage, a doubtful impediment is no impediment, to proceed to the celebration of matrimony, but judgment concerning this matter is reserved to the ordinary.

4. Matrimony is not to be contracted before all necessary documents have been received and three days have elapsed from the last proclamation, unless a reasonable cause asks otherwise.[1338]

5. If, after the proclamations have been made, matrimony has not been contracted within six months, the publications must be repeated, unless something else seems good to the local ordinary.[1339]

Question Five.. On the Impediments of Matrimony.

Article One.. On Impediments in General.

556. Notion and Division. 1. "All can contract matrimony who are not prohibited by law."[1340] Now prohibitions arising from law, whether divine or human, which render a person incapable of entering matrimony, are called impediments. Therefore an impediment of matrimony is generally called a circumstance which, from a statute of law, whether divine or human, renders a human being incapable of contracting matrimony. Impediments of matrimony are of a twofold kind: some are diriment, which prohibit matrimony under grave obligation and effect that it cannot be entered either licitly or validly; others are only impedient, which prohibit matrimony under grave obligation and effect that it cannot be entered licitly. Therefore impediments of matrimony are laws either only prohibiting, or prohibiting and at the same time invalidating.

They are called diriment not because they dissolve a valid matrimony, but because they stand in the way so that an attempted matrimony cannot be validly entered.

2. An impediment is called certain if the law and the fact are established, and doubtful if either the law or the fact or both are not established. If the law is not established, it is doubtful by doubt of law; if the fact is not established, it is doubtful by doubt of fact; if both are not established, it is doubtful by doubt of law and fact.

3. An impediment is judged public which can be proved in the external forum, and occult which cannot be proved in the external forum.[1341]

Not the knowledge of many among men, but the possibility of proving in the external forum, is the reason for this division. Wherefore, e.g., consanguinity or affinity, even if unknown to men, are never occult impediments, since they can be proved from canonical books. Two or three witnesses above every exception suffice for proving the matter in the external forum; indeed sometimes the deposition of one witness makes full faith, if it is a qualified witness who testifies concerning things done from office.[1342]

Notes

1338. Cn. 1030, 1.

1339. Cn. 1030, 2.

1340. Cn. 1035.

1341. Cn. 1037.

1342. Cn. 1791.

4. Although an impediment has itself on the part of one side only, nevertheless it renders the matrimony either illicit or invalid.[1343]

557. On a Doubtful Diriment Impediment. A doubtful impediment here is understood as an impediment which exists not certainly but only probably, namely where after diligent investigation of the truth there remains a founded doubt concerning the existence of the impediment. Moreover doubt, or probability, can be of law or of fact; and doubt of law can be of divine law or of ecclesiastical law.

a. It is licit to enter matrimony with a doubtful impediment if the doubt is of law and indeed of ecclesiastical law, because in this case the Church supplies, or rather because the law from the will of the Church in this case does not oblige: "For laws, even invalidating and incapacitating ones, do not urge in a doubt of law."[1344] And because matrimony can be licitly entered with an impediment of this kind, theologians are accustomed to say that a doubtful ecclesiastical impediment, by doubt of law, is no impediment.

b. It is not licit to enter matrimony with a doubtful impediment if the doubt is of divine law or a doubt of fact. If the doubt is of divine law, the Church cannot supply, and therefore the sacrament would be exposed to the danger of nullity; if the doubt is of fact, it is established that the Church itself does not wish to supply, but the ordinary in this case can dispense: "For in doubt of fact, ordinaries can dispense in laws, even invalidating and incapacitating ones, provided there is question of laws in which the Roman pontiff is accustomed to dispense."[1345]

Therefore if, e.g., it is probable that the bridegroom is related by blood in the third degree with his bride, he contracts matrimony illicitly; and if he is in reality related by blood, also invalidly. But the Church does not render matrimony valid in doubt of fact because in this doubt per se and ordinarily the truth can be discovered, and only per accidens in a particular case is it not discovered. Hence if a doubtful impediment by doubt of fact stands in the way of matrimony, dispensation must be sought as a precaution, which in this case the bishop can grant.

558. Diriment Impediments Are Divided: 1. By reason of origin, into impediments of natural law, positive divine law, and ecclesiastical law, according to the diverse authority which establishes the impediment. Impediments of natural law are impotence and consanguinity in the first degree of the direct line; of divine law, bond; the rest are of ecclesiastical law.

All human beings are subject to impediments of divine law, whether natural or positive, both the faithful and infidels; only the faithful, at least directly, are bound by impediments of ecclesiastical law; only infidels are bound by impediments of civil law.

2. By reason of extension, into absolute, which dirimently impede matrimony with any person, such as vow, order, bond, age, absolute impotence; and relative, which dirimently impede matrimony only with certain persons, such as relationship, crime, disparity of cult, fear, public honesty, affinity, relative impotence, and abduction.

3. By reason of dispensation, into dispensable impediments, in which the Church can and is accustomed to dispense; and indispensable, in which the Church either cannot dispense or is not accustomed to. Of the first kind are almost all impediments of merely ecclesiastical law; of the second kind are impediments of natural and divine law and some of ecclesiastical law.

Notes

1343. Cn. 1036, 3.

1344. Cn. 15.

1345. Cn. 15.

4. By reason of the immediate end and right of impugning matrimony, into impediments of public law, whose immediate end is principally the common good, and therefore the right and office of impugning matrimony invalid from such an impediment belongs to all the faithful, and to the ecclesiastical judge by reason of office; and impediments of private law, whose immediate end is principally the private good of the contracting parties, and therefore the right and office of impugning matrimony invalid from such an impediment belongs proximately to the contracting parties themselves, and the ecclesiastical judge proceeds against the matrimony only at the instance of the contracting parties.

Of this kind is impotence; the rest are of public law. Hence matrimony invalid because of the impediment of impotence can be impugned only by the spouse, by demanding a declaration of nullity. On the contrary, since, e.g., bond is an impediment of public law, the ecclesiastical judge can and must impugn from office a matrimony invalid because of the impediment of bond.

5. By reason of gravity and moment, into impediments of minor degree, such as:

a. Consanguinity in the third degree of the collateral line;

b. Affinity in the second degree of the collateral line;

c. Public honesty in the second degree;

d. Spiritual relationship;

e. Crime from adultery with promise or attempted matrimony, even through only a civil act;

and impediments of major degree, such as all the rest.[1346]

In minor impediments, dispensation is valid even if obreption or subreption intervened in the petition, even if the sole final cause was false.[1347]

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559. Who in the Church Can Establish Impediments.[1348] 1. The supreme ecclesiastical authority alone, the supreme pontiff and a general council, can:

a. establish impedient and diriment impediments for the baptized by way of law, whether universal or particular;

Several doctors think that bishops by divine law can establish impedient and diriment impediments after the manner of law and that they have in reality exercised this power; but that the supreme pontiff Gregory IX reserved this power to himself alone. But most authors deny that bishops have this power from ordinary right. It belongs to the Roman pontiff by ordinary right; but to a general council, which represents the universal Church, by extraordinary right. An Ecumenical Council, as a legitimate general synod, derives its authority from the pope, without whose confirmation its decrees do not have force for obtaining all the faithful. The new Code reserves the same to the Roman pontiff, Cn. 1038, 2.

b. authentically declare when divine law impedes or dirimently impedes matrimony;

c. abrogate or derogate from impediments of ecclesiastical law, whether impedient or diriment, and dispense in them, unless this faculty has been conceded by the Holy See to others.

Notes

1346. Cn. 1042.

1347. Cn. 1054.

1348. Cn. 1038-1041.

2. Ordinaries of places can for a just cause, and while it endures, forbid matrimony in a particular case, but only for a time, to all actually staying in their territory and to their subjects even outside the territory; but only the Apostolic See can add an invalidating clause to the prohibition.[1349]

a. Causes on account of which matrimony can be prohibited: a. doubt whether some circumstance impedes or dirimently impedes matrimony; b. probable fear lest grave inconveniences arise from the matrimony, such as scandals or enmities.

b. The parish priest, who lacks jurisdiction in the external forum, forbids matrimony for a time by a simple extra-judicial prohibition until the matter has been decided by the bishop.

3. Custom inducing a new impediment or contrary to existing impediments is reprobated by law.

There exist impediments introduced by custom, e.g., disparity of cult, spiritual relationship; for the future, impediments of this origin are excluded.

Note. Since Christ the Lord elevated the matrimonial contract itself, without changing its nature, to the dignity of a sacrament, it could seem that the Church, because it institutes and abrogates diriment impediments, changes the sacramental institution of Christ. But it must be noted that the contract which Christ increased with the dignity of sacrament is not a merely natural or civil contract, but a canonical one, whose value depends on natural and positive law, both divine and ecclesiastical.

560. Whom the Matrimonial Laws of the Church Oblige. 1. The matrimonial laws of the Church oblige all the faithful, not only Catholics but also heretics and schismatics. Wherefore canonical impediments affect also the marriages of heretics. And indeed the Church has never recognized as valid the marriages of heretics to which a canonical impediment stood opposed,[1350] and has more often declared that not even the custom of the longest time can effect that, as regards heretics, the matrimonial laws of the Church lose their force.[1351]

Some theologians of Germany, such as Laymann and Schmalzgrueber, thought that the Church indeed can, but does not wish, to oblige even heretics by its matrimonial laws, and therefore that the Church exempts heretics from at least some canonical impediments. But today there is no longer a theologian who professes this opinion. Nor, however, must it be inferred that the offspring of heretics are frequently illegitimate; for since heretical spouses ordinarily are in good faith, their matrimony is putative, and therefore the offspring legitimate.

That heretics and schismatics also are held by ecclesiastical laws as regards marriages is not doubtful from the new Code, which is proved a. from the general principle established in Cn. 12 and Cn. 87, by which all baptized persons are held by the laws of the Church; b. from Cn. 1038, 2, by which the right of the Church is vindicated for establishing impediments for all the baptized; c. from Cn. 1099, by which this is expressly indicated if it intends to exempt heretics from some law; d. nor does ignorance or good faith excuse them, since Cn. 16 says that no ignorance excuses from invalidating and incapacitating laws.

2. The matrimonial laws of the Church do not oblige infidels; therefore canonical impediments at least directly do not affect the marriages of infidels, for over infidels the Church exercises no power of jurisdiction.

Directly is said because indirectly, and indeed in a threefold case, the power of the Church extends even to the marriages of infidels. a. Marriages of infidels are ruled by natural and divine law; but the Church is the

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1349. Cn. 1039.

1350. Cf. Becker, p. 34 f.

1351. Concerning this question, the three constitutions of Benedict XIV can be consulted: *Matrimonia*, November 4, 1741; *Magnae*, June 29, 1748; *Ad tuas manus*, August 8, 1748. Cf. Cn. 12 and 87.

infallible interpreter of natural and divine law; wherefore declarations of this law made by the Church extend also to infidels. b. If an infidel contracts matrimony with a faithful person, because the latter is subject to the laws of the Church, by reason of connection the infidel also is indirectly subject to the Church. c. If an infidel joined in matrimony is converted to the faith, that person's matrimony can be dissolved through dispensation of the supreme pontiff, in which case the matrimony of the one who remains in infidelity is subjected to the Church by reason of the faithful other party.

Article Two.. On Impedient Impediments.

a. Some impedient impediments are improperly so called, which stand in the way of matrimony insofar as it is a sacrament, such as mortal sin and excommunication; others are properly so called, which stand in the way of matrimony as it is a contract. The discussion here is concerning the latter.

b. In the old law impediments of this kind were numbered five: the prohibition of the Church, time, betrothals, vow, and mixed religion.

c. In antiquity two other impedient impediments of matrimony were numbered, namely the impediment of catechism and of crime. By the name catechism is understood the profession of faith which the person to be baptized had to emit in antiquity, and still partly emits, through questions and answers before the doors of the church, when asked whether he renounces Satan, whether he believes, etc. Now the one who held the person to be baptized in catechism and answered for him, who in antiquity was distinct from the baptismal sponsor, contracted a certain imperfect spiritual relationship, which was designated by the name impediment of catechism. The impediment of crime arose from seven different delicts, such as incest, killing of a priest, killing of a spouse, etc. The impediment of catechism was abrogated through the Council of Trent,[1352] the impediment of crime through universal custom.

d. In the new law, from these, only two impedient impediments are mentioned: vow and mixed religion, to which is added a third new one, namely legal relationship.

Section 1. Vow.

561. Declaration. 1. Vow is understood as one which is immediately or mediately opposed to matrimony, because it induces an obligation which cannot be composed with the matrimonial state. Five vows of this kind are impedient of matrimony: a. the vow of not marrying, or of celibacy; b. the vow of virginity; c. the simple vow of perfect chastity; d. the vow of entering religion; e. the vow of receiving sacred orders. These vows do not dirimently impede matrimony, as is clear from law;[1353] nevertheless they impede matrimony because the matrimonial state cannot be composed with their obligation.

The last two vows are mediately opposed to matrimony; immediately they oblige to taking up a state which then induces the obligation of perfect and perpetual chastity. The first three are immediately opposed to matrimony, but in a diverse way. For one vowing celibacy formally promises not to contract matrimony; one vowing chastity promises to abstain from every venereal delectation, whether illicit or licit in matrimony. There are those who distinguish the vow of virginity from the vow of celibacy, and if we regard the force of the terms, they rightly and deservedly do so; for one vowing virginity properly and strictly promises to abstain from the first act by which virginity is lost. But in practice this distinction is of scarcely any moment; for those who desire to remain virgins by vow vow either celibacy or chastity.

Notes

1352. Sess. 24, c. 2, *De reform. matr.*

1353. Cn. 1058, 1.

In practice it can sometimes be difficult to discern whether someone emitted a vow of not marrying, or of celibacy or virginity, or rather a vow of chastity. To discern the matter, the one vowing must be asked what he or she promised to God and with what intention the vow was emitted; for if that person emitted the vow with this intention, that, free from the burdens of matrimony, he or she could serve God more easily and perfectly, celibacy is judged to have been vowed; but if the vow was emitted from love of purity, chastity is rather judged to have been vowed.

2. He who, bound by any of these vows, contracts matrimony sins gravely; for the Church forbids contracting matrimony with any of them, because the one having the vow either renders the fulfillment of it impossible for himself, or at least exposes himself to the danger of violating the vow, or deceives the other party and therefore inflicts injury on that party. Therefore, in order that he can enter matrimony licitly, he must first seek dispensation from the vow.

a. The contracting party sins gravely: one having the vow of not marrying sins gravely by contracting matrimony, because by contracting he acts directly against the vow. One having the vow of virginity sins directly against the vow in the first conjugal act by which virginity is lost; but by contracting he sins both because he has the will of consummating matrimony, and because he renders the observance of the vow impossible for himself, because he hands over to the other party the right of demanding the debt. One having the vow of chastity does not act directly against the vow by contracting; nevertheless he sins gravely, because he has the will of consummating the matrimony and because he renders fulfillment of the vow impossible for himself, because he hands over the right of demanding the debt. One having the vow of entering an order sins by contracting, both because he has the will of consummating matrimony, which is indirectly and secondarily repugnant to the vow, and because he exposes himself to the danger of injuring the vow or deceiving the other party. One having the vow of receiving sacred orders sins gravely by contracting, because he renders fulfillment of the vow impossible for himself.

b. There are two cases, but very rare ones, in which one contracting while bound by any of these vows does not sin. One having the vow of virginity, chastity, or entering an order does not sin if he or she has the firm purpose, before consummation of the matrimony, of entering a religious order after dispensation has been accepted, Cn. 542, 1; but unless that person warns the other party concerning this matter, he or she sins gravely by deceiving the party. One having the vow of virginity or chastity does not sin if each party consents to preserving virginity and chastity in marriage; this, however, is rarely permitted because of great dangers of sinning.

To what is one held who, bound by one of these vows, has contracted matrimony? In general it must be said that he or she is released from the vow to that extent to which observance has been made impossible, but is held to the observance of the vow insofar as it can still be observed without prejudice to the other party, unless dispensation has been obtained. And ordinarily it must indeed be counseled that the obligation of the vow be entirely removed through dispensation, because of great dangers of sinning.

Section 2. Mixed Religion.

1354

562. Nature of the Impediment. The impediment of mixed religion exists between two baptized persons, one of whom is Catholic, the other acatholic, namely heretical or schismatic. Matrimony entered between them is called mixed matrimony (*Mischehe*).

Notes

1354. Krueckemeyer, *Die Mischehe in Theorie und Praxis* 1924. Ries, *Die Mischehe, eine ernste Pastorationsfrage* 1918. A. Stolz, *Der verbotene Baum* (Freiburg: Herder, 1904). H. Szillus, *Eine verbotene Fracht* (Essen: Fredebeul u. Konnen, 1904).

1. Mixed marriages are prohibited by natural and divine law chiefly from a threefold reason:

a. The danger of perversion which the Catholic party undergoes; and although there may not be danger of losing the faith, nevertheless there is present at least the danger of growing cold in the faith and the danger of indifferentism.

b. The danger of perversion which offspring to be born from a mixed matrimony undergoes; and although the offspring may not be educated in heresy itself, nevertheless there is present at least the danger of neglecting truly Catholic education.

c. Communication in sacred things, which the contracting parties commit, because the Catholic party administers the sacrament to the heretic and in turn receives the sacrament from the heretic. To this is added moreover that the Catholic party administers the sacrament to one unworthy and thus cooperates in that person's sacrilege.

2. Mixed marriages are also prohibited by ecclesiastical law. The Church already in most ancient times prohibited them; and when in recent time these marriages grew strong, it renewed the ancient prohibitions in order to turn the faithful away from so great an evil.[1355] The new Code deters from mixed marriages in grave words.[1356]

From the decrees of the Holy See, these things must be provided by the parish priest before whom mixed spouses about to marry present themselves:[1357]

a. First, he should try with all his strength to impede a matrimony of this kind.

b. But if he cannot impede it, conditions must be required: that all offspring be educated in the Catholic religion, and that full liberty of exercising their religion be granted to the Catholic party and to future offspring.

c. Safeguards must be required; namely, ordinarily in writing, the acatholic must promise that he or she will faithfully observe the conditions.[1358]

d. These things having been premised, the matter is to be referred to the bishop, who will procure the dispensation from the Holy See.

e. The parish priest cannot assist at the matrimony except after the ordinary has been consulted; the ordinary can permit it if a grave cause urges and if he himself judges that the promised conditions will be observed.

f. Once mixed nuptials have been celebrated, he should diligently watch that the spouses faithfully fulfill the promises made.[1359]

To a matrimony which is contracted by a Catholic party with another party, likewise Catholic, who has cast away the faith but has acceded to no heretical sect, the ecclesiastical impediment of mixed religion indeed does not stand opposed; nevertheless the matrimony is per se gravely illicit by natural and divine law, since the same dangers threaten.

Notes

1355. Cf. the constitution of Benedict XIV, *Magnae nobis*, June 29, 1748, and the instruction of Pius IX, November 15, 1858, transmitted to the bishops.

1356. Cn. 1060 ff.

1357. S. Office, January 30, 1867; January 11, 1899.

1358. Cn. 1061, 2.

1359. Cn. 1064, 3.

563. The Requisites for Obtaining Dispensation are three: a. the due conditions; b. suitable safeguards; c. a grave cause of dispensation.

1. The conditions are: a. that all offspring be educated in the Catholic religion; b. that full liberty be granted to the Catholic party of exercising his or her religion.

Note. The twofold promise concerning procuring the conversion of the acatholic party and concerning not approaching a heretical minister, which formerly were required as conditions, in the new law are no longer counted among the conditions. Nevertheless there is discussion of them in another place, and those about to marry must be warned concerning them. Cn. 1062 says: the Catholic spouse is held prudently to procure the conversion of the acatholic party; and Cn. 1063: the spouses cannot also approach an acatholic minister for giving or renewing matrimonial consent.

In antiquity the Church never permitted mixed marriages except under this condition: that the acatholic party promised that he or she would return to the true faith. But after the rise of the Lutheran heresy it began to permit them even without this condition.[1360]

Since, if these conditions are not furnished, mixed matrimony is against natural and divine law, it is clear that there can never be dispensation from furnishing them,[1361] and that the Church does not dispense from the canonical impediment unless the prohibition of divine law has ceased in a particular case.

The promise concerning procuring with one's powers the conversion of the acatholic party contains an obligation of charity; for fulfilling it, the Catholic party must chiefly provide these things: that by suitable warnings and counsels he or she prudently try to convert the acatholic party to the true faith; that he or she pour out prayers to God for that person's conversion; but especially that by his or her virtues, especially modesty, patience, and services, if it is the wife, the Catholic party commend esteem and love of the Catholic faith. Concerning this means are the words of St. Peter.[1362]

2. Suitable safeguards, that is, such promises of each party as furnish prudent or moral certainty that the essential conditions will be faithfully fulfilled.

In what form the due safeguards must be provided, whether orally or in writing, before witnesses or a notary, with an oath or with only a word of honor, has not hitherto been prescribed by universal law.[1363] But by particular law, safeguards sometimes must be furnished in writing through written reversals; but if special reasons impede the safeguards from being furnished in writing, the bishop can permit the acatholic party to provide faith or promise by words, provided he is morally certain that the promises will afterward be fulfilled.[1364] Finally, diocesan statutes sometimes require also an oath, or a legal contract, or other safeguards besides.

3. A grave cause because of which dispensation is required and granted, since mixed matrimony is against the universal law of the Church.

Formerly the Church granted dispensation from the law prohibiting mixed marriages only for a public cause, that is, from hope of obtaining a great common good. Today dispensation is also granted from a private cause,

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1360. The bishops of the ecclesiastical province of Milwaukee decreed that dispensation from the impediment of mixed religion is not to be granted unless the acatholic party has first received instruction concerning the Catholic religion, especially concerning matrimony and the obligations of the matrimonial state, for six weeks, twice in each week.

1361. The Apostolic See recently, September 26, 1890, in letters given to the bishops of Hungary, again affirmed that dispensation from the due conditions cannot be granted.

1362. Instruction of S. C. de Propaganda Fide, December 9, 1822. 1 Pet. 3, 1 f. Cf. St. Augustine, *Confessions*, l. 9, c. 9.

1363. Even the new Code, Cn. 1061, 2, has only this: safeguards are regularly required in writing.

1364. S. Office, December 10, 1902.

which nevertheless must be truly grave. But if sometimes a canonical cause which has force only for other impediments suffices for the Church to grant dispensation, the Church itself has a grave cause of permitting marriages of this kind. Wherefore the betrothed per se sin who, without a truly grave cause, seek dispensation for entering a mixed matrimony and compel the Church by fear of a greater evil to grant it, although they are prepared to furnish the due safeguards.[1365]

564. Liceity of Mixed Matrimony. When the safeguards have been furnished and dispensation obtained, mixed matrimony must be called per se licit. For two things stand in the way of mixed marriages: the danger of perversion which threatens both the Catholic party and the offspring to arise, and the prohibition of the Church. But at least the proximate danger of perversion ceases when the safeguards are furnished, and the prohibition of the Church ceases when dispensation is obtained. But from granted dispensation the liceity, and less still the full liceity, of mixed matrimony cannot always be gathered; for sometimes the Church by prudent counsel permits lesser evils, dangers of perversion, provided there is a serious will of observing the safeguards, in order to avoid greater evils, e.g., lest the Catholic party wholly defect from the faith, lest the betrothed live longer in civil marriage, etc.

a. If the danger of perversion in a particular case not only did not cease in reality, but was also proximate, the contracting parties would sin gravely against natural law.

b. Although every danger to the soul in the Catholic party and in the offspring is scarcely ever entirely excluded, nevertheless for a sufficiently grave cause some remote danger is licitly admitted. From this very fact, because some remote danger of perversion almost always remains, the Church dispenses in marriages of this kind with difficulty and never fails to dissuade them; moreover there are added the great harms which arise everywhere for the Catholic religion from mixed marriages.

c. There are those who say that mixed matrimony can never be licit, because forbidden communication in sacred things cannot be separated from it. But nothing occurs which could not licitly be done on account of a grave cause. And indeed, for a grave cause it is licit to administer a sacrament to one unworthy and in this way to cooperate in that person's sacrilege; it is licit to seek and receive a sacrament from a heretic, which he, if he wishes, can administer without sin, for if he is in bad faith he can procure for himself the state of grace through perfect contrition; finally, communication in sacred things with excommunicates after the Council of Constance is no longer prohibited unless they are excommunicated by name.[1366]

Note. Because mixed marriages are per se opposed both to divine law and to ecclesiastical law, and the Church always detests them; because moreover marriages of this kind ordinarily have an unhappy outcome, the parish priest will use every care to turn the Catholic party away from contracting a matrimony of this kind. And since, as experience testifies, once betrothals have been entered or longer familiarities have already been premised, the betrothed can scarcely be separated any longer, he should try to impede familiarities from being contracted between Catholics and acatholics, from which mixed marriages would arise. But if every effort will be fruitless, he will at least take care that the required conditions are furnished in such a way that certain hope of future execution is provided; and after mixed nuptials have been celebrated, he will diligently watch that the promised conditions are observed in reality.

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1365. Lehmkuhl, *Casus consc.* II, n. 911.

1366. Cf. Lugo, *De sacramentis*, disp. 8, n. 220 ff.; Ballerini-Palmieri VI, n. 714.

Section 3. Legal Relationship.

565. Declaration. 1. Legal relationship is the nearness of persons arising from adoption. It is called legal because it was first established by civil law, although afterward it was also received by ecclesiastical law.

2. Adoption is defined as a legitimate act by which someone who is not a son or grandson is assumed as son or grandson. It must be made through a public act according to the established laws of each region. Wherefore each person must learn the nature, extent, and effects of adoption from the civil code of his own region.

3. A threefold legal relationship arises from adoption: legal paternity between the adopter and the adopted person and the descendants of the adopted person; legal fraternity between the adopted person and the legitimate children of the adopter, who exist under paternal power; legal affinity, which intervenes between the adopter and the wife of the adopted person and, conversely, between the adopted person and the wife of the adopter.

4. In Roman law a distinction is made between perfect adoption, or arrogation, if a person of his own right is assumed as a son by the supreme authority of the emperor in such a way that he passes into the power and family of the adopter and becomes his necessary heir, equally as natural and legitimate children; and imperfect or simple adoption, if a person who is not of his own right is assumed as a son by the inferior authority of the magistrate in such a way that he does not pass into the family and power of the adopter, but nevertheless receives some right in the inheritance.

5. From perfect adoption in Roman law arose a diriment impediment of matrimony, legal relationship, namely:

a. Between the adopter, the adopted person, and the children and descendants of the adopted person, legal paternity.

b. Between the adopted person and the legitimate children of the adopter who at the time of adoption are constituted under paternal power, legal fraternity.

c. Between the adopter and the wife of the adopted person, and conversely between the adopted person and the wife of the adopter, legal affinity.

The impediment of legal relationship is perpetual, that is, even when adoption is dissolved, it endures in those between whom legal paternity and affinity exist; but in those between whom legal fraternity intervenes, the impediment ceases when adoption is dissolved.

Adoption is dissolved both through emancipation of the adopted person or of the son or daughter of the adopter, and through death of the adopter.

6. The Church made this law of the Romans its own and constituted legal relationship arising from perfect adoption a diriment impediment of matrimony. In more recent time most nations substituted their own civil codes for Roman law; hence the question arose whether the diriment impediment of legal relationship still had force. The question was resolved in this way: the diriment impediment of legal relationship remains in those places in which the law of adoption as to substantial elements agrees with the perfect adoption of Roman law. Wherefore in individual regions it had to be investigated whether the laws in force as to substantial things imitated perfect adoption. Since the decision of the question was not free from difficulty, it happened that this impediment was held as doubtful unless the Holy See issued an authentic declaration concerning it. The new Code now removes the whole difficulty of this matter, because it adopts the civil law as its own.

566. Nature of the Impediment. 1. The peculiar relation which arises by force of adoption between the adopted person and the family of the adopter furnishes a reason for establishing that matrimony not be contracted between persons joined by legal relationship. In reality, in many regions civil law constitutes adoption

an impediment of matrimony, now impedient, now diriment. Whether and in what way this impediment stands in the way of ecclesiastical matrimony depends on canon law. Now the new Code has made civil law its own and, as they say, has canonized it.

2. In those regions where legal relationship arising from adoption renders matrimony illicit by civil law, it is also illicit by canon law.[1367]

3. Therefore in each region it must be examined whether the civil code constitutes legal relationship an impediment of matrimony, whether impedient or diriment, between what persons it has force, and how long it will endure. All these things have force in the same way also in the forum of the Church.

4. Legal relationship brings an impedient impediment of matrimony in Hungary, Germany, Switzerland, and France.

In several other regions legal relationship is a diriment impediment, as will be said below.[1368] Note that a canonical impediment is not removed by civil dispensation, but only by dispensation of the Holy See.

567. On the Unworthy. After he had treated impedient impediments, the Code establishes what must be done by the parish priest if the unworthy wish to enter matrimony.[1369] It lists two kinds of unworthy persons: a. notorious apostates and those enrolled in a sect condemned by the Church; b. public sinners and those bound by censure. Although a properly so-called impediment does not stand in the way of their matrimony, nevertheless they deserve peculiar care of pastors.

To 1. a. The faithful must be deterred from contracting matrimony with apostates or those enrolled in a condemned sect; for no less danger threatens both the other party and the future offspring from them than from heretics and schismatics.

b. The parish priest cannot assist at nuptials of this kind, but should refer the matter to the ordinary.

c. The ordinary can grant license of assisting if a grave cause urges and if he prudently judges that all offspring are to be educated Catholic and that the danger of perversion of the other spouse has been removed.

To 2. a. If public sinners or those notoriously bound by censure approach confession, even if they do this sacrilegiously, in the external forum they are held as reconciled before God and the Church; therefore nothing stands in the way of their being admitted to matrimony.

b. If they refuse to approach confession, the parish priest should not assist at the matrimony unless a grave cause, such as danger of civil marriage, concubinage, grave harm, etc., urges.

c. Concerning the cause and its sufficiency, if it can be done, the ordinary must be consulted.

Article Three.. On Diriment Impediments.

568. Declaration. a. In order that matrimony can be entered validly and licitly, three things are required: capable persons, sufficient consent, and due form. Therefore three things impede the validity or liceity of matrimony: incapacity of persons, defect of consent, and defect of form. In the old law all these were called impediments of matrimony and were customarily treated together under the title of impediments. The new

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1367. Cn. 1059.

1368. Cf. Chelodi, n. 57. In Austria, the civil Code derives no impediment of matrimony from adoption; therefore no impedient canonical impediment exists there.

1369. Cn. 1065 and 1066.

Code calls only incapacities of persons strictly and properly impediments of matrimony and treats them under this title; concerning defect of consent and defect of form it speaks elsewhere.

b. Impediments immediately keep one away from entering the contract, and mediately and consequently also from receiving the sacrament.

c. In the new law there are numbered only thirteen diriment impediments: 1. age, 2. impotence, 3. bond, 4. disparity of cult, 5. sacred order, 6. religious profession, 7. abduction, 8. crime, 9. consanguinity, 10. affinity, 11. public honesty, 12. spiritual relationship, 13. legal relationship.

Section 1. Age.

569. Nature of the Impediment. 1. The impediment of age consists in this, that a man before the completed sixteenth year of age and a woman before the completed fourteenth likewise cannot enter valid matrimony.[1370]

a. Although the new law requires a greater age for entering valid matrimony than the old law did, it can nevertheless happen that in some northern regions even at this age full natural puberty with proximate power of generating is not had. Therefore Cn. 1067, 2 warns: although matrimony contracted after the aforesaid age is valid, pastors of souls should nevertheless take care to turn young people away from it before the age at which matrimony is customarily entered according to the received customs of the region.

b. For a twofold reason, a greater age is required for the value of matrimony than of betrothals, because matrimony requires both greater maturity of judgment and also power of generating. For betrothals are a promissory contract concerning the future and by their nature rescindable; but matrimony is a contract of handing over concerning the present and indissoluble. Therefore in betrothals a lesser degree of knowledge suffices.[1371]

2. This impediment dirimently impedes matrimony by ecclesiastical law, which is already clear from this, that now for valid matrimony a more mature age is required than formerly. Moreover, by natural law no age is required for valid contracting beyond sufficient use of reason.

3. Because this impediment is of ecclesiastical law, the supreme pontiff per se can dispense in it, and in reality has sometimes dispensed from a most grave cause. But because dispensation is granted most rarely, this impediment is numbered among those in which dispensation is not customary.

Since the impediment of age regards a twofold defect, sufficient discretion and actual power of generating, and since the former is of natural law, it is clear that the supreme pontiff can dispense only in the latter.

570. Declaration. By natural law, for validly contracting, nothing is required except perfect use of reason, so that there is full knowledge of the right and obligation which are assumed by contracting, although use of the matrimonial right is not yet possible. But because it is not fitting that matrimony be contracted before the spouses are apt for the use of matrimony, the Church wisely determined the age at which this aptitude can be presumed from things commonly happening. But the determination of age must be understood strictly, so that the matrimony is null even if only a few days were lacking for the due age, indeed if the last day had not yet been completed.

a. In our regions it scarcely happens that those below puberty contract matrimony; but in regions of infidels marriages of those below puberty are most frequent, and these among the infidels themselves, unless another impediment stands opposed, must indeed be held valid.

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1370. Cn. 1067, 1.

1371. Cf. Wernz, n. 314, note 30.

b. If the betrothed intend to enter matrimony before the canonical age, the parish priest must refer the matter to the bishop, to whom it pertains to declare whether there is really present in the betrothed the capability which is required, namely prudence and power of generating; but the bishop cannot dispense, not even in a case of doubt.[1372]

Section 2. Impotence.

571. Definition. Impotence is incapacity for perfect copula, that is, copula per se apt for the generation of offspring. Now three things are required in order that copula be per se apt for generation: a. on the part of the man, at least one testicle; b. on the part of the woman, at least one ovary; c. on the part of copula, that the virile semen can be mingled with the female ovule, and therefore in the man a penis, by which semen is ejaculated into the vagina of the woman, and in the woman vagina and uterus, and communication between these, so that the semen can be received into the uterus and mingled with the ovule.

a. Sterility must be distinguished from impotence; it is incapacity for actual generation, although perfect copula can be had, as happens in the aged. The essential difference between sterile persons and impotent persons is clear: for sterile persons are incapable of generating only because of an accidental defect; impotent persons, however, because of a substantial defect. Therefore old men are sterile, but eunuchs and spadones (castrated men) are impotent;[1373] for these are entirely without semen, and without semen natural copula cannot be had; but those are not without virile semen, although because of old age or some other cause it may not be prolific. Perfectly castrated women are impotent; old women are sterile: for the former lack ovaries, but the latter do not lack ovaries, although because of old age they do not elaborate ovules. Causes of sterility on the part of the man, besides old age, are especially various diseases by which the testicles are affected; in women sterility can arise from an ill disposition of the ovaries and of other organs serving generation.

b. Impotence of generating must be distinguished from impotence of coeundi. The former exists when the elements necessary for generation are lacking, namely in the man testicles and therefore semen, in the woman ovaries; the latter is incapacity for having copula of itself suitable for generation.

c. Since through perfect copula there is made a mixture of the semens, as the ancients used to speak, or, as the recent authors speak, of the female ovule and the virile semen, through it the spouses become one flesh. Nevertheless, in order that the spouses become one flesh, it is not required that the semens of each actually be mingled, but it suffices that per se they can be mingled, although accidentally, as in sterile persons and the aged, they are not mingled and therefore a fetus is not conceived.

d. Therefore impotence exists in a threefold case:

e. If the man lacks both testicles; therefore Sixtus V declared eunuchs and spadones impotent;[1374] or if he has undergone vasectomy; or if the testicles suffer from perfect atrophy.

f. If the woman lacks both ovaries or the uterus, or all these together. Indeed today several theologians think that a woman who lacks both ovaries or the uterus, or the ovaries and uterus, is not impotent but sterile; namely, they define impotence not as incapacity of generating, but as incapacity of coeundi. But theoretically the opinion once common seems to have to be retained, because according to the mind of the authors it seems certain that impotence is present where incapacity for copula of itself apt for generation is

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1372. Benedict XIV, constitution *Magnae nobis*.

1373. Eunuchs are said to be those who were born without testicles; spadones are called those who by art or by accident have been deprived of testicles.

1374. In the constitution *Cum frequenter*, June 27, 1587.

present.[1375] The question whether matrimony entered with a woman lacking ovaries and uterus is valid had not hitherto been defined by the Holy See, nor does the Code of Canon Law resolve it, but it only adds this: if the impediment of impotence is doubtful, whether by a doubt of law or by a doubt of fact, matrimony is not to be impeded;[1376] this was the practice of the Holy See observed up to this time.[1377]

g. If the power of coeundi is lacking; now this is lacking in a man from physical defect, if his virile organ is so imperfectly formed that he cannot have natural copula; from psychic defect, if because of frigidity he cannot be aroused to copula. It is lacking in a woman if she lacks a vagina, or if the vagina is entirely closed, or if it is so narrow that it can in no way be penetrated.

h. Among the causes of impotence the older theologians and canonists also mention maleficium, by which the devil effects that a man and a woman cannot have intercourse, although otherwise they are not incapable. Now it cannot be denied that impotence can arise from maleficium through the work of the devil and has sometimes in fact arisen;[1378] but likewise it is established that several impediments of intercourse which the ancients attributed to maleficium have their origin from natural causes.

Note. There are persons of frigid nature who are wholly without sexual appetite (*Geschlechtstrieb*). Natures of this sort are found more rarely among men, but frequently among women. And women can indeed exercise the conjugal act, and even generate offspring, although they suffer from this defect; nevertheless, copula with women of this sort is less pleasing and agreeable to men, because of the lack of sexual love, and for this reason they not rarely seek by adultery with other women the pleasures which their own wife cannot supply to them. But frigid men are for the most part impotent, as being incapable of erection and ejaculation.

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572. Division. Impotence is:

a. Perpetual or temporal, according as it can or cannot be removed by licit human means that are not gravely dangerous.

Impotence is judged perpetual which cannot be removed without danger of life or of grave illness, namely illness bringing danger of death. Hence if a woman laboring under perpetual impotence underwent a dangerous operation which brought about the desired effect and rendered her potent, either she could pass to other nuptials, or she would have to contract validly with the former husband.

b. Absolute or relative, according as it exists either with relation to any person whatever, or only with relation to a determinate person. Relative impotence can be perpetual, that is, it can happen that there exist no means through which determinate persons become apt for having copula between themselves.

c. Antecedent or consequent, according as it precedes matrimony, or arises only after matrimony has been contracted, as if, after matrimony has already been contracted, both testicles are cut out from the man.

d. Natural or accidental, according as it takes its origin from nature or from the natural constitution of the body, or from an accidental cause, e.g., from disease.

573. The impediment of impotence consists in this, that matrimony entered between those who are incapable of copula apt for generation is null: for matrimony cannot be valid in which the first and principal

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1375. Cf. Antonelli, *De conceptu impotentiae et sterilitatis* (Rome: Pustet, 1900). The same, *Pro conceptu impotentiae et sterilitatis* (ibid., 1901). The same, *De mulieris excisae impotentia ad matrimonium* (ibid., 1903). Against this, Eschbach, *Disputationes etc.* (Rome: Desclee, 1901), p. 14 ff. Gasparri, n. 513.

1376. Cn. 1068, 2.

1377. S. C. de Sacram., April 2, 1909.

1378. Cf. Tob. 6, 14 ff.; 7, 11 ff.

end of matrimony cannot be obtained.[1379]

1. Perpetual and antecedent impotence dirimently impedes matrimony, if it is absolute, with any person whatever; if it is relative, with that person with whom perfect copula cannot be had.

2. Neither temporal impotence nor consequent impotence dirimently impedes matrimony: not the former, because it does not make one simply unfit for generating, but only for a time; not the latter, because it supervenes upon a valid matrimony, which is indissoluble.

a. To the question whether there is an obligation of removing impotence detected after matrimony, one must respond thus: if it can be removed without danger of life or of grave illness, even if not without grave inconvenience and pain, there exists an obligation of removing it; for the woman is held to undergo grave inconvenience in order that she can render the right which the man acquired by the matrimonial contract, because this is judged an ordinary means. But if it cannot be removed without danger of life or grave illness, she is not held, because she cannot be obliged to undergo so great an inconvenience that the right of the husband may be preserved (unless one must say that in this case the matrimony is invalid), because this is judged an extraordinary means.

b. Nevertheless St. Alphonsus (n. 1009) judges this opinion very probable, that a woman is not held to undergo incision if from shame she would abhor with her whole soul submitting herself to the eyes and hands of a surgeon. But the mode of feeling and acting in our time in this matter differs widely from the mode of feeling and acting in the times of St. Alphonsus. Wherefore let it suffice to have mentioned this opinion.

c. To the question whether matrimony is valid if the woman has been made potent through an operation, the answer must be given thus: if the operation was dangerous, the matrimony is invalid and must be convalidated through renewal of consent; whether in the prescribed form or only privately will be said below. If the operation was not dangerous, the matrimony is valid. If there is doubt concerning the danger, consent must at least as a caution be renewed privately. Moreover, it is sufficiently renewed by this, that the spouses, conscious of the doubtful value of the matrimony, continue conjugal life.

3. This impediment is of natural law: for the object of the matrimonial contract is the right over the body as it is apt for perfect conjugal copula; but where the essential object is lacking, the contract from the nature of the thing is null.

Note 1. According to the opinion of more recent physiologists, which rests on experience, for generation it is not absolutely required that virile semen be sent within the female vessel, but it suffices that it be poured at the mouth of the vagina. Hence the question arose whether the impediment of impotence is present if the vagina of the woman, because of narrowness, absolutely cannot be penetrated. There are those who deny that absolute impotence is present, although the vagina of the woman absolutely cannot be penetrated, because generation is not absolutely impossible. But one must altogether assent, it seems, to Eschbach, Lehmkuhl, Wernz, who judge that those are impotent for matrimony who, from any cause whatever, cannot have copula with penetration of the female vessel, because they are incapable of furnishing those things which are essentially required for natural copula. For absolute impotence for matrimony seems to have to be affirmed where absolute impotence for natural copula exists, although accidentally generation could be had. Practically in this case the impediment would have to be held as doubtful, and the declaration of the Holy See would have to be sought.

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1379. Antecedent and perpetual impotence, whether on the part of the man or on the part of the woman, whether known to the other party or not, whether absolute or relative, dirimently impedes matrimony by natural law itself, Cn. 1068, 1. Sterility neither dirimently impedes nor impedes matrimony, Cn. 1068, 3.

Note 2. One who contracts matrimony while laboring under temporary impotence, which he thinks will soon be removed, does not sin; but one who contracts matrimony while laboring under temporary impotence that will last a long time, and does not reveal it to the other party, sins in two ways, because he deceives the other party concerning a necessary quality and because he exposes that party to the danger of incontinence.

4. One who before matrimony doubts concerning perpetual impotence cannot licitly contract matrimony until, after the matter has been diligently investigated, he has laid aside the doubt: otherwise he exposes the sacrament to danger of nullity and the other party to danger of deception in a necessary quality. But if after investigation the doubt endures, one positively doubting can licitly contract matrimony, provided he warns the other party concerning the doubt, and use matrimony until the impediment becomes certain.

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574. On Matrimony Entered with an Impotent Party. 1. If antecedent impotence is certain, immediately by the proper authority of the spouses separation as to bed must be made; but complete separation cannot be made without an ecclesiastical judge. Therefore they can indeed sometimes, with the danger of incontinence excluded, cohabit as brother and sister; but ordinarily recourse must be had to the ecclesiastical judge and the impediment must be duly proved. Once this has been done, the judge brings sentence concerning the nullity of the matrimony, and the spouses are separated.

a. In antiquity indeed the practice of separating spouses whose matrimony was null on account of antecedent impotence had not yet everywhere prevailed in the Church; but the putative spouses were permitted to cohabit as brother and sister. But after this license was abolished by Sixtus V, the practice of separating spouses became universal,[1380] because danger of incontinence is usually always present. If, however, separation of the spouses is morally impossible, as where civil laws, which do not recognize the impediment of impotence, compel the spouses to remain together, even in our time they are permitted to cohabit after the manner of brother and sister, provided danger of sinning is absent.[1381]

b. If the confessor has noticed that the spouses are in good faith, that is, that they think they are living in legitimate matrimony, and at the same time he has noticed that the impotence is occult and that separation is morally impossible, he can leave them in good faith.

2. If impotence is doubtful (whether the doubt supervenes or preceded), the spouses can licitly use matrimony, even if the semen is poured outside the vessel: for so long as impotence is doubtful, there is always some hope of exercising copula duly. Meanwhile, however, apt remedies must be applied for removing impotence. But if, after remedies have been applied, they profit nothing, and the use of matrimony is recognized as impossible, the matter must be referred to the ordinary for obtaining either separation of the spouses or a declaration of nullity.

a. The new Code agrees with these things: for what Cn. 1068, 2 affirms, "If the impediment of impotence is doubtful, whether by a doubt of law or by a doubt of fact, matrimony is not to be impeded," has force also concerning the use of matrimony, so long as the impediment is doubtful.

b. Formerly there was granted by the Church to spouses a triennial experience, during which they could ask and render the debt, so that in this way it might be established whether impotence was truly present. Only when the three years had elapsed, if impotence was established, was the matrimony declared dissolved. According to present practice an experiment of this sort is no longer required, and since the new law is silent concerning triennial experience, it is no longer granted; but a dispensation in a ratified and non-

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1380. Constitution *Cum frequenter*, June 27, 1587.

1381. S. C. C., December 15, 1877. S. Office, March 8, 1900.

consummated matrimony is granted. For if it is established that the matrimony has not been consummated, there exists an easier and shorter way of dissolving the matrimony, namely by seeking a dispensation in a ratified and non-consummated matrimony, than a declaration of nullity, because antecedent and perpetual impotence can be proved with difficulty.

On Hermaphroditism.

1382

575. In order that the state of the question may be clear, perfect, imperfect, and improperly so-called hermaphroditism must be distinguished.

a. Hermaphrodites (*Zwitter*) are properly said to be human beings who share in the organs of both sexes and therefore in the work of generation can, at pleasure, act either as male or as female. It is certain today from the laws of physiology that such true and perfect hermaphrodites have never existed and can never exist; but it is ascertained that imperfect and improperly so-called hermaphrodites exist and have existed.

Therefore the doctrine of the ancients concerning hermaphrodites, which St. Alphonsus proposes from Busenbaum in this way: "If one sex predominates, matrimony will be valid according to that sex only; if both are equal, the option is given to them that they may use either, yet in such a way that whichever they have once chosen, they must always retain" - this doctrine, I say, must be held as antiquated.

b. Improperly so-called hermaphrodites are human beings of a determinate sex who nevertheless, besides their proper organs, are endowed with some one of the essential organs of the other sex, e.g., a male with a female ovary or uterus, a female with a male testicle. These indeed are not unfit for completing the work of generation.

c. Imperfect hermaphrodites (*Scheinzwitter*) are said to be human beings of doubtful sex, who are neither true males nor true females, since their sexual organs are so formed that they can be held as organs of either sex. These are ordinarily unfit for completing the work of generation, since in it they can act neither as male nor as female.[1383] Human beings of this sort must be kept away from the clerical, priestly, or religious state.

Section 3. Bond.

576. Nature of the Impediment. 1. The impediment of bond consists in this, that a spouse bound by the bond of matrimony cannot enter valid matrimony unless the prior matrimony has first been duly dissolved: for one who has already handed over the right over his body to one person cannot hand over the same right to another unless the prior contract has been legitimately dissolved.[1384]

By the name bond is understood the matrimonial bond by which each spouse is bound to the other. This impediment was constituted so that the unity of matrimony may be preserved.

2. This impediment is founded on the dogma concerning the unity and indissolubility of matrimony. Wherefore it is of secondary natural law if the man attempts to enter another matrimony while his wife is still living; but if the wife attempts to enter matrimony while her husband is still living, the impediment is of primary natural law.

Notes

1382. A hermaphrodite (*Hermaphroditus*) is said to be a human being who, born of Mercury (*Hermes*) and Venus (*Aphrodite*), shares in both sexes.

1383. Cf. A. Eschbach, *Disputationes physiolog. theolog.*, 2nd ed., p. 53.

1384. Matt. 19, 9. 1 Cor. 7, 39. Cn. 1069, 1: One invalidly attempts matrimony who is held by the bond of a prior matrimony, although not consummated, saving the privilege of the faith.

The Church has taught at every time that, while a prior matrimony exists, a new other matrimony cannot validly be entered, even if the second matrimony has been consummated and the first was only ratified. Wherefore it holds the second matrimony simply as concubinage, although a secular judge or religious sect has declared the first matrimony dissolved. But in the polygamy of infidels, the first wife is to be held as legitimate, unless the matrimony is shown to be invalid because of some diriment impediment.

577. Certainty Concerning the Free State. 1. In order that a second matrimony can be licitly entered, it is required that it be established with moral certainty that the prior matrimony has truly been dissolved; nor is probability concerning the death of the spouse sufficient, however great it may be:[1385] for it is not licit to expose a sacrament to danger of nullity outside a case of necessity. Wherefore a second matrimony entered without certain knowledge concerning the dissolution of the prior one is gravely illicit, but nevertheless valid if the prior matrimony has truly been dissolved.

2. Concerning the obtaining of this moral certainty several instructions of the Roman congregations have appeared,[1386] from which these things are had:

a. The long absence of one spouse does not suffice, nor mere report concerning that person's death, nor the affirmation of one witness, unless he is above every exception and his testimony is confirmed from the circumstances. But positive and legitimate proof is required, such as ordinarily is either an authentic document or, if this cannot be had, the testimonies of two witnesses who are above every exception.

b. Extraordinarily, proof by indications is also admitted, which, taken together, suffice for obtaining moral certainty; relying on these, the ecclesiastical judge authentically declares the death of the spouse.

If the death of the spouse occurred in the very parish in which the second nuptials are celebrated, testimony is not required, since the matter concerns a fact publicly known. But if the spouse died in another place, the authentic testimony of the parish priest of the place where the death occurred is required. This testimony must be furnished with the parochial seal, and if it must be acquired from a distant diocese, also with the seal of the episcopal curia.[1387] If authentic testimony of this sort cannot be obtained, the matter no longer pertains to the parish priest, but must be referred to the ordinary. What must be done in this case is taught by the cited instruction of the Holy Office.

If a spouse in good faith contracted a new matrimony while the other party was still living, this matrimony, after the death of the other party has actually followed, does not become valid of itself, but consent must be renewed.

Section 4. Disparity of Cult.

578. Nature of the Impediment. The impediment of disparity of cult consists in this, that matrimony cannot be validly entered between one baptized in the Catholic Church or converted to it and one not baptized. But if one converted from heresy or schism afterward defects again from the Catholic Church, he is held as Catholic, and therefore is bound by this impediment.

Notes

1385. Cn. 1069, 2: Although the prior matrimony is invalid or dissolved, it is not therefore licit to contract another before the nullity or dissolution of the prior one has been legitimately and certainly established.

1386. Instruction of the Holy Office (1870) for proving the death of some spouse; instruction of Clement X, August 21, 1670, which prescribes procuring full certainty concerning the free state of the contracting parties. Cf. *Acta S. Sedis* VI, p. 436 ff.

1387. In order that matrimony be held valid in the civil forum, in Austria (G. A. n. 112 ff.) testimony of the civil authority concerning the death of the spouse is required; before this testimony has been obtained, the parish priest cannot proceed to the nuptials. Although this civil testimony does not suffice in the ecclesiastical forum, nevertheless the ecclesiastical judge can be assisted by it.

Disparity of cult between spouses is called perfect if one party is baptized and the other not baptized; it is called imperfect if one party is Catholic and the other acatholic, that is, heretical or schismatic. The former, in the proper and strict sense, is called disparity of cult; the latter is properly called by the name mixed religion.

1. This impediment, insofar as it is diriment, is of ecclesiastical law. For although no testimony of ancient law establishing this impediment exists, nevertheless by the long use of the Church, which obtained the force of law, it is certain that disparity of cult dirimently impedes matrimony;[1388] moreover, it is expressly established by the new Code.[1389]

a. This impediment was established lest, from close familiarity with infidels, the faithful spouse, together with offspring, undergo danger of losing the faith; and then also lest matrimony, which among the baptized is a sacrament, be contracted by a baptized person with an unbaptized person; but especially because nothing is more opposed to matrimony, which by its nature involves an intimate union of minds, than disparity of cult and therefore disparity in the supreme principles of moral and religious life.

b. Therefore the Church can dispense in this impediment, and in regions of infidels indeed it dispenses more easily from an urgent cause; but in our regions a dispensation is granted with great difficulty, and much more difficultly if the matter concerns the matrimony of a Christian with a Jew. But if the Church for a grave cause dispenses in this impediment, this is done only under the same conditions under which mixed marriages are permitted.[1390] If these conditions are not furnished, dispensation is never granted. Moreover, a dispensation imparted by one having power from the Holy See, when the prescribed cautions have not been required or have been denied, is invalid. And the ordinary himself can declare the nullity of the matrimony, if it is evidently established concerning it because of this cause, nor is recourse to the Holy See necessary.[1391]

c. For convalidating a matrimony invalid because of the impediment of disparity of cult, dispensation is granted more easily. Thus to American bishops there has been granted the faculty of convalidating by sanation in the root even marriages invalid because of disparity of cult; only if it is a matter of matrimony entered with a Jew must they recur to the Holy See in individual cases, all circumstances being accurately set forth.

2. This impediment, insofar as it is prohibiting, is of natural and divine law; the reason of the first is the danger of perversion which threatens both the faithful spouse and future offspring; the reason of the second is the prohibition which is had in the sacred Scriptures: "Do not bear the yoke with unbelievers,"[1392] that is, do not enter conjugal union with unbelievers.

Therefore matrimony between a baptized and an unbaptized person is also gravely illicit, and it can become licit only if the proximate danger of perversion becomes remote, and if there exists a grave cause of seeking and granting dispensation from this impediment.

3. Heretics and schismatics are not held by this impediment. Therefore matrimony between a validly baptized heretic or schismatic and an infidel is now valid.

Notes

1388. Cf. constitution of Benedict XIV, *Singulari nobis* (February 9, 1749), n. 10. At the beginning of the thirteenth century disparity of cult is already a diriment impediment of matrimony.

1389. No matrimony exists contracted by a non-baptized person with a person baptized in the Catholic Church or converted to the same from heresy or schism. Cn. 1070, 1.

1390. What has been prescribed concerning mixed marriages (n. 540) must also be applied to marriages which the impediment of disparity of cult opposes. Cn. 1071.

1391. S. Office, June 21, 1912.

1392. 2 Cor. 6, 14; the same is also prohibited in 1 Cor. 7, 39.

a. Apostates from the true Catholic faith, likewise converted heretics or schismatics who afterward defect again from the true faith, are bound by this impediment.

b. A great difference intervenes between the ancient impediment of disparity of cult and the modern one. For hitherto disparity of cult dirimently impeded matrimony between any baptized person whatever and a non-baptized person; but now only between one baptized in the Catholic Church (to whom converted heretics or schismatics are equated) and a non-baptized person. Therefore matrimony between a validly baptized heretic and an infidel is valid, which formerly was invalid.

c. Because in this time there is often deserved doubt concerning the validity of baptism conferred by heretics, several marriages of heretics were invalid because of disparity of cult. Perhaps for this reason the Church restricted this impediment, lest many marriages of heretics be invalid.

d. Therefore marriages of heretics and schismatics contracted up to May 19, 1918, must be judged according to the former law.

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579. In Doubt Concerning Baptism. Here there is no discussion except of the question whether doubtful baptism in a case of disparity of cult between those about to marry suffices for contracting valid matrimony. Now from several decrees and declarations of the Holy Office and from the new Code,[1393] the following rule must be observed:

1. Doubtful baptism, whether there is doubt concerning its conferral or concerning the validity of the baptism conferred, in order to a matrimony both to be contracted and already contracted, is held as valid from presumption; and only if it is certain that baptism either was not conferred or was conferred invalidly is there present the simple impediment of disparity of cult.

a. A Catholic who truly doubts concerning the validity of the baptism received, whether in the case of entering matrimony or outside this case, must be rebaptized under condition: for the matter concerns a sacrament necessary for the salvation of the soul.

b. The practice of administering baptism under condition to an acatholic party who declares that he or she remains in heresy is illicit and to be reproved, if before entering matrimony a doubt arises concerning its validity. But when a doubt of this sort has arisen, investigations must first be instituted; if they have been useless, the doubt must be removed from presumption and the matrimony, whether to be contracted or already contracted, must be held as valid.

c. If doubtful baptism, which is presumed valid, was in reality null, some authors thought that the matrimony, although disparity of cult opposed it, was nevertheless valid, either because the Church had implicitly dispensed, or because it had exempted this case from the law of the impediment from the beginning. But in reality, from Cn. 1070, 2, it is invalid.

2. If doubtful baptism, which is presumed valid, is afterward discovered with certainty to be null, recourse must be had to the Holy See, which will prescribe what must be done.

In order that it may be known when the validity of baptism can duly be presumed, the Holy Office established these things:

With regard to heretics whose rituals prescribe the conferral of baptism without the necessary use of essential matter and form, the particular case must be examined.

Notes

1393. S. Office, November 17, 1830; July 7, 1880; September 9, 1868; September 18, 1872; September 18, 1890. Cn. 1070, 2.

With regard to others who according to their rituals baptize validly, the baptism must be judged valid, nor is further examination required in particular cases.

But if doubt persists, even in the first case baptism must be judged valid in order to the validity of matrimony. Hence the general principle which the Holy See holds in this matter is gathered: doubtful baptism, in order to matrimony to be contracted or already contracted, must be held as valid.

Section 5. Sacred Order.

580. Nature of the Impediment. The impediment of order consists in this, that one who has received sacred order (subdiaconate, diaconate, priesthood) cannot enter valid matrimony.[1394]

a. Sacred order does not dirimently impede matrimony contracted beforehand, but only impedes its use.

b. The question hitherto disputed, whether a cleric receiving major order must emit a vow of chastity at least implicitly, the new Code does not solve. Therefore it is not certain whether the force invalidating matrimony arises from ecclesiastical law alone, or from the law of the Church by means of a vow, or from law and vow together.

1. A threefold condition is required for inducing this impediment:

a. That the ordination be valid.

b. That it be freely received. The Code establishes concerning this matter: one who, compelled by grave fear, received sacred order and, when the fear had been removed, did not ratify the ordination, is to be declared immune from clerical obligations.[1395] Once this has been done, he can validly and licitly enter matrimony.

c. That it be received with knowledge of the obligation: for the Church does not wish to impose this burden on a cleric unless he himself freely wills it.

d. If someone compelled by grave and unjust fear receives sacred ordination, the ordination is indeed valid; nevertheless the ordained man is neither held to continence nor rendered incapable of contracting matrimony, unless afterward expressly or tacitly (by the exercise of sacred order) he consents to the obligation of celibacy annexed by the statute of the Church to the order.

e. There are those who say that a solemn vow emitted in a religious order and in receiving sacred order is one impediment;[1396] nevertheless some authors hold that they are different impediments, because the reason and effect of each impediment are different.[1397]

2. This impediment is of ecclesiastical law: for it must be derived neither from the nature of sacred order nor from the internal force of a solemn vow of chastity, but from ecclesiastical law alone.[1398] For a vow dirimently impedes matrimony not by its nature, but from the disposition of the Church. Moreover, that sacred order can be joined with matrimony is gathered from the practice of the Eastern Church.

A dispensation is never granted to a priest; so much so that from the acts it is not established that this dispensation for contracting matrimony has ever been granted (but only for convalidating matrimony). There is less difficulty of dispensation with deacons and subdeacons.

Notes

1394. Council of Trent, sess. 24, can. 9, *De sacr. matrim.* Cn. 1072: Clerics constituted in sacred orders invalidly attempt matrimony.

1395. Cn. 214, 1.

1396. Lehmkuhl, *Th. mor.* II, n. 749 (n. 981).

1397. Cf. Matharan, n. 251.

1398. Benedict XIV, *De synodo*, l. 12, c. 4, n. 2. Wernz IV, n. 298.

3. The penalties in force today are: a. excommunication *latae sententiae* simply reserved to the Apostolic See, which both the cleric attempting matrimony and the person with whom he attempts it incur;[1399] b. loss of all offices by the fact itself, if he has contracted matrimony even only civilly;[1400] c. degradation, if, after having been warned by the ordinary, he does not repent within the predetermined time;[1401] d. irregularity from delict.[1402]

Section 6. Solemn Vow.

581. Nature of the Impediment. The impediment of vow consists in this, that those cannot enter valid matrimony who have spontaneously emitted a solemn vow of perfect chastity in a religious order, or even only a simple vow to which, nevertheless, by special privilege, there is attached the force of dirimently impeding matrimony.[1403]

a. A solemn vow: for a simple vow of perfect chastity emitted in religion impedes matrimony, but does not dirimently impede it. b. In a religious order: for a simple vow of perfect and perpetual chastity emitted in some congregation likewise does not dirimently impede matrimony. c. Of perfect chastity: for a solemn vow not of perfect chastity but only of conjugal chastity, which is emitted in some equestrian orders, does not constitute an impediment. d. Spontaneously: for, in order that a solemn vow dirimently impede matrimony, religious profession must be valid; but it is not valid if it is not entirely free, but was extorted by fraud or grave and unjust fear.

Therefore a solemn vow of chastity emitted in religion has a twofold effect with regard to matrimony: of dissolving matrimony already contracted, if it has not yet been consummated, and of dirimently impeding future matrimony.

1. The impediment of vow is of ecclesiastical law only: for if the vow itself by its nature produced this effect, a simple vow also, since in its internal nature it does not differ from a solemn vow, would dirimently impede matrimony. Therefore it dirimently impedes insofar as it is solemn; but a vow has solemnity from the Church; therefore it also has from the Church the force of dirimently impeding matrimony.

a. Hence it follows that the supreme pontiff can dispense one who has emitted solemn profession for entering matrimony. This dispensation, although granted rarely and with difficulty, has nevertheless sometimes been granted by supreme pontiffs both formerly and again recently by Leo XIII.[1404]

b. One dispensing in a solemn vow for entering matrimony properly exercises a twofold and diverse power: one by which he removes the solemnity of the vow, or the incapacity for contracting annexed to the vow; another by which he relaxes the vow itself. The solemnity of the vow is of ecclesiastical law and renders matrimony invalid; the obligation of the vow is of divine law and renders matrimony only illicit.

2. From the special privilege of the supreme pontiff, the simple vows of scholastics and coadjutors of the Society of Jesus dirimently impede future matrimony, unless the general has dispensed, or so long as they have remained in the Society.[1405]

Notes

1399. Cn. 2388, 1.

1400. Cn. 188, 5.

1401. Cn. 2388, 1.

1402. Cn. 985, 3.

1403. Council of Trent, sess. 24, can. 9, *De sacr. matrim.* Cn. 1073: Religious who have professed solemn vows invalidly attempt matrimony, or simple vows to which, by special prescription of the Apostolic See, the force of invalidating nuptials has been added.

1404. S. Office, February 20, 1888.

1405. Constitution *Ascendente Domino* of Gregory XIII, May 25, 1584; constitution *Dolentes* of Leo XIII, July 13, 1886.

From the old law, the spouse remaining in the world, whose other party with that spouse's consent had entered religion or received sacred orders, had to emit a simple vow of chastity. This vow made matrimony entered after the death of the spouse, according to some, illicit, according to others, invalid.[1406] Today this question is obsolete, since a spouse cannot validly be admitted to the novitiate while the matrimony endures.[1407]

Section 7. Abduction.

582. Nature of the Impediment. 1. The impediment of abduction consists in this, that matrimony between a man who abducts an unwilling woman for the sake of entering matrimony, and the abducted woman, so long as she exists in the power of the abductor, is null.[1408]

a. Abduction, insofar as it is a diriment impediment of matrimony, is defined: the abduction of an unwilling woman for the sake of entering matrimony.

b. Although grave fear is most often joined with abduction, nevertheless the impediment of abduction does not dirimently impede matrimony by reason of fear unjustly inflicted, but is a special impediment distinct from fear.

2. This impediment exists only between the abductor and the abducted woman, but not between the abducted woman and other men who, e.g., carried out the abduction in favor of another.

If someone, thinking that by abducting a certain woman he will do something pleasing for his friend, abducts her without the friend's knowledge and brings her into his own house, the friend can validly contract with her, because he is not the abductor.

3. The impediment exists so long as the woman is under the power of the abductor, even if after the abduction she freely consents to matrimony; but as soon as she has been endowed with liberty, the impediment ceases without dispensation. Hence if, placed outside the power of the abductor, she freely consents, the abductor can have her as wife. It makes no difference whether the abductor by himself or through others detains the abducted woman in his power.

4. The impediment of abduction is of ecclesiastical law only, and it was established lest an abducted woman consent to matrimony from fear, and therefore for protecting the liberty of matrimonial consent.[1409]

In the impediment of abduction the Church is not accustomed to dispense. Nevertheless, if the abducted woman freely consents to matrimony, it sometimes permits matrimony by dispensing, although the woman has not yet been restored to a safe place.[1410]

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583. Declaration. In order that abduction dirimently impede matrimony, the following conditions are required:

1. That there be abduction of a woman, not of a man: for the law speaks only of the abduction of a woman, which is done by a man. Therefore matrimony between an abducting woman and an abducted man is not invalid. Moreover, it makes no difference whether the woman who is abducted is honorable or dishonorable, virgin or widow, betrothed or free, of greater or lesser age.

Notes

1406. Cf. Wernz IV, n. 320, 395. Benedict XIV, *De synodo*, l. 13, c. 12, n. 1.

1407. Cn. 542, 1.

1408. Council of Trent, sess. 24, c. 6, *De reform. matr.* Cn. 1074: 1. Between an abducting man and a woman abducted with a view to matrimony, so long as she has remained in the power of the abductor, no matrimony can exist. 2. But if the abducted woman, separated from the abductor and constituted in a safe and free place, has consented to have him as husband, the impediment ceases.

1409. Cf. Instruction of the Holy Office to the bishops of Albania, February 15, 1901.

1410. Cf. the cited instruction to the bishops of Albania.

The question whether one incurs the impediment of abduction who abducts a betrothed woman or a girl of minor age is resolved by the new Code. For it uses the generic word woman (*Weibsperson*). Moreover, where women of minor age are to be excepted, this is expressly noted, as in Cn. 2353.

2. That there be a. either abduction, by which a woman is transferred from one place to another morally diverse place, whether by the abductor himself or in his name by another; b. or detention, by which a man violently detains a woman in the place where she is staying or to which she freely came, with a view to matrimony.[1411]

Therefore the question about a morally diverse place becomes superfluous, whether there is true abduction if a woman is transferred from one chamber to another contiguous chamber of the same house, or from a public road apart into a field: for the impediment of abduction is always present either by reason of abduction or by reason of violent detention.

3. That the abduction be violent, namely, one which is done while the woman is unwilling and resisting. If therefore the woman consents to the abduction and to the matrimony, it is rather flight than abduction; this does not dirimently impede matrimony, even if it is done against the will of the parents. For the law intends nothing else than to protect the liberty of matrimony, which is not injured if the woman consents to the matrimony.

Now abduction is judged violent if it is done by physical force or by grave fear unjustly inflicted; if it is done by fraud and deceitful solicitation, even with the woman's consent; but it is not violent if the woman is induced to flee by prayers, blandishments, gifts, or promises.

4. That it be done for the sake of entering matrimony: for the Church, in establishing this impediment, chiefly intends this, that the liberty of matrimonial consent be preserved. If therefore she is abducted for another reason, e.g., only for the sake of satisfying lust, no impediment of matrimony arises.

Note. Abduction (*Entfuhrung*) is a crime which is committed if someone with a view to matrimony or for the sake of satisfying lust carries off an unwilling woman by force or deceit, or a woman of minor age who indeed consents, but without the knowledge or against the will of her parents or guardians. The crime of abduction is always punished in the ecclesiastical forum (Cn. 2353), but a diriment impediment of matrimony does not always follow from it, as is clear from the things set forth above.

Section 8. Crime.

584. Nature of the Impediment. 1. The crime which dirimently impedes matrimony consists in the injury which both who intend to enter matrimony inflict on the already existing matrimony of one of them. In reality the impediment of crime contains three impediments diverse among themselves:

a. The first is contracted by those who, by mutual physical or moral work, even without adultery, brought death upon a spouse.[1412]

b. The second is contracted by those who, during the same legitimate matrimony, consummated adultery between themselves and one of whom committed spouse-killing.[1413]

Notes

1411. Cn. 1074, 3. Since this canon establishes that violent detention of a woman is held equal to abduction, the former impediment, by which abduction alone invalidated matrimony, is extended also to violent detention of a woman, even one not carried off or abducted.

1412. Caius, joined in marriage with Bertha, conspires with Sempronia to kill Bertha, in order that he may marry Sempronia.

1413. Caius, joined in marriage with Bertha, commits adultery with Sempronia and then kills Bertha in order that he may marry Sempronia.

c. The third is contracted by those who, during the same legitimate matrimony, consummated adultery between themselves and mutually gave faith to each other concerning entering matrimony, or attempted matrimony itself, even only by a civil act.[1414]

Therefore the impediment of crime is contracted in a threefold case: a. because of spouse-killing alone; b. because of spouse-killing with adultery; c. because of adultery alone with promise or attempted matrimony. This threefold impediment, taking its denomination from spouse-killing alone, is also customarily presented in this way, so that it is said to be contracted because of a crime committed a. with both perpetrating; b. with one perpetrating; c. with neither perpetrating.

2. These three impediments are of ecclesiastical law.[1415] Moreover, the Church, in establishing these impediments, intends: a. to provide for conjugal fidelity and the lives of spouses; for when all hope of contracting matrimony with an accomplice either of killing or of adultery has been removed, it at the same time removes the occasion of committing these crimes; b. to punish spouses because of the crime committed, by which injury is inflicted on matrimony and on the innocent spouse.

3. Therefore the Church can dispense from these impediments; but it does not dispense in all of them. Namely, if the impediment arises from adultery with promise of matrimony, it dispenses when a canonical cause exists. If the impediment arises from spouse-killing, whether perpetrated by each or by one party, and the spouse-killing is occult, it dispenses rarely and only from a most urgent cause. But if the spouse-killing is public, it does not dispense "because of the enormity of scandal."[1416]

Whether those who are ignorant of this impediment incur it. The affirmative opinion is now certain, since Cn. 16, 1 of the Code establishes: "No ignorance of invalidating or incapacitating laws excuses from the same, unless something else is expressly said"; but nothing else is said anywhere concerning this matter.

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585. In Order That an Impediment Arise from Spouse-Killing Alone, or from the crime with both perpetrating, these three things are required:

1. Mutual conspiracy for the killing of the spouse of either of them. Now conspiracy is had both in the case of cooperation, even remote, whether physical, e.g., by giving poison, or moral, e.g., by corrupting a doctor so that he does not ward off death, and in the case of inducement, by which one party moves the other to killing by counsel, prayers, or consent alone.

If therefore one of them alone schemes the death of the spouse, while the other party is ignorant, and no adultery has intervened between them, the impediment is not contracted, even if the ignorant party afterward approved the death of the spouse. Likewise it is not contracted if one party indeed consented to the killing, and nevertheless the consent in no way moved the other to the killing.

2. That the spouse-killing was committed at least by one party from the intention of entering matrimony with the accomplice of homicide, with this intention externally manifested. Although this condition is not expressed in the new law, nevertheless it is rightly presumed from the end of the law and is commonly required by interpreters.

Notes

1414. Caius, joined in marriage with Bertha, commits adultery with Sempronia (whether unmarried or married) and promises her matrimony to be entered after the death of Bertha, or attempts matrimony itself with her.

1415. Cn. 1075, which presents the impediment in the words related above.

1416. Cf. Gasparri I, n. 653 ff.

If therefore the killing was done not from the intention of contracting matrimony with the accomplice, but from another motive, e.g., revenge, or of sinning more freely with the accomplice, the impediment is not present, since it was established by law lest spouses be killed from desire for another's matrimony.

3. Death really followed from the physical or moral action of one of the accomplices, not from another cause.

Therefore attempted homicide does not suffice, but real killing is required, whether the accomplices of the crime carry out the killing by themselves or through another.

586. In Order That an Impediment Arise from Spouse-Killing with Adultery, or from the crime with one perpetrating, these three things are required:

1. True adultery, formal on the part of each, perfect, actually committed before the spouse-killing.

a. True, which supposes valid matrimony at least on the part of one adulterer. Therefore the impediment is not contracted if the accomplice of adultery thinks the other party is married, when he or she is not; or if the other party is commonly held to be married, when nevertheless he or she is not, because, e.g., that person's matrimony is invalid because of an occult impediment.

b. In order that the adultery be formal on the part of each, it is required that the married state of the one with whom adultery is committed be known. If therefore only one of the adulterers is married, it is required that the unmarried person know that he or she sins with a married person; and if both adulterers are married, it does not suffice that each know himself or herself to be married, but it is required that one of them know the accomplice of adultery to be married. Namely, in order that formal adultery be committed, it indeed suffices that the adulterer know either himself or his accomplice to be married; but for inducing the impediment of crime, it does not suffice that each know himself to be married, because injury must be inflicted by each adulterer upon the same matrimony.

c. Perfect, that is, of itself apt for generating offspring. Besides, if copula has in reality intervened, it is presumed perfect unless the contrary is established.

d. Actually committed before the spouse-killing. If only schemes of spouse-killing preceded the adultery, the impediment is contracted; but if the death itself of the spouse precedes, it is not contracted, because after the death of the spouse adultery is no longer committed.

2. Spouse-killing perpetrated by one party, even while the other party is ignorant or even unwilling, with the intention of entering matrimony with the accomplice of adultery. Therefore it is not required that both conspire in the killing, but it suffices that either one accomplishes it, either by himself or through another.

Therefore neither the intention of perpetrating homicide nor the intention of perpetrating homicide in order to enter matrimony must be manifested to the other party, but it is necessary that the intention of entering matrimony with that same party be known to the other party.

3. The death of the spouse really followed from the physical or moral action of the spouse.

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587. In Order That an Impediment Arise from Adultery Alone with Promise or Attempted Matrimony, or from the crime with neither perpetrating, these things are required:

1. True adultery, formal on the part of each and perfect, as was explained above.

2. A promise of entering matrimony with the adulterer, true (a feigned one does not suffice), absolute (a conditional one does not suffice), and mutual, that is, made by one party and accepted by the other with a counter-promise.

a. The question whether the impediment is present if, in the promise of matrimony, the conditions prescribed by the decree *Ne temere* are not observed, seems so much the more to have to be answered affirmatively because the new Code does not require betrothals for contracting the impediment, but only a simple promise of matrimony.

b. Concerning the promise of entering matrimony after the death of the spouse, the Code has nothing; therefore this condition is no longer required.

c. If the promise of matrimony is revoked before adultery has been committed, no impediment arises; but if it is revoked after adultery has been committed, the impediment already contracted does not cease.

d. Attempted matrimony also constitutes an impediment, although it is only clandestine (before a heretical minister, before a civil magistrate, between the delinquents alone), provided the one attempting knows that the other party is married or, when the error has been discovered, perseveres in the union. If someone, therefore, after having entered valid matrimony, obtains a civil divorce and then contracts a new civil matrimony and consummates it while the prior spouse is living, he contracts the impediment of crime. Wherefore, when the prior spouse has died, he cannot without dispensation enter matrimony with the civil spouse, unless this latter had previously been ignorant of the matrimony.

e. It not rarely happens that those who have obtained either dispensation in a ratified and non-consummated matrimony, or a document of liberty because of the presumed death of the spouse, wish to contract matrimony with a person with whom, while the prior bond existed, they had contracted civil matrimony and had consummated it.

But since a dispensation from the impediment of crime arising from adultery with attempted matrimony is rarely sought, Pius X, lest matrimony be exposed to danger of nullity, established that dispensation from this impediment is to be judged granted through the given dispensation either in ratified and non-consummated matrimony or through permission of passing to other nuptials.[1417]

f. Hitherto the question was disputed whether a promise accepted by the other party alone suffices for contracting this impediment, or whether a counter-promise is also required. Now one must say that a promise with counter-promise is required, since Cn. 1075, 1 says: those who have mutually given faith to each other concerning entering matrimony.

3. The adultery and the promise must be made during the same marriage: for in order that the impediment arise, the whole injury must be inflicted on one and the same marriage. Moreover, it makes no difference whether the promise precedes or accompanies or follows the adultery, and likewise it makes no difference by how much time the adultery and promise are distant from each other, provided they were made during the same marriage.

If Caius promises matrimony to Bertha while his spouse Anna is living, and after Anna's death marries Sempronia, during whose life he commits adultery with Bertha, he contracts no impediment.

588. The Impediment of Crime Can Be Multiplied both by reason of the delict and by reason of the marriage.

1. If the impediment arises from homicide alone, a twofold impediment is had when both conspirators are married and the spouse of each is killed by them.

Notes

1417. S. C. de Sacr., June 3, 1912. Cn. 1053.

2. If the impediment arises from homicide with adultery, a twofold impediment is had when both adulterers are married and each kills his or her spouse.

3. If the impediment arises from adultery alone, a twofold impediment is had a. when both adulterers are married and both know this circumstance; b. if Caius, joined in marriage with Bertha, commits adultery with Sempronia and promises her matrimony, then after Bertha's death marries Anna and during this marriage knows Sempronia again with promise of matrimony.

Section 9. Consanguinity.

589. Nature of the Impediment. The impediment of consanguinity consists in this, that persons consanguineous in some certain degree cannot validly enter matrimony with each other.

a. Consanguinity is the nearness of persons descending by natural generation from the same proximate stock; therefore it arises from participation of the same blood. It is said proximate: for those who descend from a common remote stock (beyond the third generation) are no longer accustomed to be called consanguineous.

b. Consanguinity is legitimate if it arises from legitimate matrimony, and illegitimate if it arises from fornicary union; it is simple if it arises from only one source, and multiple if it arises from a double or multiple source.

c. It is clear that an impediment of matrimony arises equally from legitimate and from illegitimate consanguinity. Moreover, with regard to consanguinity which constitutes an impediment of matrimony, it makes no difference whether both parents or only one parent is common.

590. Declarations. In order that the impediment of consanguinity be rightly understood, three things must be explained: what stock is, what line is, what degree is.

1. Stock is said to be that person from whom others descend by natural generation, and in whom they come together as in a first root. Thus brothers have their father as stock; the children of two brothers have their grandfather as stock.

a. Ordinarily two persons, namely the parents, constitute the common stock; but it can also happen that one person constitutes it (whether man or woman), if this person had offspring not with one person but with several.

b. Because those born from the same stock share the same blood, they are called consanguineous. Consanguineous persons in the first degree of the collateral line are full or not full, according as they have both parents or only one parent in common. Those not full are called uterine if they have the same mother but a diverse father, and they are called consanguineous only if they have the same father but a diverse mother.

2. Line is the series of persons descending from the same stock through various generations. Line contains diverse degrees and is twofold, direct and oblique.

a. Direct line is the series of persons of whom one descends from the other, whether immediately, as a son from parents, or mediately, as a grandson from grandparents. Direct line is divided into two, one of which is of ascendants, from whom someone has origin, namely father, grandfather, great-grandfather, etc.; the other is of descendants, who have origin from someone, namely son, grandson, great-grandson, etc.

b. Oblique line (collateral, transverse) is the series of persons of whom one does not descend from the other, but nevertheless all have a common stock, as brothers, cousins.

The collateral line is either equal, if the persons placed in each line are distant from the common stock by the same degree, or unequal, if the persons placed in each line are distant from the common stock by a diverse degree. Thus two brothers are of an equal line, but a brother and a brother's daughter are of an unequal line.

3. Degree is the measure of the distance of one person from another in the same line. Degree can be simple or mixed.

591. Principles.[1418] 1. In the direct line of consanguinity, matrimony is invalid between all ascendants and descendants, both legitimate and natural.

Therefore consanguinity dirimently impedes matrimony in any degree, by positive law at least, probably also by natural law.

Authors who affirm that consanguinity dirimently impedes matrimony indefinitely by natural law use this argument: all descendants owe to progenitors almost the same reverence which children owe to parents; therefore progenitors are accustomed to be called by the name parents, descendants by the name children. For this reason, consanguineous persons in the direct line are not judged to have received from God the power of handing over to each other the right over their bodies.

But those who affirm that consanguinity by the positive law now in force dirimently impedes matrimony indefinitely teach that the supreme pontiffs (Callistus I and Nicholas I in the responses to the consultation of the Bulgars) received into ecclesiastical law the dispositions of Roman law invalidating matrimony between consanguineous persons in any degree whatever.

2. In the collateral line, matrimony is invalid up to the third degree inclusively, but not beyond, even if a more remote degree is mixed with a nearer one, e.g., the fourth with the second.

The impediment, which formerly extended up to the seventh degree, was restricted by the Fourth Lateran Council under Innocent III, and afterward by the Council of Trent,[1419] to the fourth degree, because of the great difficulty of observing the prohibitions of so many degrees, and by the new Code to the third degree. Therefore the fourth degree of consanguinity and the fourth touching the third no longer dirimently impede matrimony.

3. Matrimony is never to be permitted if a doubt remains whether the parties are consanguineous in some degree of the direct line or in the first degree of the collateral line, because the doubt is either certainly or probably of divine law.

592. Origin of the Impediment. 1. In the first degree of the direct line (between father and daughter, mother and son) the impediment is certainly of natural law; in other degrees of the direct line marriages likewise seem to be invalid by natural law (secondarily), although some authors say that they are valid but illicit.

The reason of the first: by the natural light of reason itself we understand that the use of matrimony between consanguineous persons in the first degree of the direct line is contrary to the singular reverence owed to parents. Therefore almost all peoples not depraved in morals detest nuptials in the first degree of the direct line as wicked.[1420] Wherefore, because of the natural baseness which inheres in marriages of this sort, consanguineous persons in the first degree of the direct line are judged by natural law to lack the power of handing over to each other the right over their bodies.

The reason of the second: all descendants indeed owe reverence to their progenitors, yet in a more remote degree this need not be so great as in the first. Wherefore nuptials between consanguineous persons also of a more remote degree of the direct line are opposed to natural law; but this repugnance does not seem to be

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Notes

1418. Cn. 1076.

1419. Sess. 24, c. 4, *De reform. matr.*

1420. The Assyrians and Persians are to be excepted, who did not reject marriages between a son and his own mother; the Egyptians permitted marriages between brother and sister.

so great that nuptials of this sort must be said to be absolutely invalid by natural law, but only by secondary natural law.

2. In the first degree of the collateral line (between brother and sister) the impediment is of natural law;[1421] in the other degrees of the collateral line it is certainly of merely ecclesiastical law.

a. Several authors, both ancient and recent, deny that matrimony between brother and sister is invalid by natural law. And rightly indeed, if this is understood of primary natural law: for that singular reverence owed to parents, because of which nature itself forbids matrimony between parents and children, is founded chiefly in this, that parents are the principle of children. But in the collateral line this chief reason does not have force. Therefore nature does not absolutely forbid matrimony between brothers and sisters as it does between parents and children.[1422] Wherefore at the beginning, because of the most grave necessity of propagating the human race, which God willed to descend from one man, marriages between the sons and daughters of Adam were valid by divine disposition; but afterward, when the human race had already been sufficiently propagated, they became invalid by natural law.

b. Therefore concerning marriages which consanguineous infidels enter within the degrees prohibited by the Church, these things must be held:

c. Marriages entered between consanguineous persons in the first degree of the direct line are certainly invalid. The same must be said of marriages of consanguineous persons which are invalidated by civil law.

d. Matrimony entered between grandfather and granddaughter, and matrimony entered between brother and sister, is likewise invalid. If spouses of this sort are converted to the faith, they can enter a new matrimony according to the practice observed by the Holy See. If doubt remains concerning the value of a matrimony contracted in infidelity, one must stand for the nullity of the matrimony in favor of the faith.[1423]

e. Marriages of consanguineous persons in the second and further degree, if nothing else stands in the way, are valid; and if the spouses are converted to the faith, they can remain in the contracted matrimony without dispensation.

3. The reason for prohibiting marriages to be contracted between consanguineous persons is chiefly threefold: one social, that mutual charity and friendship may be extended more widely; another moral, that, once hope of matrimony has been taken away, carnal love among members of the family may be restrained; and finally another physical, that provision may be made for offspring. For it is established that marriages of consanguineous persons are either unfruitful or that offspring often suffer from diseases and defects.[1424]

593. Canonical Computation of Degrees.[1425] For computing degrees of consanguinity in canon law, three rules are established: one for the direct line, another for the equal collateral line, another for the unequal collateral line.

1. In the direct line there are numbered as many degrees as there are persons, the stock being removed, or there are as many degrees as there are generations.

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Descendants          Titius.          Ascendants

1                                      1
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Notes

1421. Council of Trent, sess. 24, c. 5, *De reform. matr.*

1422. Gen. 20, 12.

1423. S. Office, May 18, 1872.

1424. Cf. Wernz IV, n. 413 ff.

1425. Cn. 96.

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Son                                 Father

2                                   2
Grandson                            Grandfather

3                                   3
Great-grandson                      Great-grandfather
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Therefore father and son are consanguineous in the first degree, grandfather and grandson in the second, great-grandfather and great-grandson in the third.

In the appended schema Titius is consanguineous in the direct line with his father and son in the first degree, with his grandfather and grandson in the second, and with his great-grandfather and great-grandson in the third.

2. In the equal collateral line there are numbered as many degrees as there are persons on one side, the stock being removed. Therefore two persons are consanguineous in that degree by which they are distant from the common stock.

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              Claudius.

    1                         1
  Anna                    Titius

    2                         2
 Iacobus                 Theresia

    3                         3
  Maria                   Iulius
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Therefore brother and sister are consanguineous in the first degree of the equal collateral line; the children of a brother and the children of a sister (paternal and maternal cousins) in the second; the grandchildren of a brother and the grandchildren of a sister in the third.

In the appended schema, Iulius and Maria are consanguineous in the third degree, Iacobus and Theresia in the second, Titius and Anna in the first degree of the equal collateral line.

3. In the unequal collateral line there are numbered as many degrees as there are persons on the more remote side, the stock being removed. Therefore two persons are consanguineous in that degree by which the more remote person is distant from the common stock.

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              Sempronius.

    1                         1
  Flavia                  Lucius

    2                         2
   Anna                   Petrus

    3                         3
  Caesar                  Victor

                              4
                           Melania
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If therefore on one side there are three persons, and on the other side four persons, the stock being removed, the last two persons are consanguineous in the fourth degree of the unequal collateral line. A mixed degree of this sort is customarily expressed in this way: A and B are consanguineous in the fourth degree mixed with the third, or also in the fourth degree touching the third.

In the appended schema Melania and Caesar are consanguineous in the fourth degree touching the third. Victor and Anna are in the third degree touching the second, Petrus and Flavia in the second degree touching the first of the unequal collateral line.

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594. Names of Consanguineous Persons. 1. Names of ascending consanguineous persons in the direct line on the part of the father and mother:

First degree: *pater*, Vater; *mater*, Mutter.

Second degree: *avus*, Grossvater; *avia*, Grossmutter.

Third degree: *proavus*, Urgrossvater; *proavia*, Urgrossmutter.

2. Names of descending consanguineous persons in the direct line on the part of the father and mother:

First degree: *filius*, Sohn; *filia*, Tochter.

Second degree: *nepos*, Enkel; *neptis*, Enkelin.

Third degree: *pronepos*, Urenkel; *proneptis*, Urenkelin.

3. Names of descending consanguineous persons in the collateral line on the part of the father:

First degree: *frater*, Bruder; *soror*, Schwester.

Second degree: *patrueles*, Geschwisterkinder, when the two fathers are brothers; *amitini*, Geschwisterkinder, when the father of one and the mother of the other are siblings.

Third degree: *patrueles magni*, *amitini magni*, other Geschwisterkinder.

4. Series of descending consanguineous persons in the collateral line on the part of the mother:

First degree: *frater*, Bruder; *soror*, Schwester.

Second degree: *consobrini*, Geschwisterkinder whose mothers are sisters.

Third degree: *consobrini magni*, other Geschwisterkinder.

5. Names of ascending consanguineous persons in the collateral line on the part of the father:

First degree: *patruus*, Onkel (father's brother); *amita*, Tante (father's sister).

Second degree: *patruus magnus*, Grossonkel (grandfather's brother); *amita magna*, Grosstante (grandfather's sister).

Third degree: *propatruus*, great-grandfather's brother; *proamita*, great-grandfather's sister.

6. Names of ascending consanguineous persons in the collateral line on the part of the mother:

First degree: *avunculus*, Oheim (mother's brother); *matertera*, Muhme (mother's sister).

Second degree: *avunculus magnus*, Grossoheim (grandmother's brother); *matertera magna*, Grossmuhme (grandmother's sister).

Third degree: *proavunculus*, great-grandmother's brother; *promatertera*, great-grandmother's sister.

595. On Multiple Consanguinity. From multiple consanguinity there arises a multiple impediment of consanguinity. Now consanguinity is multiple if two persons come together in several stocks.[1426]

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        Aloisius              Stanislaus

   Caius        Leo - Agnes        Bertha

Cornelius       Petrus  Anna       Maria
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Cornelius, the betrothed man, and Anna, the betrothed woman, descend from a double stock (Aloisius and Stanislaus). Therefore they are consanguineous in the second equal degree both from the stock Aloisius and from the stock Stanislaus.

Double Diverse Stock.

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                        Carolus

          Petrus          Maria          Anna

                Iacobus          Henricus

                  Felix           Lucia
```

Felix, the betrothed man, and Lucia, the betrothed woman, descend from a double stock (Petrus and Carolus). Therefore they are consanguineous in the second equal degree from the stock Petrus and in the third equal degree from the stock Carolus.

Two Causes in One and the Same Marriage.

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                        Iulius

             Pius                      Leo

       Caia      Flavia   Titus        Paulus

          Linus                Anna
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Linus, the betrothed man, and Anna, the betrothed woman, are consanguineous in a double second degree, because they descend from a double stock (Pius and Leo); moreover, in the third degree, because they descend from the common stock Iulius.

596. Note 1. In order to detect whether, and what kind of, impediment of consanguinity exists between two betrothed persons, the more apt method, namely where the stock is unknown, seems to be this: that above the names of the betrothed man and woman there be written the names of father and mother, grandfather and grandmother, and so on up to the fourth generation. If among the ascendants of each, thus described, no common stock is found, no kinship intervenes between them; but if among the ascendants a common stock is found, the degree by which each is distant from it must be computed. Once this has been done, it will be established what kind of consanguinity exists between them.

Note 2. From what has been said it is clear that between the law hitherto in force and the new Code there is a twofold difference with regard to the impediment of consanguinity:

Notes

1426. Cn. 1076, 2: "The impediment is multiplied only as many times as the common stock is multiplied"; formerly it was multiplied also when two persons descended from the same stock by a multiple way.

a. Hitherto consanguinity dirimently impeded matrimony in the direct line indefinitely in any degree whatever, in the collateral line up to the fourth degree; now it dirimently impedes matrimony in the direct line indefinitely, in the collateral line up to the third degree inclusively. Therefore consanguinity in the fourth degree and in the fourth degree touching the third no longer dirimently impedes matrimony.

b. Hitherto the impediment was multiplied both from plurality of stocks and from plurality of ways through which one could ascend to the stock; now it is multiplied from plurality of stocks only.

Section 10. Affinity.

597. Nature of the Impediment. 1. The impediment of affinity consists in this, that matrimony between persons related by affinity in some certain degree is invalid.

2. Affinity, as far as it extends, is of ecclesiastical law; nor does it seem admissible that affinity in the first degree of the direct line dirimently impedes matrimony by natural law.

a. It is indeed from natural law that affinity arises; but it is not from natural law that affinity dirimently impedes matrimony. And indeed, among persons related by affinity in the first degree there does not exist a relation of principle and of one arising from a principle, and therefore neither a debt of special reverence as between father and daughter. Therefore the foundation from which an impediment of natural law might arise is lacking.

b. Formerly a vehement controversy was carried on concerning the question whether the Church can dispense in the impediment of affinity of the first degree of the direct line. But today the affirmative opinion has become common among theologians, nor does any reason for doubting remain, since the impediment is of ecclesiastical law and the Church itself has declared that there is no doubt concerning the power of the pontiff to grant dispensation in this case.[1427] Nevertheless the Church, although often asked and although most grave causes for dispensing existed, never granted dispensation in affinity of the direct line because of the great indecency which marriages between persons related by affinity in the direct line present before themselves; for among all sufficiently cultivated nations those related by affinity in the descending direct line are held in the manner of children. With wholly peculiar circumstances concurring, the Holy See on December 2, 1911, dispensed for the first time in this impediment. Cf. *Archiv f. k. K.* 1913, p. 677 ff.

598. Declarations. 1. Affinity is the nearness of persons arising from valid matrimony, whether only ratified or ratified and consummated, between the man and the blood relatives of the woman, and conversely between the woman and the blood relatives of the man.[1428]

a. With this definition of affinity established, both the practice of confessors and the examination of the betrothed are rendered much easier, since inquiry no longer has to be made concerning carnal copula had with a consanguineous person. From the same definition it is clear that no affinity arises from invalid matrimony, even putative matrimony.

b. Although the Code speaks only of the ratified matrimony of baptized persons, nevertheless affinity and the impediment of affinity seem also to arise from legitimate matrimony of non-baptized persons. Namely, affinity, since it naturally arises from valid matrimony, exists also among infidels; but the impediment of affinity does not exist among them. But if infidels who are free are converted to the faith, they are bound by the impediment of affinity which they had contracted in infidelity. Therefore a spouse, for example, who after the death of his wife received baptism, could not marry the baptized sister of the deceased wife.

Notes

1427. S. Office, September 4, 1743.

1428. Cn. 97, 1, 2.

c. Once the matrimony which is, as it were, the principle of affinity has been dissolved, whether through the death of the other spouse, or through dispensation of the supreme pontiff, or through profession, affinity itself does not cease, but endures until death.

d. Therefore supervening affinity, by which a spouse because of adultery committed with a person related by affinity lost the right of seeking the debt from the other spouse, no longer exists. But because of adultery he or she loses the right of demanding the debt from the other spouse.

e. With this new definition of affinity established, in this matter there is conformity of canon law with the civil law of Austria and Germany.[1429]

2. Affinity is contracted by the man alone with the blood relatives of the wife, and by the woman alone with the blood relatives of the husband. Therefore it is not contracted a. by husband and wife, who are as it were the principle of affinity, nor b. by the blood relatives of one with the blood relatives of the other: affinity does not beget affinity.[1430]

Hence two brothers can marry two sisters; indeed father and son can marry mother and daughter; and generally any blood relative of the husband can marry a blood relative of the wife, and conversely any blood relative of the wife can marry a blood relative of the husband. Therefore also stepchildren, who are such in the full sense, that is, who have neither father nor mother in common, as when a widower having a son marries a widow having a daughter, can enter matrimony.

3. Affinity follows the degree and line of consanguinity; therefore in determining affinity this rule must be observed: those who are blood relatives of the man are related by affinity in the same line and degree to the woman, and conversely.[1431]

Therefore Claudius is related by affinity to the mother of his wife in the first degree and to her grandmother in the second degree of the direct line; to the sister of his wife in the first degree and to the niece of his wife in the second degree of the collateral line.

4. Affinity also can be multiple. Now it is multiplied a. as many times as the consanguinity from which it proceeds is multiplied; b. by repeated successive matrimony with a blood relative of the deceased spouse.[1432]

599. Names of Persons Related by Affinity.

a. *Socer*, Schwiegervater; *socrus*, Schwiegermutter.

b. *Vitricus*, Stiefvater; *noverca*, Stiefmutter.

c. *Gener*, Schwiegersohn; *nurus*, Schwiegertochter.

d. *Privignus*, Stiefsohn; *privigna*, Stieftochter.

e. *Levir*, the husband's brother; *glos*, the husband's sister.

f. *Sororius*, the sister's husband, Schwager; *fratria*, the brother's wife, Schwagerin.

600. Principles. 1. Affinity in the direct line dirimently impedes matrimony in any degree.

2. Affinity in the collateral line dirimently impedes matrimony up to the second degree inclusively.[1433]

Notes

1429. Cf. Austrian Code, sec. 66; German Code, sec. 1590.

1430. Cn. 97, 2.

1431. Cn. 97, 3.

1432. Cn. 1077, 2.

1433. Cn. 1077, 1.

Note. The impediment of affinity has been changed by the new Code both with regard to foundation and with regard to extent.

a. Hitherto the foundation of the impediment was any perfect copula whatever, provided it was perfect. Now its foundation is valid matrimony, whether it has been consummated or only ratified.

b. Hitherto licit affinity dirimently impeded matrimony in the direct line in any degree, in the collateral line up to the fourth degree; illicit affinity in the direct line in the first and second degree, in the collateral line in the first degree. Now affinity, whether from ratified-only matrimony or from ratified and consummated matrimony, dirimently impedes matrimony in the direct line in any degree, in the collateral line up to the second degree inclusively. No illicit affinity exists.

c. Hitherto from ratified non-consummated matrimony there arose the impediment of public honesty; now from it there arises the impediment of affinity.

d. Hitherto spouses (through incest) could contract affinity (subsequent affinity); now no subsequent affinity exists.

Section 11. Public Honesty.

601. Nature of the Impediment. 1. The impediment of public honesty consists in this, that matrimony is invalid between those who have contracted invalid matrimony (whether it has been consummated or not), likewise between those who live in public or notorious concubinage, and certain consanguineous persons.[1434]

a. Public honesty in law is also called quasi-affinity, which from the new Code must be defined: the nearness of persons arising from invalid matrimony (whether consummated or not consummated) and from public or notorious concubinage between the man and the blood relatives of the woman, and conversely. This nearness is the foundation of this impediment.

b. As affinity arises from valid matrimony, so public honesty proceeds from invalid matrimony and from public or notorious concubinage. Therefore this impediment does not arise from carnal commerce outside concubinage, but only if it is joined with concubinage.

c. This impediment arises from matrimony invalid in any way whatever, whether it is invalid from defect of consent or from another impediment; therefore also from civil matrimony, since this matrimony among Catholics is invalid because of clandestinity.

2. The impediment of public honesty exists between the man who has contracted invalid matrimony or lives in public or notorious concubinage and the blood relatives of the woman; likewise between the woman who has contracted invalid matrimony or lives in concubinage and the blood relatives of the man.

3. The impediment of public honesty dirimently impedes matrimony in the first and second degree of the direct line between the man and the blood relatives of the woman, and conversely, but not likewise in the collateral line.[1435]

4. This impediment is of ecclesiastical law. Natural law indeed shows that it is contrary to decency for someone to enter matrimony with the relatives of a person who has been publicly and intimately joined to him, but it does not show that matrimony of this sort is invalid. Wherefore this impediment is not contracted by

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Notes

1434. Cn. 1078.

1435. Cn. 1078.

infidels. Moreover, affinity dirimently impedes matrimony only by ecclesiastical law; therefore, a fortiori, public honesty.

Note. The ancient impediment of public honesty has been greatly changed both with regard to nature and with regard to extent.

a. Formerly the impediment arose from matrimony ratified whether valid or invalid, provided it was not invalid from defect of consent. Now it arises only from invalid matrimony, whatever the cause of invalidity may be, or from public or notorious concubinage.

b. Formerly this impediment dirimently impeded matrimony up to the fourth degree inclusively in each line, whether the matrimony was valid or invalid. Now public honesty dirimently impedes matrimony up to the second degree of the direct line only, whether the matrimony was consummated or not.

c. Hitherto this impediment also arose from valid betrothals (which from April 19, 1908, had to have been entered in writing) and absolute betrothals (not entered under a suspensive condition). Now no public honesty arises from betrothals.

Section 12. Spiritual Relationship.

602. Nature of the Impediment. 1. The impediment of spiritual relationship consists in this, that between persons who have contracted relationship from the conferral and reception of baptism, valid matrimony cannot be entered.

Spiritual relationship is the nearness of persons arising from spiritual regeneration in the sacrament of baptism. Since spiritual regeneration has a likeness with natural generation, those who have parts in it, the minister and sponsor, are considered as spiritual parents, to whom reverence is owed by spiritual children. But if spiritual relationship were a diriment impediment by natural law, reverence owed to spiritual parents would dirimently impede matrimony, as reverence owed to consanguineous persons dirimently impedes it.

2. This impediment is of merely ecclesiastical law: for it cannot be of natural law, because it arises from the conferral and reception of a sacrament; nor is it of divine law, because no argument of the divine will can be brought forward. Wherefore dispensation can be granted in this impediment, and indeed from any reasonable cause, since it is of lesser grade.

603. Declaration. 1. Only that spiritual relationship invalidates matrimony which intervenes:

a. between the baptized person and the baptizer;

b. between the baptized person and the sponsor.[1436]

From confirmation indeed spiritual relationship arises, but no impediment of matrimony. The reason for this seems to be the following. Relationship arises because the sponsor, by force of relationship, must take care for the Christian education of his spiritual child. But since the confirmed person and the sponsor must be of the same sex, the relationship intervening between them does not have an effect invalidating matrimony.

a. Spiritual relationship, which by the old law was extended much more widely, was restricted by the Council of Trent[1437] and by the new Code is confined even more, so that it intervenes only a. between the baptized person and the baptizer; b. between the baptized person and the sponsor.

Notes

1436. Cn. 1079 and Cn. 768.

1437. Sess. 24, c. 2, *De reform. matr.*

b. Spiritual relationship arises from solemn and private baptism.[1438]

2. In order that spiritual relationship arise, it is required that the sacrament be conferred validly, and on the part of the sponsor, that he or she acted as sponsor validly, although illicitly.

a. One who exercises the office of sponsor through a proxy contracts the relationship himself, not the proxy.[1439]

b. If an infidel baptizes the child of a faithful man, he himself does not contract spiritual relationship, because the infidel is incapable of it. But relationship cannot arise from one side only, since it is a relation which by its nature is between two. Hence if a civil sponsor receives baptism, no spiritual relationship exists.

3. Multiple spiritual relationship, which formerly could intervene in some cases, now scarcely ever exists. The one case which could be imagined is this: namely, if the same person were the baptizer and the sponsor, who exercised the office of sponsor through a proxy, a double spiritual relationship would be present between the baptized person and the baptizer. It was long ago declared that spiritual relationship is not multiplied if someone holds several children of the same parents in the same sacrament.[1440]

4. If baptism is repeated under condition, spiritual relationship is not contracted unless the same sponsor was employed in each baptism. Therefore neither the sponsor who was present at the former nor the sponsor who was present at the later baptism contracts it.[1441]

Section 13. Legal Relationship.

604. Nature of the Impediment. 1. The impediment of legal relationship (*Burgerliche Verwandtschaft*) consists in this, that between persons who have contracted relationship from adoption, valid matrimony cannot be entered.

For the declaration of this matter, see above n. 543.

2. The impediment of legal relationship is merely of ecclesiastical law. The chief reason for establishing this impediment is the peculiar relation of reverence and friendship which arises from adoption between the adopter and the adopted person. To this is added another reason, namely, to avoid the danger of fornication which would threaten between persons staying in the same family if hope of matrimony shone upon them.

3. Hitherto the diriment impediment of legal relationship had force in those places in which the law of adoption, with regard to substantial things, agreed with the adoption of Roman law. But this happened from an authentic declaration of the Holy See in France and in the Neapolitan kingdom, and from the interpretation of authors in Germany, Italy, Spain, and in several republics of Latin America. Therefore in these places legal relationship constituted a diriment impediment up to May 19, 1918.

4. The new Code establishes that legal relationship dirimently impedes matrimony where by civil law it dirimently impedes matrimony.[1442] Therefore in judging this impediment, one must no longer attend to Roman law, but to the recent law of each state. From the modern codes legal relationship is a diriment impediment in Croatia, Slavonia, Italy, Spain, Poland. In Germany legal relationship impedes matrimony, but does not dirimently impede it.[1443]

Notes

1438. Cf. Cn. 762, 2.

1439. S. C. C., June 11, 1881.

1440. Lacroix, l. 6, pr. 1, 368 s. Sanchez, l. 7, disp. 60.

1441. S. Office, April 29, 1894. Cn. 763, 2.

1442. Cn. 1080.

1443. Cf. Chelodi, n. 107 s.

5. In this impediment, as we warned above, the matter of the law is taken from the civil code; the form of the law, or the force of obliging, descends from ecclesiastical law. We have a civil law canonized by the Church.

Question Six.. On Matrimonial Dispensations.

[1444]

Article One.. On Dispensation Itself.

605. 1. If an impediment stands in the way of a matrimony to be contracted, this must first be removed, so that matrimony can be validly and licitly entered. Moreover, matrimonial impediments, whether diriment or impedient, can be removed in three ways: a. by removal of the cause (bond, disparity of cult, abduction); b. by lapse of time (age); c. by dispensation, which is the ordinary mode of removing matrimonial impediments.

Dispensation is the relaxation of a law in a special case.[1445] Where dispensation is treated, speech can be only about impediments of ecclesiastical law; for impediments of divine law can be removed by no human power.

2. The faculty of dispensing is granted for the external forum or for the internal forum. The internal forum is twofold, sacramental and extrasacramental.

a. Dispensation for the external forum has force also for the internal forum, but one who has received power of dispensing for the external forum cannot use it for the internal forum only.

b. If someone has used the power of dispensing in an occult impediment for the sacramental internal forum, and afterward the impediment becomes public, the matrimony is indeed valid, but a new dispensation must be sought for the external forum. But if the power of dispensing has been given for the non-sacramental internal forum, a new dispensation for the external forum is not necessary.[1446]

3. Since matrimonial impediments are invalidating or prohibiting laws of the universal Church, no one can dispense in them except the supreme pontiff and one who has received from him a special faculty of dispensing. A faculty of this sort is granted to ordinaries and, in certain circumstances, also to inferior ministers, parish priests and confessors.

Article Two.. On the Power of Dispensing.

The power is to be considered: a. of the supreme pontiff; b. the power of the bishop; c. the power of the parish priest and confessor.

Section 1. On the Power of the Supreme Pontiff.

606. 1. The Roman pontiff cannot dispense in diriment impediments of absolute divine law; but he can dispense in impediments of conditioned divine law, whose existence depends on an act of the human will (vow, ratified matrimony).

2. The Roman pontiff can dispense in all impediments which certainly are of ecclesiastical law; nevertheless he does not in reality dispense in all.

a. There are three impediments in which he never dispenses: affinity in the first degree of the direct line (cf. however n. 575); episcopal order for entering matrimony; public spouse-killing.

Notes

1444. Zitelli, *De dispensationibus matrimonialibus* (Rome, 1887). Ballerini-Palmieri VI, *De dispensationibus*, q. 734 ff. Wernz IV, *De dispensationibus impedimentorum matrimonialium*, n. 806 ff.

1445. Cn. 80.

1446. Cn. 1047.

b. There are seven impediments in which he dispenses most rarely, especially if it is a matter of entering matrimony: spouse-killing with adultery, abduction, age, solemn vow, sacred order, disparity of cult in regions of the faithful.

c. There are three impediments in which he dispenses rarely: consanguinity in the collateral line touching the first degree, spiritual relationship between the one lifting and the one lifted.

607. He does not grant dispensations himself by himself, but uses for this purpose his congregations and tribunals, which are:

a. The Congregation of the Holy Office. This dispenses in the impediments of disparity of cult and mixed religion and judges in all things which directly or indirectly turn upon these and the Pauline privilege.[1447]

b. The Congregation de Sacramentis. This dispenses for the external forum in all remaining impediments and grants sanation in the root for the whole world, except the Orientals.[1448]

c. The Congregation for the Eastern Church. This dispenses Orientals in all impediments, even if only one party is of the Eastern rite, the right of the Holy Office nevertheless being saved.[1449]

d. The Sacred Penitentiary. This dispenses in all occult impediments for the internal forum only, both sacramental and extrasacramental.[1450]

Section 2. On the Power of the Ordinary.

608. To local ordinaries in the new Code a very ample power is granted.

By ordinary power he can dispense:

1. In the impedient impediment of vow arising from non-reserved vows, and indeed his subjects and travelers.

Non-reserved vows are: the vow of virginity, the vow of not marrying, of receiving sacred orders, of embracing the religious state in a congregation. Even the vows of perfect chastity and of entering a religion of solemn vows are not reserved if they were emitted before the eighteenth year or not absolutely, Cn. 2309.

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608. By ordinary power he can dispense:

2. In danger of death, for providing for conscience, and, if the case bears it, for the legitimation of offspring, he can dispense a. over the form to be observed in the celebration of matrimony; b. in each and every impediment of ecclesiastical law, whether public or occult, even multiple, with two exceptions; c. his proper subjects wherever they are staying and all actually dwelling in his own territory; d. scandal being removed and, if dispensation is granted in disparity of cult or mixed religion, the customary cautions having been furnished,[1451] without the requiring or furnishing of which the dispensation would be invalid.

a. Danger of death, whether it comes from disease or from an external cause of nature or of man.

b. The faculty has force even if the person who is affected by the impediment is not ill.[1452]

Notes

1447. Cn. 247, 3.

1448. Cn. 249, 2.

1449. Cn. 257.

1450. Cn. 258.

1451. Cn. 1043.

1452. S. Office, July 1, 1891.

c. Provision is made for conscience by this, that sin or a proximate occasion of sin or a great temptation is removed, from whatever source these are derived, whether from lust, or from avarice, or from hatred, or from another cause.

d. Provision is made for offspring by this, that afterward it is more easily legitimated, without its being necessary to obtain for legitimation a new favor of the Holy See, whether the offspring is natural or incestuous (but not adulterine or sacrilegious).[1453]

e. Two impediments are to be excepted, those arising from the sacred order of priesthood and from affinity in the direct line (when the matrimony has been consummated).

f. Scandal must be removed if the impediment is public; moreover, it is removed by this, that the dispensation is granted before witnesses, to whom the reasons for the same are explained.

g. If the local ordinary cannot be approached, the parish priest, the priest assisting at the matrimony, and the confessor possess the same faculty, but the latter only for the internal forum.[1454]

h. This faculty can be used both for the external forum and for the internal forum, and since it is ordinary, it can also be delegated habitually to others, Cn. 202, 3.

3. In urgent necessity, namely, when all things have already been prepared for the nuptials and the matrimony cannot be deferred without probable danger of grave evil until dispensation is obtained from the Holy See, he can dispense in the same impediments and under the same conditions as in danger of death. This faculty has force also for the convalidation of a matrimony already contracted, if the same danger is present and there is no time for recourse to the Holy See.[1455]

a. Grave evil would be infamy, scandal, notable temporal harm, etc. If the matter concerns convalidation, grave evil could be the danger of incontinence, namely if only after matrimony has been contracted an occult impediment is detected and the spouses can neither be separated without scandal or infamy nor cohabit without danger of sinning.

b. In order that dispensation of the Holy See can be obtained, a time of about fifteen days is required, since no one is held to have recourse by telegraph.

4. In impediments doubtful by a doubt of fact, whether occult or public, he can and is accustomed to dispense, provided the matter concerns impediments in which the Roman pontiff is accustomed to dispense; in a doubt of law he declares that the matrimony can be celebrated safely.[1456]

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609. By delegated power he can dispense in those impediments, whether diriment or impedient, for which he has received special delegation. Formerly, from diverse offices of the Roman curia, faculties were granted to ordinaries which were called quinquennial or triennial, and which, after the very ample faculties granted by the new Code, have almost become superfluous.[1457]

The Holy Office grants the faculty of dispensing (either for a certain time or in a certain number of cases) in mixed religion and, in mission places, also in disparity of cult.

Notes

1453. S. Office, July 8, 1903.

1454. Cn. 1044.

1455. Cn. 1045.

1456. Cn. 15.

1457. Therefore by decree of the Consistorial Congregation, April 25, 1918, in all dioceses subject to the common law all faculties of the external forum which are customarily called triennial, quinquennial, and decennial were abrogated, so that it is no longer licit to use them.

The Sacred Penitentiary grants the faculty of dispensing for the internal forum only, subjects (whether they themselves and the ordinary are within or outside the diocese) in the occult impediment of crime with neither party perpetrating, if the matter concerns matrimony already contracted. This faculty can be delegated habitually, but only for the sacramental forum.

Section 3. On the Power of the Parish Priest and Confessor.

610. 1. In urgent danger of death, the parish priest, the priest assisting at the matrimony, and also the confessor, who ordinarily will be the assisting priest, have the same faculty of dispensing and under the same conditions as the ordinary himself.[1458]

a. In this case, if there is time for recourse to the ordinary, recourse is necessary.

b. The confessor possesses the same faculties for the internal forum, but only in sacramental confession. Nevertheless, if he is at the same time the assisting priest, he possesses the faculty also for the external forum.

c. The parish priest and assisting priest must inform the ordinary of the place concerning the dispensation granted for the external forum and take care that the same be inscribed in the marriage book.[1459]

2. In urgent necessity, namely, where all things have already been prepared for the nuptials and the matrimony, or (if the matter concerns a contracted matrimony) the convalidation, cannot be deferred without probable danger of grave evil until dispensation is obtained from the Holy See, the parish priest, the assisting priest, or the confessor possess the same faculty.[1460]

Since this case formerly was not without difficulties and was solved in diverse ways by authors, it was circulated under the name of the perplexed case. But now, after the very ample faculty of dispensing has been granted, every difficulty vanishes and the case ceases to be perplexed. I shall set forth distinctly what the parish priest, etc., must do in this case.

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611. 1. If he discovers a public impediment, e.g., of consanguinity, the impediment must be revealed and the matrimony deferred until dispensation has been obtained; for this can be done without scandal and infamy of the betrothed.

2. If the impediment is occult and indispensable (e.g., of bond), the matrimony must be omitted, whatever inconvenience may follow from the omission, unless the circumstances are of such a kind that the impediment cannot be revealed to those about to marry without most grave inconvenience to a third party.

3. If the impediment is dispensable, this faculty of dispensing is now granted:[1461]

a. Dispensation can be granted in all impediments of ecclesiastical law, whether public or occult, even multiple, with only those arising from the order of priesthood and from affinity in the direct line (when the matrimony has been consummated) excepted; yet scandal being removed and cautions furnished, if dispensation is given in disparity of cult or in mixed religion.

b. He can dispense:

The ordinary of the place, his subjects wherever they are staying and all actually dwelling in his own territory;

Notes

1458. Cn. 1044.

1459. Cn. 1046.

1460. Cn. 1045.

1461. Cn. 1045.

The parish priest and the priest who assists at the matrimony, but only in occult cases and if the ordinary cannot be approached either at all or only with danger of violating secrecy.

The confessor, but only for the internal forum and in the act of sacramental confession.

c. The same faculty has force also for the convalidation of a matrimony already contracted, if the same danger exists in delay and there is no time for recourse to the Holy See.

d. The parish priest and priest should immediately make the ordinary of the place certain concerning the dispensation granted; this is not required from the confessor, who has dispensed only for the internal forum.

If the impediment in which the parish priest or assisting priest has dispensed afterward becomes public, nothing further is required, because the dispensation was granted also for the external forum; but if the impediment in which the confessor dispensed afterward becomes public, dispensation for the external forum must be sought, since it was given only for the internal forum.

Section 4. On the Use of Delegated Faculties.

612. 1. If the contracting parties are of diverse dioceses and a. the impediment is personal to one contracting party, as the impediment of vow, the contracting party must be dispensed by his or her own bishop. Hence if each is bound by an impediment of this sort, each must be dispensed by his or her own bishop. But if b. the impediment is common to each, as consanguinity or affinity, the bishop of either can dispense: for once the impediment has been removed from one side, the other party also becomes free. But it is fitting that the dispensation be sought from the bishop in whose diocese the matrimony is contracted.

2. If the petition for dispensation has been sent to the Holy See, the ordinary cannot use his faculties unless a grave and urgent cause supervenes. In this case dispensation must be granted, but the Holy See must immediately be advised concerning the matter.[1462]

3. Concerning the faculty of cumulating dispensations, that is, of dispensing in several impediments concurring at the same time in the same case, the following things now have force:[1463]

a. One who has a general faculty of dispensing in some certain impediment (e.g., in relationship) can use the same faculty both in a matrimony to be contracted and in one contracted, even if the same impediment is multiple, unless something else is prescribed in the indult itself.

b. One who has a general faculty of dispensing in several impediments of diverse species can dispense in these, even if several concur, whether diriment or impedient, whether public or occult.

c. If with a public impediment or public impediments in which he can dispense there concurs another impediment in which he cannot dispense, the Holy See must be approached for all. If, however, the impediment or impediments in which he can dispense are discovered after the dispensation of the Holy See has been obtained, he can use his faculty. But if in this case the impediment in which the ordinary can dispense is occult, he can likewise use his faculty.[1464]

d. In granting dispensations, the ordinary must follow the practice of the Holy See concerning the causes of dispensations, that is, he can dispense only from those causes which are judged sufficient by the Holy See for that impediment.

Notes

1462. Cn. 1048; Cn. 204.

1463. Cn. 1049; 1050.

1464. Cn. 1050.

Article Three.. On the Causes of Dispensing.

[1465]

613. Declarations. 1. In order that a dispensation be valid, a just cause of dispensing is required, not only where dispensation is granted by force of vicarious power by a bishop or another delegated judge, but even where it is granted by force of proper power by the supreme pontiff, because he does not wish to dispense illicitly without cause. Therefore in all dispensations the condition is understood: if the petitions rest on truth; and the dispensation is null if there is no motive cause of dispensing, except in impediments of lesser grade.[1466]

2. The cause must be grave and proportionate, and so much the graver as the impediment from which dispensation is sought is graver. Hence it can happen that some cause suffices indeed for obtaining dispensation from a less grave and more easily dispensable impediment, but does not suffice for obtaining it in a graver and more difficultly dispensable impediment.[1467]

3. Besides the division of causes of dispensing which is common to all dispensations, namely into motive or final causes and impulsive causes,[1468] in this place the following division is to be noted:

a. Into dishonoring causes and honorable causes. Dishonoring causes have their origin from the delict of the petitioners or consist in their defamation; honorable causes contain neither delict nor defamation. With regard to the concession of a dispensation, dishonoring causes are graver than honorable causes.

Dishonoring causes are, e.g., a. legitimation of offspring, which supposes illicit copula; b. suspected familiarity which cannot be impeded.

b. Into canonical and non-canonical causes. Those are called canonical which from the style of the Roman curia are expressly reported as admitted for matrimonial dispensations; all others are called non-canonical, which are not expressly reported among the causes admitted from the style of the Roman curia.

It is certain that even non-canonical causes are admitted in matrimonial dispensations; indeed sometimes dispensation is granted from non-canonical causes alone.

614. The Canonical Causes of Dispensing are the following sixteen in number:[1469]

1. "Narrowness of place, whether absolute or relative (by reason of the petitioner only), namely when in the place of origin or even of domicile the kinship of the woman is so propagated that she cannot find another of equal condition, whom she may marry, except one consanguineous or related by affinity; but to leave her fatherland would be hard for her."

This cause is chiefly considered in the betrothed woman. Place can be the place where the betrothed woman was born, or where she lives or has domicile or quasi-domicile. If the place of the betrothed man is the same, or if it is different but narrow in the same way, this can be indicated in the petition in this way: narrowness of place, where the petitioners were born, or narrowness of places, where the petitioners, etc.

Place here is not understood as a parish, but as a village or town, even if in it there are several parishes, provided it is distant from other places by at least one mile (1500 meters). Therefore if a suburb is a place distinct from

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1465. *Formulae apostolicae Datariae pro matrimonialibus dispensationibus* (Rome: Typographia Augustiniana, 1901). *Praxis apostolicarum dispensationum super impedimentis matrimonii* (Rome: Typographia Augustiniana, 1902). These booklets are of the greatest moment in this matter, because from them one learns how supplicatory petitions are to be drawn up.

1466. Council of Trent, sess. 24, c. 5, *De ref. matr.* Cn. 1054.

1467. Council of Trent, ibid.

1468. Cf. *De principiis*, n. 185.

1469. They are listed in the instruction of S. C. de Prop. Fide, May 9, 1877.

the city and has its own name, narrowness of place can be alleged, provided it is distant from the city by about 1500 meters.[1470]

A place is judged narrow if it contains no more than 300 hearths or 1500 inhabitants, acatholics being deducted, but not unbelievers and impious persons.

Equal condition must be taken broadly, not only concerning state and wealth, but also concerning age, education, character, religious disposition, etc.

A woman is said to find no spouse if here and now she has no apt occasion of marrying, even if she has sought no spouse, has previously rejected one or another, could have a man from another place, or one of equal condition wishes to marry her, namely lest matrimonial liberty be too greatly restricted.

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2. "The over-adult age of the woman, namely if she has already passed the twenty-fourth year of age and hitherto has not found a man of equal condition whom she can marry. But this cause does not assist a widow who desires to fly to other nuptials."

If the woman is of still greater age, it helps to express this in the supplicatory petition, so that dispensation may be obtained more easily.

Several thought that, if a dispensation is ever granted because of the over-adult age of the betrothed woman, in the verification of the cause both things had to be proved for the validity of the dispensation: that the woman is over-adult and that up to that time she has not found a man of equal condition whom she could marry. But it is enough if it is established with certainty concerning over-adult age.[1471]

3. "Deficiency or incompetence of dowry, namely if the woman does not actually have such a dowry that she can marry, in her own place where she is staying, an outsider of equal condition who is neither consanguineous nor related by affinity. This cause urges more if the woman is wholly without dowry and a consanguineous person or one related by affinity is prepared to marry her or even conveniently to dower her entirely."

The notion of dowry must be understood broadly concerning goods of fortune by which the burdens of matrimony can be sustained, not only concerning dowry strictly taken, namely where the dotal system is in force.

Actually, although afterward she is to have a dowry, whether from parents who now cannot or do not wish to give it and cannot be compelled to give it, or from a blood relative who has promised part of an inheritance.

4. "Lawsuits over succession of goods, whether already arisen, or grave and imminent danger of the same. If a woman is sustaining a grave lawsuit over succession of goods of great moment, and there is no other who would take a lawsuit of this sort upon himself and pursue it at his own expense except the one who desires to marry her, dispensation is customarily granted; for it is of interest to the republic that lawsuits be extinguished. Another cause closely approaches this, namely, a dowry entangled in lawsuits, when a woman is destitute of another man by whose help she is able to recover her goods. But a cause of this sort suffices only for more remote degrees."
5. "Poverty of a widow who is burdened with numerous offspring and a man promises to support her. But sometimes by the remedy of dispensation help is given to a widow for this cause alone, that she is younger and is placed in danger of incontinence."

Notes

1470. S. C. C., July 8, 1876.

1471. S. Penitentiary, April 5, 1902.

6. "Good of peace, under which name come not only treaties between kingdoms and princes, but also the extinction of grave enmities, quarrels, and civil hatreds. This cause is brought forward either for extinguishing grave enmities which have arisen among the blood relatives or those related by affinity of the contracting parties and which would be entirely settled by the celebration of matrimony, or when grave enmities have flourished among the blood relatives and those related by affinity of the contracting parties, and, although peace has already been entered between them, nevertheless the celebration of the matrimony would greatly conduce to the strengthening of that peace."

7. "Excessive, suspected, dangerous familiarity, as also cohabitation under the same roof, which could not easily be impeded."

Since the reason of this cause is placed in avoiding scandal, it is required that this familiarity or cohabitation under the same roof has given origin to suspicion concerning base conduct between those about to marry.[1472]

8. "Copula with a consanguineous person or one related by affinity or another person laboring under an impediment, held beforehand, and pregnancy and therefore legitimation of offspring, namely that provision may be made for the good of the offspring itself and the honor of the woman, who otherwise would remain unmarried."

If incestuous copula, which is alleged as a cause of dispensation, was had not from human frailty but from hope of obtaining dispensation more easily, this circumstance no longer has to be expressed in the supplication.

9. "Infamy of the woman arising from suspicion that she has been known by her consanguineous relative or one related by affinity as excessively familiar with the same, although the suspicion is false, namely when, unless matrimony is contracted, the woman would remain gravely defamed or unmarried, or would have to marry a man of unequal condition, or grave harms would arise."

10. "Revalidation of matrimony which was contracted in good faith and publicly, with the Tridentine form observed, because its dissolution can scarcely be done without public scandal and grave harm, especially of the woman. But if the spouses entered the nuptials in bad faith, they by no means merit the favor of dispensation, as the Council of Trent disposes (sess. 24, c. 5, *De reform. matrim.*)."

a. Where there is question of dispensation for convalidating matrimony, it must be indicated whether the petitioners were ignorant of the impediment, whether the ignorance was of fact or law, whether they contracted in the face of the Church, whether they had copula, and this in good or bad faith, whether, after being informed concerning the impediment, they continued copula.

b. If only one party contracted matrimony in bad faith, dispensation was always granted, even in former times; but today it is granted even if each party contracted matrimony in bad faith, especially if offspring has already been born or danger of civil matrimony is imminent.

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11. "Danger of mixed matrimony or of matrimony before an acatholic minister."

12. "Danger of incestuous concubinage."

13. "Danger of civil matrimony. From what has been said there follows that the probable danger that those who seek dispensation, if it is not obtained, will celebrate matrimony only civilly, as they say, is a legitimate cause of dispensing. Likewise a civil matrimony already contracted which is to be convalidated."

14. "Removal of grave scandals."

Notes

1472. Ballerini-Palmieri VI, n. 240.

15. "Cessation of public concubinage."

16. "Excellence of merits, when someone (whether of the betrothed or of their progenitors), either by fighting against enemies of the Catholic faith, or by liberality toward the Church, or by doctrine, virtue, or in another way, has deserved well of religion."

615. Non-canonical causes must be added to canonical causes, but when the latter are lacking, dispensation is sometimes granted from non-canonical causes alone in more remote degrees. Causes of this sort are:

1. On the part of the female petitioner: a. if she has been deprived of either or each parent; b. if she has arisen from illegitimate birth; c. if she is held back by illness, deformity, or another defect; d. if she has already been deflowered by another.

2. On the part of the male petitioner: a. if he is held back by illness; b. if he is a widower burdened with offspring, for whom he seeks a good mother; c. if he is in need of the assistance of this woman, e.g., for carrying on domestic work.

3. On the part of the matrimony: a. the publicized proposal of contracting; b. the suitability of the matrimony; c. the good morals of the petitioners; d. the good of the parents, if father or mother needs assistance.

Article Four.. On the Mode of Seeking Dispensation.

616. Declarations. Dispensation is sought by a supplicatory petition.

1. If dispensation is sought in public impediments for the external forum, the supplicatory petition is drawn up by the parish priest; if it is sought from occult impediments for the internal forum, by the confessor.

2. The supplicatory petition, whether drawn up by the parish priest or by the confessor, is ordinarily directed to the bishop, who either dispenses himself, if he has power for this, or directs the petition to the Roman congregations. Only if it concerns an impediment which would defame the petitioner before the ordinary, or would bring danger of violating the seal, is the petition directed immediately to the Sacred Penitentiary.

3. If the ordinary has denied dispensation to someone, he can seek the same from the Holy See, even with no mention made of the denial. But if dispensation was first denied by the Holy See, the same cannot be sought from the ordinary. Indeed, a dispensation denied by one congregation cannot be granted by another congregation or by the ordinary without the consent of the former, the right of the Sacred Penitentiary for the internal forum being saved.[1473]

4. A supplicatory petition is made in the name of the petitioners, not of the parish priest or confessor; and indeed, if dispensation is sought for the external forum, the names of the petitioners are expressed; but if dispensation is sought for the internal forum, the names of the petitioners are concealed. In petitions directed to the Congregation de Sacramentis the supreme pontiff must be addressed (*Most Blessed Father*); in petitions directed to the Penitentiary, the major penitentiary (*Most Eminent Prince*).

5. To avoid various inconveniences which can happen from the petition of dispensations by telegraph, Leo XIII prohibited the sacred congregations ordinarily to accept petitions made by this medium, and commanded that the same be observed by ordinaries. If, however, necessity of obtaining dispensation as soon as possible urges, it is not prohibited that congregations or ordinaries accept petitions sent by telegraph.[1474]

6. Dispensation is said to be sought in ordinary form or in the form of nobles, if the petitioners are not unequal to paying the tax; dispensation is sought in the form of the poor, if the petitioners declare themselves

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Notes

1473. Cn. 43.

1474. Secretariat of State, December 10, 1891.

unequal to paying the tax either entirely or in part. In like manner a dispensation is said to be granted in ordinary form or in the form of nobles when a tax is required, and to be granted in the form of the poor when either no tax or only a small tax is imposed.

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617. What Must Be Expressed in the Supplicatory Petition. Although supplicatory petitions are drawn up in diverse ways according to the use of diverse regions, nevertheless there are several things which, whether from law or from the style of the curia, must necessarily be expressed, so that the dispensation may be valid.[1475]

1. The name and surname of the petitioners, each written distinctly and neatly and without any abbreviation of letters.

To the names of the petitioners there is added: a. age, either by indicating the number of years or by indicating the day, month, and year of birth, although this is not necessary unless age is the cause of dispensing; b. the diocese of origin or of actual domicile or quasi-domicile: for if dispensation is sought for the external forum, the execution of the dispensation is customarily committed to the ordinary. But if dispensation is sought for the internal forum, the name of the diocese being withheld, only the place to which the dispensation must be sent is indicated in the vernacular language.

2. The impediment or impediments in their lowest species (consanguinity, affinity, public honesty, etc.).

3. The degree, whether simple or mixed, more remote or nearer, and in which line.

4. The number of impediments, not only of diverse species but also of the same species.

Besides diriment impediments, impedient impediments must also be indicated, although the bishop can dispense in them or has already dispensed: for if an impedient impediment, e.g., of mixed religion, concurs with a diriment impediment, dispensation is granted with much more difficulty in the diriment impediment.

5. Circumstances which effect that dispensation is given more easily or with more difficulty, namely whether the matrimony is to be contracted or already contracted, whether in the prescribed form, whether with knowledge of the impediment, whether it has been consummated, and whether in good or bad faith.

Note 1. Formerly, from various decrees and instructions of the Roman congregations, for the validity of the dispensation there had to be expressed incestuous copula had between the spouses before the execution of the dispensation, even if the incestuous copula itself was not the cause of dispensing. But now, since these statutes were abrogated by decree of the Holy Office on June 25, 1885, a dispensation is valid even if incestuous copula had between the spouses has been kept silent.

Indeed, by this decree, by which the obligation of expressing committed incest is taken away, the obligation of expressing the intention, if it was present, of obtaining dispensation more easily through that incest is also abrogated.[1476] Therefore consanguineous spouses are not to be asked in the examination of the betrothed about incest had between them and about the intention of obtaining dispensation more easily through it. But if incest had between them has become public or if it is spontaneously opened by them, this circumstance can be indicated in the supplicatory petition or can even be omitted. Nevertheless, from other reasons it can be necessary that the incest committed by the spouses be declared in the supplicatory petition, e.g., for legitimating offspring received from incest.

Note 2. A genealogical schema (*Stammbaum*) is not required on the part of the congregations; nevertheless, in many dioceses it has been established that it be added to the supplication on a separate sheet.

Notes

1475. These are enumerated in the instruction of S. C. de Prop. Fide, May 9, 1877, already cited above in the note at n. 592.

1476. S. Office, March 18, 1891.

6. The causes of dispensation. The supreme principle in this matter is this: "the expression and verification of causes pertains to the substance of dispensation."

a. It is not necessary that all causes of dispensation which perhaps exist be brought forward; but when several exist, those to be brought forward can be chosen at pleasure, provided they rest on truth. Nevertheless it is better, if several are present, to bring several forward, so that the effect of the supplication may be more certain.

b. Nothing prevents that in the supplicatory petition, besides canonical causes, also other non-canonical causes be brought forward, by which the canonical causes may be confirmed.

c. Sometimes dispensation is said to be granted without cause, which signifies that dispensation is granted without a canonical cause or without an expressly alleged cause. In this case a pious work or a more ample alms is imposed on the petitioners in compensation, so that the good of the Church, which is promoted by that work, is the cause of dispensing.

d. For granting dispensations from impediments of lesser grade, canonical causes are not required, but reasonable causes approved by the Holy See suffice, and therefore dispensations are valid in every case.

7. The state of fortune of the petitioners, so that the tax to be paid can be determined, or so that dispensation, if the petitioners are poor, may be granted gratis. Nevertheless, the use of indicating this state is diverse in diverse regions.

a. According to the practice of the Roman tribunals, those who live by manual labor or industry are not called truly poor; these by proper name are called miserable. Rather, those are truly poor whose goods, after debts and other burdens have been deducted, do not much exceed three thousand (3000) francs; and those are called almost poor whose goods are greater, but do not notably exceed ten thousand (10,000) francs.

b. In estimating the fortune of the petitioners, the resources of each party must be computed together, unless one party is acatholic: for the fortune of this one is not attended to. Moreover, account must be taken of inheritance which they expect by right, and of a very lucrative office, e.g., of royal minister, physician, etc., which they exercise.

c. Concerning the condition of the petitioners, the Holy See must be made certain from the authentic testimony of the ordinary; and since the ordinary rarely knows this condition by his own knowledge, he must learn it from the attestation of the parish priest, who therefore, after questioning the petitioners themselves and other trustworthy persons, must make the ordinary certain concerning the fortune of the petitioners.

Note. Today, however, the Holy See in many regions accepts offerings spontaneously made by the petitioners, even if they are less than the tax.

Whether one party, while the other is ignorant, can seek dispensation.

a. If the impediment by its nature affects both parties at the same time, as consanguinity or affinity, it suffices that one party seek and accept the dispensation. For since the dispensation extends itself to things necessarily connected, when one party has been dispensed, by that very fact the impediment is removed also from the other, even if that party was ignorant of the dispensation.

b. If the impediment by its nature affects only one party independently of the other, as the vow of chastity, whether emitted by one or by each, dispensation can be sought while the party who is affected by the impediment is unaware. And although that party can choose not to use the favor granted by rescript, nevertheless the rescript has force before its acceptance, unless something else appears from the clauses added.[1477]

618. On the Tax to Be Paid, or Composition. Dispensations for the internal forum are granted entirely gratis; but for others a tax is required.

1. The tax to be paid on the occasion of a dispensation obtained contains several things in itself: a. a tax properly so called for the sustenance of the ministers of the Roman congregation; b. composition or alms to be expended in pious works according to the judgment of the Holy See; c. salary for the labor of the agent who gives his work in handling the business of the diocese at Rome; d. postal expenses.
2. If dispensation is sought in ordinary form or in the form of nobles, some tax to be paid is imposed on the petitioners, which is diverse according to their resources, according to the nature of the impediment, and according to the cause of dispensing.

The Council of Trent indeed requires that dispensations be granted gratis;[1478] nevertheless, by these words only those taxes are prohibited which fall to the profit of those dispensing, not taxes which are expended for necessary expenses and for pious works, especially since dispensations can in this way be made rarer.

3. If dispensation is sought from a public impediment in the form of the poor, some composition, but a smaller one, is required, which for certain regions is entirely condoned.
4. If a bishop by force of delegation dispenses in matrimonial impediments, except for some modest payment in dispensations for the rich for sustaining the chancery, he cannot require any emolument; and if he has required it, he is held to restitution.[1479]

619. Whether the Dispensation Has Force if an Error Is Contained in the Supplicatory Petition.

1. Error concerning the name or surname of the petitioners does not render the dispensation invalid if the error is accidental or of little moment, or if, e.g., one or another letter or some syllable is changed, or if one name of one who has two names is omitted, provided the identity of the person is established.
2. Error concerning the impediment.

a. A dispensation from the impediment of consanguinity or affinity granted in some degree of impediment has force, although an error concerning the degree crept into the petition or into the concession, provided the degree truly existing is lower, or although another impediment of the same species in an equal or lower degree was kept silent.[1480]

b. A dispensation given by the Holy See over a ratified and non-consummated matrimony, or a permission made for passage to other nuptials because of the presumed death of a spouse, always carries with it dispensation from the impediment arising from adultery with promise or attempted matrimony, if there is need of it, but by no means if scheming has intervened.[1481]

3. Error concerning causes.

a. If one motive cause only is alleged and it is false, the dispensation is invalid, even if an impulsive cause is true.

b. If one motive cause is brought forward and it is true, the dispensation has force, even if all impulsive causes are false.

Notes

1477. Cn. 37.

1478. Council of Trent, sess. 24, c. 5, *De reform. matr.*

1479. Cn. 1036.

1480. Cn. 1052.

1481. Cn. 1053.

c. If several motive and impulsive causes are brought forward, the dispensation has force, provided one motive cause is true.

d. Some slight exaggeration of an otherwise true cause does not render the dispensation invalid.

4. Nevertheless dispensations from impediments of lesser grade are invalidated by no defect of obreption or subreption, even if the only final cause set forth in the petition was false.[1482]

Error concerning the condition of the petitioners does not render the dispensation invalid: "For nothing will ever harm the validity of the favor by reason of error or fraud concerning the economic condition of the petitioners."[1483]

620. On the Legitimation of Offspring on the Occasion of Matrimonial Dispensation.[1484]

1. Through dispensation granted from a diriment impediment by one who has ordinary power of dispensing or delegated power through a general indult,[1485] there is also granted by that very fact the legitimation of offspring already born or conceived from those who are dispensed, unless the offspring is adulterine or sacrilegious.

2. Offspring is not legitimated by the dispensation itself if the dispensation is granted by one who has delegated power through a particular rescript for a certain case, but must be legitimated through a special decree.

a. A faculty of dispensing granted for a certain case is of strict interpretation (Cn. 85), and therefore besides the faculty of dispensing does not also contain the faculty of legitimating.

b. For legitimation, which now is done by the law itself, hitherto a special decree was necessary. Wherefore it had to be expressly sought and granted separately from the dispensation, unless provision was made through a clause in rescripts of the Roman congregations.

Article Five.. On the Mode of Granting and Executing Dispensation.

621. On the Mode of Granting Dispensation. 1. Dispensations are granted either in commissory form or in gracious form. They are said to be granted in commissory form if to someone there is committed the delegated faculty of executing the dispensation; they are said to be granted in gracious form if the superior himself (the Holy See, the bishop) grants the full dispensation and imposes on another only the mandate of communicating officially with those dispensed concerning the dispensation made.[1486]

a. In occult impediments, dispensation is customarily granted in commissory form both by the Holy See and by bishops. In public impediments, dispensations are customarily given by the Holy See in commissory form, but by bishops rather in gracious form.

b. For judging the value of the dispensation, attention must be paid to the form in which it is granted: for in order that a dispensation be valid, the causes alleged in the supplicatory petition must be true at the time at which the dispensation is granted. Hence if a dispensation is granted in commissory form, the causes must

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Notes

1482. Cn. 1054.

1483. Constitution *Sapienti consilio* of Pius X, June 29, 1908.

1484. Cn. 1051.

1485. Cf. Cn. 1043; Cn. 1044.

1486. The Holy See grants matrimonial dispensations in a threefold diverse mode. Sometimes it itself confers the full dispensation, so that no execution is needed (in gracious form). Sometimes it grants the faculty of fully dispensing, in which case the delegate himself completes the whole business of dispensation (the dispensation and the execution). If a dispensation is granted in commissory form, the Holy See confers the dispensation itself, but the execution of the dispensation is committed to the delegate (therefore commissory form). In this case the dispensation does not obtain effect before execution; nevertheless, in executing it, the delegate cannot proceed according to his judgment, but exercises a bare ministry.

be true when the commissary executes the dispensation; and if a dispensation is granted in gracious form, the causes must be true when the curia, whether Roman or episcopal, dispenses.[1487]

2. Dispensations are granted either for the external forum or for the internal forum. Between these two kinds of dispensations a twofold difference must be noted: a. dispensations for the external forum are committed by the Holy See to the ordinary for execution; but dispensations for the internal forum are committed to a confessor to be chosen by the petitioners; b. some conditions and clauses are those under which dispensations for the external forum are granted, and others those under which dispensations for the internal forum are granted.

3. In the old law one who was entangled by censure, even occult censure, was incapable of receiving the favor or dispensation of the Holy See. Therefore absolution from censures was premised as a precaution before communication of the pontifical favor. But now even those who are entangled by some censure can validly obtain rescripts of favor, only those being excepted against whom a declaratory or condemnatory sentence has been issued. After a sentence of this sort has been issued, they must first be absolved from censures in order that they can validly receive a rescript of the Holy See, unless mention of the censure is made in the pontifical rescript.[1488] For this reason, in the faculty of dispensing granted habitually there is also conferred the power of absolving from censures, but only for the effect of obtaining the dispensation.[1489]

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622. On the Commissary or Executor of Dispensations which are granted for the external forum, from recent law these things must be noted.[1490]

a. Dispensations committed to the ordinary of the petitioners must be executed by the ordinary who gave the testimonial letters or transmitted the prayers to the Holy See, even if the betrothed, at the time when the dispensation is to be given to execution, have departed into another diocese and are not going to return. Nevertheless the ordinary of the place in which they desire to contract matrimony must be advised.[1491]

b. Dispensations committed to the ordinary can also be executed by his vicar general and, when the see is vacant, by the vicar capitular.

c. The vicar capitular can also execute dispensations remitted to the (deceased) bishop or to his vicar general and not yet mandated to execution. Dispensations remitted to the vicar capitular while the see is vacant can be executed by the successor bishop and his vicar general.

d. The ordinary by whom the dispensation must be executed can also delegate to another the power of executing it, especially to the ordinary in whose diocese the betrothed are actually staying, unless subdelegation has been prohibited.[1492]

623. On the Mode of Executing Dispensations Granted for the External Forum. 1. The faculty of dispensing from an impediment of matrimony cannot validly be exercised before the rescript of the given faculty has been received; nor does knowledge of the given faculty received from elsewhere suffice, e.g., by telegraph, unless it has been transmitted officially by authority of the Holy See. Execution made before the

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Notes

1487. Cn. 41; cf. however Cn. 1054.

1488. Cn. 2265, 3.

1489. Cn. 66, 3.

1490. S. Office, February 20, 1888, by command of Leo XIII. Cn. 1035.

1491. Cn. 1035.

1492. Cn. 57.

document has been received, when the document has been received, would have to be repeated.[1493]

2. The commissary must accurately observe the clauses or conditions of the dispensation which are contained in the rescript: for all have the character of a precept obliging under grave or under light obligation according to the quality of the matter; on some of them even the validity of the dispensation depends.[1494] The chief clauses are:

a. Verification of the prayers before the execution of the dispensation, unless it concerns an impediment of lesser grade. The mode of completing this verification is left per se to the judgment of the ordinary, who usually takes care that it be completed by the parish priest. Verification is chiefly made by examining the witnesses and the petitioners themselves.

b. Removal, if it is present, of scandal, especially through separation of the betrothed, for a time well seen by the ordinary, if it can be done. This clause, which is contained in the rescripts when incest or another delict of the petitioners is brought forward as the cause of dispensation, is to be understood thus, that among the means of repairing scandal separation of the betrothed is to be preferred; but if this cannot be done, another means must be chosen, provided it is apt for the end.[1495]

c. Once these have been duly fulfilled, the dispensation, which is granted not for validity but for liceity,[1496] must be given in writing, with express mention made of the apostolic delegation and of the impediment in which the petitioners are dispensed.[1497]

4. If the executor has erred in any way in the execution of the rescript, he can again mandate the dispensation to execution.[1498]

624. On the Mode of Executing Dispensations Granted for the Internal Forum. If the Penitentiary grants the faculty of dispensing for the internal forum, with regard to the clauses these things must be noted:

1. The letters of dispensation are inscribed: To a discreet man. Therefore any confessor chosen by the petitioner can execute the dispensation, provided he has been approved by the ordinary of the place in which the dispensation is to be granted.

2. If these words are contained in the rescript: we commit to your discretion, insofar as, if it is so, by these words there is imposed on the confessor the obligation (so that the dispensation be licit) of inquiring from the penitent himself or herself whether the things set forth are true. He can simply believe that person's affirmation, unless by extrasacramental knowledge he knows otherwise.

3. If these things are contained in the letters of dispensation: After first hearing the bearer's sacramental confession, absolve from any censures, etc., the dispensation has no force unless, after sacramental confession has been premised, it is given in the act of confession; but sacramental absolution is not required. Hence if the penitent is not disposed for obtaining absolution, nevertheless he or she can be dispensed; and if the absolution would be sacrilegious, nevertheless the dispensation would be valid.[1499] But if confession is not expressly prescribed, dispensation for the internal forum can be granted even outside the act of confession.

Notes

1493. S. Penitentiary, January 15, 1894; S. Office, August 14, 1892. Cn. 53.

1494. S. Penitentiary, April 27, 1886. Cn. 39.

1495. S. Penitentiary, April 12, 1889. Usually, for obtaining this end, those about to marry declare before the parish priest and two witnesses that they detest the injury committed and are prepared to fulfill the imposed penance.

1496. S. Office, June 19, 1875. Cn. 56.

1497. S. C. de Prop. Fide, January 12, 1869. Cn. 1057.

1498. Cn. 59, 1.

1499. S. Penitentiary, May 19, 1854.

4. If some penance is imposed in the letters, it must be imposed; but this penance must be distinct from sacramental penance. Sometimes a grave and long penance, a grave and enduring penance, a most grave and perpetual penance is prescribed to be imposed. This penance must be determined by the one who executes the dispensation, with account taken of the condition, age, and sex of the one on whom it must be imposed.

a. A grave and long penance would be a work of penance which is imposed to be performed each week for a year or for six months, or even for three months, e.g., to recite the rosary once or twice each week, to hear Mass once each week, to make the way of the cross each Sunday, to receive the sacraments at least once a month, etc. A grave and enduring penance would be a work of penance of this sort which is enjoined to be performed for three years, or for two, or even for one year. A most grave and perpetual penance would be a work of this sort to be performed until death.

b. Penance in the execution of a matrimonial dispensation must indeed be imposed and accepted, but the dispensation is not rendered invalid by the fact that the imposed penance is not fulfilled by the one dispensed;[1500] nor in that case in which the one dispensed does not even have the intention of fulfilling it.[1501]

5. Since the dispensation must remain occult, these words are contained in the rescript of dispensation: these present letters, under pain of excommunication *latae sententiae*, are to be destroyed by you immediately after execution. Destruction is to be done immediately, that is, at least within three days, by burning or tearing up the rescript. Nevertheless, by these words the confessor is not prohibited from keeping a copy of the letters for his own instruction, provided all things are omitted from which the person of the penitent can be known.

6. If the impediment affects only one party, as the vow of chastity, it suffices to dispense with one party. But if the impediment is common to each party or introduced by the fault of each, as the impediment of crime, each party must approach a confessor (whether the same one or even a different one) and accept dispensation.

a. If one party chooses another confessor, the rescript must be returned by the first confessor to the penitent, who hands it over to the other party, so that this party can seek dispensation from his or her confessor.[1502]

b. The dispensation of each party is not required for removing the impediment, which, since it is indivisible, is removed with regard to each party by one dispensation, but so that a salutary penance may be imposed on each party, since the fault of each is common.[1503]

7. Dispensation for the internal forum is granted by word of mouth, and if it is to be granted in confession, after sacramental absolution.

A determinate formula of dispensation is not prescribed; therefore, after sacramental absolution has been granted, the confessor can use these or similar words: Moreover, by apostolic authority committed to me I dispense with you over the impediment (e.g., of affinity), so that, notwithstanding it, you may be able to enter matrimony (if it has already been contracted: enter it again). In the name of the Father, etc.

Notes

1500. S. Penitentiary, September 14, 1891.

1501. S. Penitentiary, November 12, 1891.

1502. S. Penitentiary, November 15, 1748.

1503. S. Penitentiary, February 7, 1832.

Question Seven.. On Matrimonial Consent.

Article One.. On the Nature and Properties of Consent.

625. Matrimonial consent is an act of the will by which a man and a woman, capable by law, mutually hand over to and accept from each other the perpetual and exclusive right over the body in order to the conjugal act.

a. As all other contracts, so also matrimony can be considered *in fieri*, or as it is an act of the will inducing the conjugal state, and *in facto esse*, as it is the conjugal state produced by that very act, and it is defined as the legitimate union of man and woman for generating and educating offspring.

b. Persons capable by law are said to be those persons for whom neither from natural law nor from positive law there stands opposed an impediment by which their matrimony is rendered invalid or illicit, and therefore persons who can validly and licitly enter matrimony.

c. Right over the body: by these words is signified the object of the matrimonial contract, which St. Paul suggests by these words: the woman does not have power over her own body, but the man; and likewise the man does not have power over his own body, but the woman.[1504] This mutual right and, what coheres with it, mutual office, is signified if the object of the matrimonial contract is said to be: an indivisible fellowship of life, which essentially consists in that very right and office; integrally it also contains common bed and cohabitation.

d. Therefore the essential object of the matrimonial contract is the right and power over the body, but only insofar as it is of itself apt for the conjugal act, or for generating offspring. Namely, there must be distinguished the right and power over the body of the spouse insofar as it is apt for the act of generation, which is the right of using the body for the conjugal act, and the use or exercise of the right through the conjugal act itself. Now the first pertains to the essential object of the matrimonial contract; the other, however, is not required for its essence, and therefore, the essence of matrimony being saved, can be excluded from the object of the matrimonial contract.

e. Since each spouse hands over to the other the right over his or her own body in relation to generation, not only against chastity but also against justice does one sin who, after matrimony has been entered, either himself abuses his body or grants the use of his body to another outsider.

626. Its Necessity and Sufficiency. 1. Matrimonial consent is plainly necessary and essential for entering matrimony, so that it can never be supplied by any human power.[1505]

2. Matrimonial consent is sufficient for constituting matrimony; carnal copula is not required for this: for matrimony essentially consists rather in the union of souls than in the mingling of bodies.

There are those who affirm that mutual consent does not suffice for entering true matrimony unless carnal copula is added, since copula performed with marital affection constitutes true and properly so-called matrimony. For they think that matrimony is not a consensual contract, which is perfected by mutual consent, but a real one, which is perfected by mutual handing over of bodies through carnal copula. But this theory (copula theory) does not agree with the doctrine of the Catholic Church.

By the very fact that two persons capable by law have legitimately manifested their consent to entering matrimony, matrimony is contracted. Thus the new Code has it: matrimony is made by the consent of the parties, legitimately manifested between persons capable by law.[1506]

Notes

1504. 1 Cor. 7, 4.

1505. Cn. 1081, 1.

1506. Cn. 1081, 2.

a. If, besides internal consent, carnal copula were essentially required for entering matrimony, it would have the character of an external sign by which consent would be externally manifested both to the other contracting party and to the community (the Church). But such a sign is known to be necessary neither for the other party nor for the community. Not for the other party, since matrimonial consent is sufficiently manifested by words or other signs without carnal copula; not for the community, because for proving the contract the Church admits witnesses.

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627. Properties. Since matrimonial consent is essentially a bilateral onerous contract, it must have the same qualities which are generally required for contracts of this sort. It must be a. true, b. deliberate, c. mutual, d. manifested by a sensible sign, e. entered between capable persons. If even one of these is lacking, the matrimony is null.

1. True, or internal (not merely external or fictitious), by which spouses wish mutually to hand over and accept power over the body in order to the generation of offspring. But implicit consent suffices, provided nothing of those things is excluded which pertain to the essence of the matrimonial contract.

a. One who contracts fictitiously, that is, externally utters words expressing consent, but without the intention of contracting or of handing over the right to the conjugal act, contracts invalidly: for when consent is lacking, even on the part of only one party, there is no contract.[1507]

b. If someone says that he or she consented fictitiously: in the external forum no faith is given to that person unless he proves it; for internal consent of mind is always presumed conformable to the words and signs used in celebrating matrimony.[1508] In the internal forum that person is held to abstain from seeking and rendering the debt until he or she consents, and ordinarily is also held to place true consent so that the injury inflicted on the other party may be repaired. The party who placed true consent is not held to believe the other who asserts that he or she consented fictitiously, even if that party confirms it by oath; therefore he or she would licitly seek the debt until the defect of consent is established.

628. 2. Deliberate, that is, placed with full advertence of mind and perfect consent of the will, because the matrimonial contract induces a grave obligation. But no one is judged voluntarily to take on a grave obligation unless he fully and perfectly consents.

a. Therefore those who either habitually or actually, that is, at the time at which they enter matrimony, are not capable of perfectly human acts, cannot validly contract:

Infants, the perpetually insane, and the habitually demented, who, although they have some use of reason, nevertheless do not use that deliberation which is required for mortal sin. If, however, they have lucid intervals in which they are capable of perfectly human acts, they can validly contract at that time.

The drunk, the half-asleep, the hypnotized, etc., who by reason of drunkenness, sleep, etc., lack perfect use of reason; nevertheless, those who suffer from some monomania can validly enter matrimony, provided the use of reason is not disturbed concerning matrimony.

b. Those who indeed know that matrimony is a permanent society between man and woman instituted for having children, but are ignorant of how children are procreated, contract validly, because they implicitly consent to true matrimony: for they will a society instituted for having children; therefore they also will the means or act necessary for this.[1509]

Notes

1507. Cn. 1086, 2.

1508. Cn. 1086, 1.

1509. Cf. Cn. 1082, 1.

629. 3. Mutual, that is, placed by each party: for the matrimonial contract is a bilateral onerous contract which imposes obligation on each side; but it cannot induce obligation on each side unless each wills it: for no one can be obligated by a contract unless he himself wills.

a. The mutual consent of the contracting parties must be simultaneous, but it is not required that it be physically simultaneous, that is, that it be elicited by each at the same time. It suffices that it be morally simultaneous, that is, that the consent of one still persists when the other manifests his or her consent: for the nature of a contract and the nature of a sacrament do not require a greater simultaneity and union than this moral one. Not the nature of a contract: for if the consent of one, once elicited, has not been revoked and therefore morally endures, the consent of the other can join itself to it, and therefore constitute mutual consent. Not the nature of a sacrament, because it suffices that matter and form coexist together with that simultaneity which the nature of the sacrament requires; but the nature of this sacrament, since it consists in a contract, does not require any other simultaneity except moral simultaneity.

b. To the question how much time can intervene between the consent of one and of the other so that they are still judged morally simultaneous, there is not one response of authors. For some judge that any interval of time whatever can intervene; others seven years; others three years; and others finally one year, without moral simultaneity of the consents being impeded, provided the prior consent has not been revoked nor elicited only for a determinate time. Two things seem certain in this matter: that consent is judged tacitly revoked by the lapse of a long time unless it virtually endures in some external effect; and that how long consent once elicited endures must be determined not absolutely but relatively, namely with account taken of the particular circumstances which effect that consent perseveres now longer, now more briefly.[1510]

630. 4. Legitimately manifested: for entering valid matrimony, both by reason of the contract and chiefly by reason of the sacrament (which essentially consists in a sensible sign), internal consent does not suffice, but external consent, manifested by a sensible sign, is required.

No determinate sign is required by natural law, but by ecclesiastical law it is prescribed that consent be expressed by words.[1511] But those who cannot speak may use equivalent signs: handing over of a ring, extension of the hand, inclination of the head, etc.

If either of the contracting parties uses an unknown language, consent can validly and licitly be manifested through an interpreter.[1512] But it is required a. that a just cause be present; b. that it not be licit to doubt the fidelity of the interpreter; and c. if time allows, that the license of the ordinary be had.

631. 5. Persons capable by law of contracting validly and licitly are a man and a woman bound by no diriment or impedient impediment. There was indeed discussion of impediments above; here only it is asked whether matrimony is valid if by the contracting parties a. a diriment impediment is unknown, b. doubted, c. falsely thought to be present.

1. If an impediment is present in reality, although unknown by one or by each contracting party, the matrimony is null, whatever the ignorance may be, whether of law or of fact: for ignorance indeed excuses from sin against a prohibiting law, but cannot effect that an act be valid against an invalidating law.

2. If in reality no impediment is present, but nevertheless one or each contracting party doubts or suspects that perhaps some impediment exists between them, the matrimony is valid: for these are judged to give

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Notes

1510. Cf. Sanchez, l. 2, disp. 32, n. 6.

1511. Cn. 1088, 2.

1512. Cn. 1090.

consent under a condition concerning the present: if I am capable; but since the condition is verified, the consent becomes absolute and valid.

3. If one or each contracting party certainly persuades himself or herself that a diriment impediment is present, although nevertheless none exists between them, the matrimony can be valid: "knowledge or opinion of the nullity of matrimony does not necessarily exclude matrimonial consent."[1513] From these words it seems to be supposed that the contracting parties consent as much as they can, or wish to contract if it is possible; in reality, however, it is possible.

In practice the contracting parties must be diligently examined concerning the intention with which they entered the matrimonial contract.

632. 6. Matrimony is an indivisible contract (*unteilbar*). Since matrimony by its nature is a contract, and a bilateral one, what is established concerning other contracts of this sort has force concerning it: it is indivisible, that is, valid or invalid for each party, so that it cannot limp, or be valid for only one party.

If therefore invalid consent is manifested on the part of one party, or if one party is incapable of contracting, or entangled by a diriment impediment, the matrimony is invalid for each party: for from the nature of the indivisibility of the contract, the incapable party, so to speak, communicates incapacity to the other party, but the capable party by no means can communicate capability to the incapable party. But if it happens that the capable party communicates capability to the other party, this is not done from the indivisibility of the contract, but from the disposition of positive law. The disposition of law hitherto in force, by force of which one of the betrothed exempt from the Tridentine form communicated his or her exemption to the other, was removed by the decree *Ne temere*, so that now the party who is held to the prescribed form draws to himself or herself the party who is not held to the form.[1514]

633. Presence of the Contracting Parties. For validly entering matrimony it is necessary that the contracting parties be present either themselves in person or through a proxy.[1515] As other contracts, so also matrimony entered through a proxy has force, whether one or each contracts through a proxy, provided the required conditions are present.[1516] For although for valid matrimony the proper and personal consent of the contracting parties themselves is required, nevertheless they can manifest this consent also through another. But this can be done licitly only from a just cause, if the authenticity of the mandate is established and, if time permits, license of the ordinary is present.[1517]

Four conditions are required in order that matrimony can be validly entered through a proxy:

a. That the proxy has received a special mandate for contracting with a determinate person, which must be signed by the mandating person and either by the parish priest or ordinary of the place in which the mandate is made, or by a priest delegated by either of them, or by at least two witnesses. If the mandating person does not know how to write, this must be noted in the mandate itself and another witness added, who also signs the writing himself; otherwise the mandate is invalid.

b. That the mandating person has not revoked the mandate before the matrimony was contracted, and has not fallen into insanity. In this case the matrimony is invalid, although either the proxy or the other contracting party was ignorant of these things.

Notes

1513. Cn. 1085.

1514. Boeckenhoff, *De individuitate matrimonii* (Berlin: Germania, 1901).

1515. Cn. 1088.

1516. Cn. 1089.

1517. Cn. 1091.

c. That the proxy perform his office by himself.

d. That diocesan statutes be observed, if any moreover exist concerning this matter.

Article Two.. On Conditioned Consent.

1518

634. On the Conditions Themselves. Neither the nature of the contract nor the nature of the sacrament per se prevents matrimony from being entered under a condition, unless the condition is repugnant to the substance of matrimony. Nevertheless, conditioned marriages are not admitted except from a most urgent cause. Concerning the conditions themselves, which could be placed privately by the contracting parties, these things must be noted:

1. A condition concerning the future that is necessary (if tomorrow the sun rises), or impossible (if you touch the sky with your finger), or base (if you kill your father), is held as not added: for it is presumed not to be taken seriously. Therefore matrimony entered under a condition of this sort is held valid in the external forum. But if it were certainly established that it was added seriously, a necessary and impossible condition indeed renders the matrimony null, but a base condition effects that the matrimony has force when the condition has been fulfilled, but is invalid when the condition has not been fulfilled: for presumption yields to truth.

The reason of this disposition of law, by force of which matrimony in this case is presumed valid rather than invalid, is that this disposition yields in favor of matrimony; for the danger is guarded against of dissolving a matrimony perhaps valid and of contracting another invalid one, if consent was present in reality.

2. A condition concerning the future against the substance of matrimony renders this invalid. Which conditions are against the substance of matrimony will soon be said.

3. A licit condition concerning the future (if your father consents) suspends the value of matrimony. If the condition is not fulfilled, it is null; but when the condition has been fulfilled, it is valid, whether the contracting parties know or do not know that the condition has been fulfilled. Meanwhile they are held to await the event of the condition, nor is it licit for one, with the other unwilling, to revoke consent.

a. When a condition concerning the future has been fulfilled, new consent is required if either party has in the meantime revoked consent. But if consent has not been revoked, the matrimony becomes valid when the condition has been fulfilled, without consent being renewed: for there is no reason to establish one thing concerning matrimony and another concerning other contracts, because Christ did not change the nature of the contract when he elevated it to the nature of a sacrament. Nevertheless, it can be advised that consent be renewed. Several moralists oppose this doctrine, while canonists generally concede it. But since no exception is established by law with regard to matrimony, one must hold that matrimony, equally as other contracts entered under a condition, is valid without new consent.

b. From old and recent law (Cn. 1100) the express license of the bishop is necessary so that matrimonial consent may be given under a condition.

c. The contracting parties must be certain concerning the existence of the condition before they use matrimony.

Notes

1518. Cn. 1092.

4. A condition concerning the past (if your father is dead) or concerning the present (if you are the daughter of Sempronius) renders matrimony valid or invalid according as the condition is verified or not.

635. On Conditions against the Substance of Matrimony. As there are three essential goods of matrimony, so likewise there are distinguished three essential obligations of it and three conditions which are opposed to the same obligations and therefore also to the substance of matrimony: a. if you avoid generation; b. if you hand yourself over to be adulterated; c. unless I find you richer.

1. Matrimony entered with a condition which is against an essential obligation of matrimony is invalid: for without essential obligations matrimony cannot exist.

a. One who contracts under a condition by which he obliges himself either not to use matrimony except in an onanistic manner, or to frustrate or impede generation, or to procure abortion, contracts invalidly, because the condition placed is contrary to the good of offspring.

Those who agree concerning partial frustration of generation, namely, once one or another child has been received, of coming together only onanistically, contract validly if by this condition they intend to exclude not the obligation itself of coming together rightly, but only the will of fulfilling the obligation undertaken. But if by this condition they intend to exclude the obligation itself of using matrimony rightly, they contract invalidly: for the perpetual obligation, not only the temporary one, of performing the conjugal act according to nature pertains to the essential object of the matrimonial contract. If the intention of the contracting parties were doubtful, in practice consent would have to be renewed.

Matrimony entered under the condition of educating children in heresy is not invalid: for this condition is indeed against the spiritual good, but not against the natural good of offspring. For only a condition which is against the natural good of offspring is opposed to the substance of matrimony, since this involves an obligation to acts by which offspring can be generated and physically, not piously and holily, educated.

b. One who contracts under a condition by which the right over the body of the other is excluded, likewise by which the right is granted or the obligation imposed on either or each of commingling with others, contracts invalidly, because the condition placed is against the good of fidelity.

It is asked whether matrimony entered under the express condition of preserving virginity or of never using matrimony is invalid. In this question, what is certain and admitted by all must be distinguished from what is controversial among doctors.

It is certain that matrimony is valid if it is contracted by those who have emitted a vow of preserving continence in matrimony or of not using matrimony once contracted: for in this case the condition concerning preserving continence is not deduced into an agreement by the spouses.

It is controversial whether matrimony has force if a condition concerning the present is placed by each party upon the matrimonial contract: I contract with you if you oblige yourself to preserving continence. Therefore by one and the same consent the right to the use of the body is handed over, and at the same time the obligation of not using the handed-over right is imposed. But even in this case the matrimony seems to be valid, because by this condition placed the contracting parties do not exclude the mutual right over the body, but, after this right has been handed over, they renounce the use of the same. And indeed one who contracts under the condition of preserving virginity acquires the right to copula, but at the same time takes on the obligation of not using this right, or of not demanding copula.[1519]

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1519. Cf. *Zeitschrift fur k. Theol.* XXVII (1903), p. 719. With regard to the matrimony of the Blessed Virgin Mary with St. Joseph, it is certain that true matrimony intervened between them; likewise it seems certain that they had already before matrimony emitted the vow of perpetual virginity, and

c. One who contracts under a condition of dissolving the matrimonial bond in some certain event, e.g., because of discord, etc., contracts invalidly, because the condition added is against the good of the sacrament.

From these things it does not follow that the matrimony of Greeks is invalid, who teach that matrimony is dissolved because of adultery, or of heretics and infidels, who think that matrimony is soluble in certain circumstances, and therefore contract with the intention of dissolving it in a certain event. For the condition of dissolving matrimony is not deduced into an agreement, nor is it externally manifested in any way. Namely, all these in contracting matrimony have two intentions, one of contracting true and valid matrimony, and the other of contracting soluble matrimony. But this second intention is destroyed by the former, as being prevailing, and therefore they contract validly. With this doctrine the practice of the Church agrees, which has never held the marriages of acatholics invalid and null because of an error of this sort.

2. In order that a matrimony entered under a condition repugnant to its substance be invalid, it is required that the condition be deduced into an agreement, or expressly placed on the matrimonial contract by each contracting party.

a. If a condition of this sort is placed by only one contracting party while the other contradicts it, and that one nevertheless contracts, by that very fact he or she is presumed to have withdrawn from the evil condition. If nevertheless in reality he or she had an intention excluding some essential obligation, the matrimony in the internal forum would be null, because the matrimonial contract cannot be made without true internal consent.

b. One who contracts with the intention of not preserving matrimonial obligations, therefore of not generating, of committing adultery, of denying the debt, etc., indeed contracts illicitly, but nevertheless validly, because he only has the purpose of not fulfilling the obligations undertaken. Likewise, if base conditions which are not opposed to the essence of matrimony are deduced into an agreement, the matrimony does not become invalid.

Note. The matrimony of St. Joseph (*Iosephsehe*), as it is called, is a matrimony entered after the example of the matrimony of St. Joseph and the Blessed Virgin Mary, namely with a vow of perpetual and perfect chastity. In order that a matrimony of this sort can be entered, these things are required: a. a vow of perpetual chastity emitted by mutual consent; b. an intention of mind of contracting true matrimony, that is, of acquiring all the rights of true marriage, especially the right of using the body of the other party; c. the will of yielding perpetually the use of the right over the body of the other acquired through matrimony; d. moral certainty that the danger of sinning is excluded.

Article Three.. On Defects of Consent.

Defect of consent can be twofold: a. on the part of the intellect, which errs concerning the contract, the person, or the qualities of the person; b. on the part of the will, which through force or fear is compelled to enter matrimony. Now it is asked whether and when error, or force or fear influencing the matrimonial contract, makes matrimony invalid. In the old law, error or force or fear under certain conditions are considered as diriment impediments of matrimony; but since they are not properly so-called impediments (namely incapacities of persons), in the new Code they are called essential defects of consent rather than impediments.

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therefore contracted under the condition of preserving virginity. But since it is not certain that they deduced this condition into an agreement and expressly placed it on the matrimonial contract, no argument can be taken from their matrimony for confirming the doctrine set forth.

Section 1. Error.

636. On the Defect Itself. 1. Error concerning the very nature or object of the contract renders matrimony invalid, because when the object is lacking, no matrimonial contract exists. Thus if either party should think that matrimony is a society entered for managing domestic affairs. At least this much must be known by the contracting parties: that matrimony is a society entered for procreating children, and that for obtaining this end the concurrence of one's own body is necessary, and therefore that there is conceded to the other party the right over one's own body insofar as it is necessary for procreating children.[1520]

Error concerning the essential properties (unity, indissolubility) or sacramental dignity of matrimony does not render the consent null, provided the contracting party wills to enter true matrimony, or to contract according to the manner of others.[1521] For in this case he has two intentions, one general, of entering true matrimony, the other erroneous, of entering, e.g., a soluble matrimony. Now that general intention prevails, even if he would not have contracted had he known it was indissoluble. Nevertheless, one who is so disposed in mind that he expressly does not will indissoluble matrimony does not contract validly.

2. Error concerning the person itself with whom one contracts renders matrimony invalid: for in the matrimonial contract, otherwise than in other contracts, the person constitutes the substantial object of the contract.[1522]

Therefore one who from error contracts with another person, not with the one whom he himself intends, as if someone contracts with Lia thinking her to be Rachel, does not contract, even if, once the truth was known, he would nevertheless have contracted.

3. Error concerning the quality of the person which redounds into the person itself.[1523] Now in a twofold case error concerning quality is judged to redound into the person itself: a. if the quality is a condition of consent, that is, if consent is given only dependently on the existence of some quality, as if someone is unwilling to marry Bertha unless she is noble; b. if the quality is determinative of the person, that is, if the quality in the mind of the contracting party determines a person otherwise unknown and known from this quality alone.

If therefore someone wishes to contract with the firstborn daughter, but the second-born daughter, who pretends that she is the firstborn, is offered to him, there will be no matrimony.

Error concerning a quality of the person, which does not redound into error of the person, does not render matrimony invalid: for what does not remove substantial consent to a determinate person does not invalidate matrimony. Therefore if someone marries Anna thinking that she is noble, a virgin, rich, healthy, when she is not, the matrimony has force, even if he believed Anna falsely asserting this. Although in other contracts antecedent error caused by fraud renders the contract invalid, or rather rescindable, nevertheless it does not render matrimony invalid, provided the error does not redound into the person, because of the common good and because of the indissoluble nature of the matrimonial contract. For few marriages are contracted in which there does not lie beneath, on either side, some accidental error, which is not rarely also caused by fraud.

Note. These errors dirimently impede matrimony by natural law: for true, free, and deliberate consent to the object of the contract is required from the very nature of the contract. Therefore they dirimently impede the matrimony of all persons, faithful and infidels.[1524]

Notes

1520. Cn. 1082, 1.

1521. Cn. 1084.

1522. Cn. 1083.

1523. Cn. 1083.

1524. Cf. Gen. 29, 24.

4. Error of a free person concerning the servile condition, by slavery properly so called, of the person with whom he or she contracts matrimony, makes the matrimony invalid.[1525]

a. In order that ignorance concerning the servile condition dirimently impede matrimony, three things are required: a. slavery, and perfect slavery, of one party; b. liberty of the other party; c. on the part of the free person, ignorance of the slavery of the other party.

From these things it follows that matrimony entered between two parties subject to slavery is valid, and likewise that matrimony entered between a free party and a slave is valid if the free party knows the servile condition of the other party.

b. Although error concerning a quality of the person which does not redound into the person itself does not dirimently impede matrimony, nevertheless by ecclesiastical law error concerning the quality of the servile condition must be excepted. There are indeed errors concerning other qualities also which are of greater moment in matrimony, such as concerning the lack of virginity, concerning epileptic or syphilitic disease; but the Church has not constituted error concerning these qualities a diriment impediment of matrimony, even if it was caused by fraud. Nevertheless civil codes establish that error concerning certain qualities dirimently impedes matrimony.

This error invalidates matrimony by ecclesiastical law, from which it follows that matrimony entered between a free infidel and an infidel slave is valid, even if the free party was ignorant of the servile condition of the other party.

Error of servile condition does not dirimently impede matrimony by natural law, because the servile condition does not absolutely exclude the essential goods of matrimony. But because it is opposed in some measure to these goods, by the best right the Church established this impediment. "It is opposed," says Busenbaum, "a. to the good of the sacrament, since a slave cannot cohabit with the spouse against the will of the master; b. to the good of conjugal fidelity, since he cannot render the debt at the will of the other; c. to the good of offspring, since a slave acquires all things for the master, nor does offspring remain in the power of the parents, so that it can be educated religiously."

Section 2. Force or Fear.

637. On the Defect Itself. 1. Matrimony entered because of grave force or fear, inflicted from outside and unjustly in order to contracting, is invalid.[1526]

a. By the term force is not understood absolute coercion, which can be inflicted only on external acts while the will internally resists, and which therefore removes the voluntary, but conditional or moral coercion, which moves the will to willing under threat or infliction of evil, so that the will consents in order to avoid evil, though otherwise it would not have consented. This coercion, which is the infliction or threat of evil, stands to fear as cause to effect. Therefore force is rightly reduced to fear, and indeed to that fear which diminishes consent but does not remove it.

b. Matrimony entered from grave fear is not declared invalid by the Church for this reason, as if true consent were lacking; but true consent, nevertheless extorted by fear, the Church declares invalid, in order that provision may be made for the full liberty of marriages, without which marriages cannot be happy.

2. That fear dirimently impedes matrimony by ecclesiastical law is certain; whether also by natural law is disputed.

Notes

1525. Cn. 1083, 2, 2.

1526. Cn. 1087, 1.

Those who, with Sanchez, Lugo, Schmalzgrueber, Gasparri, Kugler, deny this, argue in this way: this fear does not remove the voluntary, since it does not impede sufficient deliberation; therefore consent is present, which by natural law is required for the value of the matrimonial contract. Moreover, fear unjustly inflicted does not remove liberty more than fear justly inflicted or inflicted by a natural cause; but fear inflicted by a just or natural cause does not dirimently impede matrimony. Those who, with St. Thomas, Pontius, Tamburini, Reiffenstuel, Rosset, Ballerini, Aichner, affirm this, concede that consent is present, which by natural law is required for the value of other contracts; but the matrimonial contract by its nature requires altogether full liberty in contracting. For other contracts entered from fear unjustly inflicted are rescindable; but since matrimony cannot be rescinded, it is required that from the beginning it be invalid. Each opinion is probable, but the latter seems to be preferred. Wherefore only when the cause of fear has been removed can matrimony be entered, or a matrimony invalidly entered be convalidated: for so long as the fear unjustly inflicted endures, the cause of inefficacious consent also endures.

638. Declaration. In order that fear certainly invalidate matrimony, it must be: a. grave; b. unjust; c. inflicted in order to matrimony.

1. Grave; fear not only absolutely but also relatively grave dirimently impedes matrimony; but light fear does not invalidate matrimony.

If it is doubtful whether fear is to be judged grave, one must stand for the value of the matrimony, both from the general principle: in doubt one must stand for the value of the act, and because of reverence for the sacrament.

2. Unjust; fear is said to be unjustly inflicted if someone threatens evil which he has no right to inflict; if someone by a lie pretends that grave evil threatens another, in order that he may extort that person's consent.

Therefore in particular cases one must attend to whether the evil to be inflicted on another is against justice. Thus if a seducer is compelled by a judge, under threat of penalty, to marry the injured person, the fear is unjustly inflicted, because the judge has the right of demanding only either matrimony or dowry. If an uncle threatens his niece that he will deny her a sum of money, unless she marries a determinate young man, which money he had decreed to give in the case of matrimony, the fear is not unjustly inflicted, because the uncle is not held to give the money. If a physician threatens a girl that he is unwilling to devote care to her gravely ill mother unless she enters matrimony with him, the fear is unjustly inflicted if the physician is held to devote care.

3. Inflicted from outside and in order to matrimony. From outside: for fear produced by an internal cause can never be unjust. In order to matrimony: for that fear dirimently impedes matrimony which compels the contracting party to choose matrimony in order to free himself or herself from fear.

Moreover, it makes no difference whether it was inflicted by the other contracting party or by some third person, e.g., by that person's father; whether it is inflicted on the contracting party himself or herself, or on that person's blood relatives, relatives by affinity, etc.

That grave fear, but not inflicted for the sake of extorting consent, does not dirimently impede matrimony is now certain, since the Code says that no other fear invalidates matrimony besides that which compels one to choose matrimony in order to free himself or herself from unjustly inflicted fear, Cn. 1087.

4. Reverential fear of itself is light, but sometimes in certain circumstances it can become grave.[1527] Wherefore also reverential fear, if it is grave and unjustly inflicted in order to contracting, can invalidate matrimony.

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1527. Cf. *De principiis*, 15th ed., n. 56.

Article Four.. On the Effects of Matrimony.

Since the effects of the sacrament of matrimony have already been discussed (n. 489), a few things remain to be said concerning the effects of matrimony as contract, some of which refer to the spouses, others to the children.

Section 1. Effects with Regard to the Spouses.

639. What They Are. 1. The first and chief effect is the conjugal bond (matrimony *in facto esse*, by its nature perpetual and exclusive),[1528] which is ordered to the generation of offspring. For this reason there is founded in it the right and office toward conjugal acts. This right consists on one side in the power of demanding the conjugal debt, to which on the other side corresponds the obligation of rendering the debt.

2. The right to conjugal acts, which belongs to the spouses from the very beginning of matrimony, is equal on each side:[1529] let the husband render the debt to the wife, and likewise the wife to the husband.[1530]

a. The old law, by which newly married persons in the first two months were not held to render the conjugal debt if either of them wished to deliberate about entering a religion of solemn vows, has been taken away.

b. Nevertheless the right of demanding the debt from the other party can be lost, just as also the obligation of rendering the debt to the other party can cease.

3. The right and office of generating offspring through conjugal acts demands an indivisible fellowship of life, or communion of dwelling, bed, and table, to which spouses are held by justice: A man shall leave his father and his mother and shall cleave to his wife.[1531]

4. Although in conjugal life the rights and offices of the spouses are equal, in the rest of the fellowship of life the wife is subordinated to the husband: let women be subject to their husbands, since the man is the head of the woman.[1532] For to him belongs marital power over the wife, by which the man can require, not from her as from a slave but as from an associate, that she help him in caring for and governing the family. By force of this power the man must provide for the wife with suitable sustenance.

5. It belongs to the wife to help the husband in governing the family and to care for the family property. She on her part a. ordinarily becomes participant in the name, state, dignity, and privileges of the husband; b. acquires the domicile of the husband. Nevertheless she can obtain a quasi-domicile for herself if she is legitimately separated from the husband.[1533]

6. The right and office of caring for the education of offspring, both religious and moral, so that they may be instructed in the doctrine of religion, and physical and civil, so that they may learn those arts by which childhood is usually formed to humanity; likewise the right and office of providing for their temporal good, so that parents procure for them necessary and suitable things (clothing, food).[1534]

Notes

1528. Cn. 1110.

1529. Cn. 1111.

1530. 1 Cor. 7, 3.

1531. Gen. 2, 24.

1532. Eph. 5, 22.

1533. Cn. 1112.

1534. Cn. 1113.

Section 2. Effects with Regard to Children.

640. 1. Legitimacy. Which children are legitimate. Children conceived or born from a valid or putative matrimony are legitimate.[1535]

a. Children born from a valid matrimony are not judged legitimate if the use of that matrimony was prohibited to the parents at the time of conception because of solemn religious profession or sacred order received. This disposition was made by the Church as a penalty for this crime: for by natural and civil law children of this sort are legitimate.

b. For solving the doubt whether offspring was born from legitimate conjugal commerce, the principle of Roman law adopted by the Church is applied: the father is he whom just nuptials show. Hence children born from a wife are presumed to have the husband as father until the contrary is proved by evident arguments.[1536] Wherefore children are presumed legitimate who were born at least after six months from the day of the celebrated matrimony, or within ten months from the day of dissolved conjugal life.[1537] These limits were constituted with account taken of the extreme limits between which, as experience testifies, birth and conception can be distant from each other.

641. 2. Legitimation. Through subsequent matrimony, a. whether true or putative, whether newly contracted or convalidated, even if not consummated (as if it is contracted at the point of death), all natural children (but not spurious children) are legitimated, b. provided the parents were capable of contracting matrimony between themselves at the time of the conception or pregnancy or birth of the children.[1538]

a. Children born outside matrimony from persons between whom, at the time of conception or pregnancy or birth, matrimony could have been made are called natural; others are called spurious, who are either adulterine or incestuous.

b. Legitimation follows contracted matrimony from the very disposition of law, without the consent of the parents or any other positive act.

2. Children legitimated through subsequent matrimony, with regard to canonical effects, are equated in all things to legitimate children, unless something else has been expressly provided.[1539]

Therefore they are not irregular, so that without dispensation they can be promoted to sacred orders and other ecclesiastical dignities. But by law it has been expressly provided that they remain incapable of the cardinalate, episcopate, abbacy, or prelature nullius.

Question Eight.. On the Form of the Celebration of Matrimony.

642. Principle. Only those marriages are valid which are contracted before the parish priest or the local ordinary or a priest delegated by either of them, and at least two witnesses, yet according to the rules expressed in the canons of the new Code.[1540]

Here these things are to be explained: a. who is the competent parish priest; b. who is the delegated priest; c. who are the witnesses; d. who are held by this form; e. concerning the cessation of the obligation to the form.

Notes

1535. Cn. 1114.

1536. Cn. 1115, 1.

1537. Cn. 1115, 2.

1538. Cn. 1116.

1539. Cn. 1117.

1540. Cn. 1094.

To avoid doubts which could easily arise in this part, by the name delegation here is signified the faculty of assisting validly; by the name license, the faculty of assisting licitly.

Article One.. On the Competent Parish Priest.

643. By the Name Parish Priest is judged:

1. The parish priest, who is commonly so called, to whom a parish with care of souls has been conferred in title.
2. The quasi-parish priest, who rules a quasi-parish, that is, a determinate territory in mission places.
3. The parochial vicar, who, furnished with full power, presides over an incorporated or vacant parish, or supplies for a parish priest licitly absent or permanently incapable.
4. Personal parish priests, among whom are reckoned:

a. simultaneous parish priests, who together with another parish priest exercise care of souls in the same place;

b. military parish priests;

c. chaplains or rectors of pious places with full parochial power.

644. Who Ought to Assist. 1. The parish priest of the place ought to assist at matrimony. He indeed validly assists at the matrimony both of subjects and also of non-subjects, but licitly a. at the matrimony of his own subjects absolutely, without further license; b. of non-subjects with the license of the proper parish priest of the spouses.[1541] Therefore now competent to assist validly is any parish priest in his own territory by force of parochial office, so that he always assists validly, whether the spouses are from his parish or from another parish.

a. What is said concerning the parish priest of the place in relation to the parish has force also concerning the ordinary of the place (and vicar general) in relation to the diocese.

The parish priest who has territory cumulatively with another parish priest assists validly and licitly at marriages of his subjects, but validly yet illicitly at marriages of others.[1542]

b. Around military parish priests the new Code has changed nothing.[1543] Therefore military parish priests with proper care of souls (as formerly in Austria and in Prussia) validly and licitly assist everywhere at marriages of their military subjects and can delegate another priest to assist where they are staying; but they cannot assist at marriages of other faithful.

The power of military parish priests does not seem to be exclusive, so that also the parish priest of both or of either of the contracting parties can validly and licitly assist at their matrimony.

c. Chaplains or rectors of pious places exempt from parochial jurisdiction validly and licitly assist, without delegation of the parish priest of the place where the pious place is situated, at marriages of their own, but not likewise of others.

2. A putative parish priest also assists validly, who is not a parish priest but by common error is thought to be such, even if he does not have a colored title;[1544] but an intruded parish priest does not assist validly, because he is neither a parish priest nor named parish priest by legitimate authority (although invalidly).

Notes

1541. Cn. 1095, 1, 2.

1542. S. C. C., February 1, 1908, n. 8.

1543. Cn. 451, 3.

1544. Cf. Cn. 209.

An intruded parish priest is said to be one who, without the consent of the legitimate superior, has been named and instituted by an illegitimate authority, e.g., civil authority.

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645. Conditions for Valid Assistance.[1545] The parish priest validly assists only:

1. From the day of having obtained possession of the benefice or begun the office, unless by sentence he has been excommunicated, or interdicted, or suspended from office, or declared such.

a. Therefore if before solemn institution (installation) the parish priest administers the parish, he cannot validly assist at marriages unless he has expressly obtained from the ordinary the faculty of assisting. The parish priest is said to obtain possession through that act (whether it is called investiture, institution, or enthronization, installation) by which there is conferred on him the free exercise of the power annexed to his office. Those who preside over a parish as parochial vicars (*Pfarrverweser*) assist validly at marriages from the day of the legitimately begun office.

b. Formerly a parish priest could validly assist at marriages even if excommunicated or suspended by name; now the power of assisting is removed from a parish priest who by sentence has been excommunicated, or interdicted, or suspended from office (where it concerns a censure *ferendae sententiae*), or declared such by sentence (where it concerns a censure *latae sententiae*). Therefore a parish priest suspended from order, from benefice, or from jurisdiction can assist validly.

2. If, constrained by neither force nor grave fear, he asks and receives the consent of the contracting parties.

From the old law matrimony was valid even if the parish priest had stood by when compelled and constrained by grave fear. That which the decree *Ne temere* requires, that the parish priest assist after being antecedently invited and asked by the contracting parties, is not required, since the Code omits this condition. Therefore it suffices that the contracting parties present themselves before him and that he, compelled by no force, freely asks and receives consent from them.

3. Within the limits of his territory.

Therefore outside his parish (his diocese, with regard to the ordinary), he does not validly assist even at the matrimony of his own subjects, unless he has been delegated for this. But within his own parish he assists validly at marriages both of subjects and of non-subjects. Therefore if the parish priest desires to join the spouses of his parish elsewhere, he must be delegated by the parish priest of the place in which the matrimony is made, so that the matrimony may be valid.

646. Conditions for Licit Assistance.[1546]

1. That he has procured for himself certain knowledge concerning the free state of the spouses and concerning the absence of any impediment.

a. It is preferable that one parish priest, and indeed the parish priest of the bride, as far as can be done, procure all things which must be premised to matrimony (examination of the betrothed, necessary documents, petition of dispensations, warning about proclamations to be made elsewhere), because he is competent for assistance in the first place.

b. In order that the assisting priest can procure for himself certain knowledge of the free state of those about to marry, it is preferable that the license of assisting be granted by the parish priest of the bride, who had the

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Notes

1545. Cn. 1095, 1, 2, 3.

1546. Cn. 1097, 1, 2.

examination of the betrothed, and that he at the same time report that the promulgations have been duly made, that no impediment stands in the way (or that dispensation has been given), and that the spouses were born on such a day, month, year, and place.

2. That either contracting party has a domicile or quasi-domicile or has stayed for a month in the place of the matrimony, and, if the matter concerns wanderers, that either contracting party is actually staying in the place of the matrimony.[1547]

a. A month is understood as a space of 30 days. Within it, the absence of one or another day from the place of habitation does not impede the monthly habitation required by law, even if the person left the place of habitation with the intention of not returning any more, provided in reality he or she returned again after a few days. Therefore if someone has brought himself or herself to some place for the sake of business, but from the quality of the business is called away for one or another day each week, when a month has passed the parish priest of the place can assist at that person's matrimony.

3. If the spouses are not subjects (having elsewhere a place of domicile or quasi-domicile or monthly stay), that the parish priest of either spouse has given the license of assisting, unless grave necessity excuses from it or the matter concerns wanderers actually traveling, who nowhere have a seat of stay.

Grave necessity would be present if the celebration could not be deferred (e.g., because of an urgent necessity of departing, because of imminent danger of grave harm), nor was there time for seeking license. Prudence demands that the assisting parish priest procure for himself proof of this necessity, if perhaps it is required, whether through witnesses or through writing.

Note. The new Code says: Let the rule be that matrimony be celebrated before the parish priest of the bride, unless a just cause excuses. But marriages of Catholics of mixed rite are to be celebrated in the rite of the man and before his parish priest, unless something else has been provided by particular law.[1548]

From these words indeed the right of assisting at the matrimony belongs in the first place to the parish priest of the bride; yet practically in this matter a difference between the parish priest of the groom and the parish priest of the bride will not have to be urged. For since only a just cause is required so that the parish priest of the groom may licitly assist, and since any reasonable cause of utility or convenience or custom is judged just, a just cause will scarcely ever be lacking where those about to marry ask that they be able to contract before the parish priest of the groom.

647. On the Sanction of the Law.

One who has stood by at matrimony without the license of the proper parish priest or ordinary where such license is required does not make the stole fees his own and must remit them to the proper parish priest of the contracting parties.[1549]

a. The proper or competent parish priest of the contracting parties does not have the right to the stole fees, but the one who licitly assists at the matrimony does. To the proper parish priest of the contracting parties: if they have several proper parish priests, it is not established to whom they are to be remitted, perhaps to the parish priest of the bride.

b. Therefore one who assists at the matrimony of travelers without the license of the proper parish priest of the spouses loses the right to the stole fees, which must be remitted to the parish priest of the spouses. He

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Notes

1547. Cn. 1097, 1.

1548. Cn. 1097, 2.

1549. Cn. 1097, 3.

is held to this remission by justice, because the law prevents him from making the stole fees his own, that is, from acquiring ownership in them.

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648. On the Marriages of Wanderers. 1. Wanderers are said to be those who nowhere have either domicile or quasi-domicile.[1550]

After the decree *Ne temere* some thought that in the matrimonial matter that person was not to be numbered among wanderers who had stayed somewhere for a month; nevertheless, from the new Code (Cn. 91), monthly stay does not suffice for one to cease being a wanderer.

2. With regard to wanderers the parish priest of the place must first institute a diligent inquiry concerning the free state and concerning the absence of any impediment and (outside a case of necessity), the matter having been brought to the ordinary or to the priest delegated by him, must obtain the license of assisting.[1551]

a. By recent decree there is granted to ordinaries the faculty of delegating in the diocese a priest (priests) who, after examining the acts of parish priests concerning marriages of wanderers, can grant the license of assisting at their marriages.

b. The parish priest can assist at marriages of wanderers: if a case of necessity is present, without license; otherwise, if he has obtained license from the ordinary or from a priest delegated by the ordinary.

c. If only one of those about to marry is a wanderer, the license of the ordinary or of the priest delegated by him to grant this license is likewise required.

d. In a case of necessity, namely where there is not time for recourse, the whole matter is committed to the parish priest, who must institute an accurate investigation, and if he has acquired moral certainty concerning the absence of any impediment, can assist at the matrimony without license.

3. Those actually wandering are not comprehended under this law; therefore the parish priest of the place where they wish to contract can assist at their matrimony without the license of the ordinary.

Those are said to be actually wandering who a short time before had domicile and shortly afterward are going to have one again, as when spouses leave their domicile a few days before the celebration of matrimony and shortly after the celebration acquire a new one. But if they underwent the examination of the betrothed before the parish priest of the prior domicile, showed the necessary documents to him, and satisfied the law of proclamations, any parish priest can licitly assist at their matrimony. Indeed this exception is also extended by some to those actually wandering persons who did not make the examination of the betrothed before the parish priest of the prior domicile. Thus, if the spouses, having left their domicile, wait somewhere for an opportunity of sailing to America, where they intend to fix a new domicile, any parish priest, with the license of no one required (neither of another parish priest nor of the ordinary or priest delegated for wanderers), can validly and licitly assist at their matrimony.

Article Two.. On the Delegated Priest.

649. Conditions Required for Delegation.[1552]

Notes

1550. Cn. 91.

1551. Cn. 1032.

1552. Cn. 1095-1098.

If the competent parish priest does not assist at the matrimony, he can delegate another priest who may assist at the matrimony in his place.[1553] The conditions must be set forth which are required either for delegation or for the license of assisting.

I. On delegation for assisting validly.

1. Delegation must be given expressly, whether in writing or by words or by nods. Therefore tacit, presumed, interpretative delegation has no force. Delegation extorted by grave fear is not invalid: for free assistance is indeed required, but not free delegation.

It is expedient that delegation be granted by writing; nevertheless in a case of necessity it can also be sought and given by telegraph. But if by particular statutes delegation in telegraphic form is prohibited, this does not render telegraphic delegation invalid.

2. It must be given to a determinate priest who is not excommunicated, or interdicted, or suspended from office by sentence, nor declared such.

a. He is determinate if the person and status are indicated: N. N., assistant priest in N.; if the person alone is indicated (N. N.), provided the person is so designated that he cannot be confused with another; if the status alone is indicated (assistant priest in N., first assistant priest in N.).

b. Nothing prevents several determinate priests from being delegated, whether they are named individually or all collectively: N. N. the parish priest and N. the assistant priest; all the assistant priests at St. James in Innsbruck; all the Servite Fathers in Weissenstein; the parochial clergy of parish N. But this delegation no longer has force: any priest whom the spouses choose can assist at the matrimony of those about to marry; or: the faculty of assisting is granted to the parish office (*dem Pfarramt*).

c. To the delegated priest there can be granted the faculty, either special or general, of subdelegating: for delegation of this sort is not judged indeterminate, provided the delegate substitutes for himself (does not subdelegate) except a determinate person.

3. It must be given for a determinate matrimony, or for determinate persons. General delegation, e.g., for all marriages which are celebrated in the parish, is invalid.

A general delegation is held by the priest who for a longer time acts for an absent parish priest or bears the care of a vacant parish, and assistant priests, chaplains, or vicars of parish priests can receive it, but besides these no one else.

4. It cannot be given except for the territory of the one delegating.

A parish priest can delegate another priest only so that he may assist at matrimony within the limits of his parish; an ordinary, so that he may assist within the limits of his diocese.

5. It must be known to the delegate: for delegation which is unknown by the delegate profits nothing.

6. In order that the delegate assist validly and licitly, he must observe the limits of the mandate and the rules established for the parish priest (ordinary).

For observing these rules it is required first that he assist freely, without coercion and not constrained by grave fear, and then that he ask and receive the consent of the contracting parties.

Notes

1553. Council of Trent, c. *Tametsi*, sess. 24, *De reform. matr.* Cn. 1095, 2.

7. Delegation ceases by revocation made by the delegating person and directly intimated to the delegate, and in other cases listed in law;[1554] but it does not cease by the death of the delegating person or by the resolution of his right.

II. Concerning license for assisting licitly.

1. License is not to be granted unless the parish priest (ordinary) has already completed all things which the law requires for proving freedom of state (proclamations, examination of the betrothed).

2. If the contracting parties have neither domicile nor quasi-domicile, nor have they stayed for a month in the place of the parish priest (ordinary) who assists at the matrimony, this one, in order to act licitly, needs the license of the parish priest (ordinary) of the domicile, or quasi-domicile, or monthly stay of either contracting party, in the first place of the parish priest (ordinary) of the bride, unless the matter concerns a wanderer. From seeking this license the Code excepts only the case of grave necessity (Cn. 1097, 3), e.g., danger of civil matrimony, departure not to be deferred, etc.

Note. 1. With regard to delegation neither the decree *Ne temere* nor the new Code changed anything, except that it must be made to a determinate priest and particularly, with the exception of assistant priests, and has no force except within the territory of the one delegating. Therefore the parish priest can delegate priests assigned to the care of souls in the parish itself even generally, but priests not assigned to the care of souls in the parish only particularly for individual cases.

2. Since the recent decree establishes nothing concerning subdelegation, the rules of law previously established concerning this matter are to be observed. Therefore:

a. A simple chaplain (assistant priest, vicar, coadjutor) of himself or by force of his office cannot validly assist at marriages unless he has received delegated power from the parish priest or from the ordinary. Although he is sent by the bishop not only to administer the sacraments but to exercise the whole care, nevertheless in this mission there is not contained the power of validly assisting at marriages, unless he has been delegated for this by the parish priest or bishop.

b. Now it can happen that the parish priest grants this power only for individual times for a particular case, and then he cannot subdelegate unless he has also received this faculty. It can happen that the parish priest grants to him universal delegation for all marriages to be contracted in the parish, and then per se he can also subdelegate, since he has been delegated to a universality of causes in this genus of marriages. In practice, however, attention must be paid to the custom of places and also to diocesan statutes.

Examples in which by the name delegation is signified the faculty of assisting validly, and by the name license, the faculty of assisting licitly.

1. If the spouses from A contract in B with the parish priest of B assisting, no delegation is needed, but only the license of assisting granted by the parish priest in A.

2. If the spouses from A contract in B with the parish priest from C assisting, the parish priest in A cannot grant valid delegation, but the parish priest in B can and must grant it; the parish priest in A must give the license of assisting.

3. If the groom is from A (whether by reason of domicile, quasi-domicile, or monthly habitation) and the bride from B, and they contract in C with the parish priest in C assisting, this one does not need delegation, but

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Notes

1554. Cn. 207.

only the license of assisting either from the parish priest in A or from the parish priest in B (strictly, from the parish priest in B, as the parish priest of the bride).

4. If the groom from A and the bride from B contract in a sanctuary situated in parish D, with Marcus, the blood relative of the bride, assisting, the parish priest in D must give delegation, but the license of assisting must be given either by the parish priest in A or by the parish priest in B (theoretically by the parish priest in B).

5. If the spouses, having domicile in A and quasi-domicile in B, contract in B, with Peter, the blood relative of the groom, assisting, the parish priest in B must give delegation, and he does not need license.

Since the Austrian Code, sec. 75, has: "Die Erklarung der Einwilligung mussen vor dem ordentlichen Seelsorger oder dessen Stellvertreter geschehen," it can happen that a matrimony is civilly invalid which in the face of the Church is valid, namely where it is contracted before a parish priest who is not the proper parish priest of the contracting parties, with only the license of the proper parish priest; or where, in a case of necessity, it is contracted without the license of the proper parish priest. Nevertheless the danger of discord between the ecclesiastical and civil forum in this matter is not serious. For either it can happen that the license of the proper parish priest (although strictly it is not delegation) is said to suffice according to the mind of the civil law for the value of the matrimony in the civil forum; or it must be enjoined that matrimony never be contracted without the license of the proper parish priest, and moreover that the proper parish priest add also delegation for the civil forum to the license of assisting required by the Church. Thus it happens that matrimony is civilly valid.

Article Three.. On Witnesses.

650. Who Must Assist, and How. In order that matrimony be valid, from the Tridentine decree and from the new Code at least two witnesses must assist at it.[1555] The new law requires no special quality in them.

1. All can be witnesses who can testify concerning something; therefore, for the validity of matrimony, it makes no difference whether the witnesses are men or women, faithful or infidels, blood relatives or outsiders, pubescent or impubescent, provided they have use of reason and can testify concerning the contracted matrimony. Nevertheless acatholic witnesses are used illicitly where Catholics can be had.[1556]

2. In order that they can validly testify concerning the matrimony, the presence of all the witnesses (of the parish priest and of the others) is required to be a. physical, so that they can know what is being done; b. simultaneous, for since they must make faith concerning the same act, they must be present at it together; c. formal, that is, the contracting parties must have the intention of using their presence for celebrating matrimony, which intention they can sufficiently express by eyes, nod, etc., provided the witnesses notice this intention.[1557]

Therefore even one who is present by chance, who is induced by fraud or fear to testify, can validly be a witness; this nevertheless does not have force concerning the parish priest.

Article Four.. On Those Who Are Held by This Form.

[1558]

651. 1. The following are held:

Notes

1555. Cn. 1094.

1556. S. Office, August 19, 1891, established that "they are not to be used (heretics); nevertheless they can be tolerated by the ordinary from a grave cause, provided scandal is not present."

1557. Ballerini-Palmieri VI, n. 859.

1558. Cn. 1099.

a. Catholics about to marry, whenever they enter matrimony with each other. By Catholics are understood all baptized in the Catholic Church and those converted to it from heresy or schism, although either these or those afterward defected from it.

b. Catholics, if they contract with acatholics, whether baptized or not baptized, even after dispensation has been obtained from the impediment of mixed religion or disparity of cult.

c. Orientals who contract with Latins are held by this form.

2. The following are not held, or contract validly without any form:

a. Catholics of Eastern rites, whether they enter matrimony with each other or with any acatholic (Eastern or Latin).

b. Acatholics who enter matrimony with each other. By acatholics are understood a. those who never belonged to the Catholic Church either through baptism in the Catholic Church or through conversion to the Catholic Church; b. those who, born of acatholics, although baptized in the Catholic Church, from infancy grew up in heresy or schism or infidelity or without any religion.[1559]

Article Five.. When the Obligation to the Form Ceases.

652. In a twofold case, in which the competent priest who assists at matrimony either cannot be had or cannot be approached without grave inconvenience, the obligation of observing the prescribed form ceases.

1. In danger of death, matrimony contracted before witnesses alone is valid.[1560] Danger of death prudently estimated is understood, whether it comes from disease or from another cause (imminent battle, earthquake, inundation). If error has intervened in the estimation of the danger, the matrimony entered without the parish priest is nevertheless valid.

2. Outside danger of death, it is validly contracted before witnesses alone if it is prudently foreseen that that condition of things, in which the competent priest cannot be had or approached without grave inconvenience, will endure for a month.[1561]

a. Therefore those who can call or approach the competent priest without great inconvenience are held to this under pain of nullity of the matrimony. Those who cannot do this contract validly before witnesses alone, even if of their own industry they have gone to a place where a competent priest cannot be had.

b. In mission regions, and in time of war or sedition or persecution of the Church even in Catholic regions, it can easily happen that a qualified witness cannot be had or that access to him is difficult or not safe.

c. From the Code it is established that the impossibility of having a qualified witness need not be common to some region, but that the particular impossibility of the contracting parties suffices.

d. It is asked whether matrimony can be contracted before witnesses alone where the parish priest or another priest cannot assist at ecclesiastical matrimony unless the civil ceremony has first been premised, without being punished by a grave penalty.[1562]

Notes

1559. Cn. 1099, 3.

1560. Cn. 1098, 1.

1561. Ibid.

1562. The case is this: those about to marry cannot enter civil matrimony, suppose because the documents necessary for civil matrimony are lacking; the parish priest cannot assist at ecclesiastical matrimony, because it is forbidden by the government under grave penalties. Can they contract before witnesses alone?

There are those who affirm this (Bremer, Haring, Schafer); nevertheless the opinion of those who say that even today one must stand by the decision of the Holy See seems to be preferred. This decision holds matrimony entered in this case before witnesses alone as invalid and requires that in individual cases recourse be had to the Holy See.[1563]

3. In order that the matrimony be licit, in each case another priest, if one is at hand and can be present, must be called and must assist at the matrimony together with the witnesses.[1564] Therefore if from a grave cause he were not called, the matrimony would be valid and licit.

It is greatly to be advised that a priest be called, even if he can be had only with some inconvenience, lest the spouses lack the blessing and so that provision may be made for the dignity and sanctity of the sacrament.

Question Nine.. On the Celebration of Matrimony Itself.

The following are to be considered: a. the time of celebration; b. the place of celebration; c. the contracting parties; d. the assisting parish priest; e. the rite of matrimony; f. the celebration of mixed matrimony; g. the notation of matrimony.

Article One.. On the Time of Celebration.

653. Declaration. 1. Matrimony can be contracted at any time of the year.[1565] But there is a certain determined time in which the solemn blessing of nuptials is forbidden; this is called the ferial or closed time.

2. The closed time now is: a. from the first Sunday of Advent until the day of the Nativity inclusively; b. from Ash Wednesday until Easter Sunday inclusively.[1566]

a. Therefore it is that time of the ecclesiastical year which is devoted to the recollection of the chief mysteries of the Christian religion and consequently, according to the mind of the Church, is to be dedicated especially to works of devotion, prayers, and penance.

b. In the closed time matrimony itself is not prohibited, but the solemn blessing of the bride, i.e. the votive Mass for spouses and the blessing of the bride which is contained in this Mass.

3. Nevertheless, ordinaries of places can, for a just cause and with the liturgical laws preserved, permit even the blessing of nuptials in the closed time, after admonishing the spouses that they abstain from excessive pomp.[1567]

a. The prohibition of solemn nuptials had hitherto been treated as a prohibiting impediment under the name of closed or ferial time. In some dioceses, especially of Austria and Germany, not only the solemnities of nuptials, but the nuptials themselves were prohibited. This prohibition, contrary to common law, cannot any longer be maintained after the introduction of the new Code, especially because it would be equivalent to a prohibiting impediment, which ordinaries cannot establish, unless the prohibition is supported by immemorial custom.[1568]

Notes

1563. Cf. Linneborn, p. 371 ff.

1564. Cn. 1098, 2.

1565. Cn. 1108, 1.

1566. Cn. 1108, 2. Previously, especially before the Council of Trent, the closed time was extended much more broadly.

1567. Cn. 1108, 3.

1568. Cf. Linneborn, p. 392.

b. The liturgical laws prohibit the Mass for spouses: alpha. on Sundays; beta. on feasts of the first and second class; gamma. on privileged octaves of the first and second order; delta. on privileged ferias; epsilon. on the vigils of the Nativity, Epiphany, and Pentecost.

Article Two.. On the Place of Celebration.

654. Declaration. 1. Matrimony between Catholics ought to be celebrated in the parish church with the sacred rite prescribed by the Church; it can be celebrated in another church or in an oratory, whether public or semi-public, only with the license of the ordinary or of the parish priest.

2. The ordinary can permit it to be celebrated in private houses only in an extraordinary case and from a just cause. He cannot permit it to be celebrated in the church or oratory of a seminary or of religious women, unless there is urgent necessity and suitable cautions have been applied.[1569]

a. Catholic spouses who have contracted a valid matrimony, but for whatever cause have not performed the sacred matrimonial rite (e.g. those contracting in mission places before two witnesses without the parish priest because of his absence), are held under grave obligation to supply it; in this case the declaration of consent and the formula of copulation, "I join you," etc., are omitted.

b. On the contrary, if infidel spouses, joined in a legitimate matrimony, are converted to the Catholic religion, they are to be advised to perform the sacred rite, but they are not to be obliged.

Article Three.. On the Contracting Parties.

655. Declaration. From the contracting parties it is required:

1. That they be in the state of grace, because they receive a sacrament of the living. Therefore particular statutes sometimes prescribe that confession be premised to matrimony; nevertheless, by universal law it is not prescribed that they procure the state of grace for themselves rather through confession than through perfect contrition. For the Council of Trent only exhorts spouses to confess before matrimony.[1570]

He does not sin: a. who contracts matrimony with a partner whom he knows to be in the state of mortal sin; for the notable utility which matrimony brings excuses this material cooperation.[1571]

Nor does he sin: b. who administers the sacrament of matrimony to an unworthy partner, because he is not held to take care that the sacrament not be administered to the unworthy: for he does not act as a public person, who by force of his office must attend to the dispositions of the recipient, but he is a private person celebrating a contract, who by force of his office attends only to his own utility.[1572]

2. That they receive the nuptial blessing. For although the Church does not prescribe it to those about to marry, nevertheless she earnestly desires that they ask for it and receive it.[1573]

a. By the name of nuptial blessing are designated the three prayers which are contained in the Missal in the Mass for spouses; two of these are recited over the spouses after the Our Father, and the third after the Ite missa est or Benedicamus Domino. Since the nuptial blessing cannot be separated from the Mass for spouses, those about to marry are to be admonished to celebrate the nuptials in the morning, when Mass can be said.

Notes

1569. Cn. 1109, 1, 2.

1570. Sess. 24, c. 1, De reform. matr.

1571. Cf. De Praeceptis, n. 118.

1572. Cf. Lugo, De sacram. in genere, disp. 8, sect. 14, n. 230.

1573. Cn. 1101, 1.

b. If those about to marry have not received the nuptial blessing from whatever cause (e.g. because they celebrated the nuptials in the closed time, because at the celebration of the nuptials Mass could not be said), care must be taken that they receive it afterward at a suitable time, even if they have already lived in matrimony.[1574] But if the spouses cannot be brought to celebrate the nuptials at a time when Mass can be said, the blessing is granted to them outside Mass, yet not according to the form which is contained in the Mass for spouses, but according to the form which exists in the Roman Ritual or in the diocesan Ritual.

Article Four.. On the Assisting Parish Priest.

656. Declaration. On the part of the parish priest it is required that he furnish assistance. A distinction is made between active assistance, by which the parish priest performs the sacred rite in the church, and passive assistance, by which the parish priest, without any sacred rite outside the church, intervenes in the matrimony by material presence only.

a. Active assistance contains the sacred vestment, the copulation with its prayers, the Mass with blessing, a suitable admonition, a sacred place; since, therefore, it contains several things, it can be more and less full and perfect. Hence a twofold active assistance can be distinguished: the one solemn, the other less solemn, in which at least the celebration of Mass with the nuptial blessing must always be omitted. Now a twofold passive assistance can also be distinguished: merely passive assistance, where those about to marry only express their consent before the parish priest; and (simply) passive assistance, where the parish priest, without any other rite, only proposes the questions concerning consent.

b. If matrimony is to be contracted outside the church, it ought to be entered in a decent place, such as the sacristy (others consider the sacristy as pertaining to the church), a private oratory, or the parish house.

1. If those about to marry are in the state of sin, the parish priest cannot assist without a just cause, both because he cooperates in their sacrilege and because by office he must procure the salvation of his parishioners and impede their sins.

He can and must assist both if he knows only from confession that the spouses are in the state of sin, and if they are unworthy only on account of an occult sin or an occult censure: the first, lest he violate the seal; the second, lest he injure their reputation.

2. If those about to marry are public sinners or notoriously excommunicated persons, of itself nothing is to be furnished except passive assistance; nevertheless, to avoid greater evils ordinaries can determine in particular cases what they judge more expedient.[1575] Therefore they can permit active assistance, excluding however the sacrifice of the Mass and the solemn blessing; indeed, if the circumstances require it, even the celebration of Mass and the solemn blessing can be conceded.[1576]

If one party of those about to marry is Catholic, while the other has cast off the faith and adheres to no religious sect, the matter is to be referred to the bishop, who, after inspecting all the circumstances of the case, will be able to permit the parish priest to be passively present at the matrimony, provided that provision has been made for the Catholic education of all the offspring.[1577]

Article Five.. On the Matrimonial Rite.

657. Declaration. The matrimonial rite comprises two things: a. the copulation; b. the nuptial blessing.

Notes

1574. Cn. 1001, 1.

1575. Cn. 1101, 1.

1576. S. Officium, 25 May 1897.

1577. Ibid.

The matrimonial rite which is contained in the Roman Ritual[1578] is not preceptive; therefore laudable provincial customs can be observed according to diocesan rituals.[1579]

1. The copulation or joining of the spouses. The parish priest must ask each contracting party concerning consent, so that the witnesses can give testimony concerning the contracted matrimony.

Once he has understood the consent, he must copulate the spouses with these or similar words, according to the received use of the province: "I join you in matrimony in the name of the Father and of the Son and of the Holy Spirit." The omission of these does not exceed a venial sin.

After the copulation has been performed, if nothing stands in the way, he must impart the nuptial blessing to the spouses.

The blessing of the ring, which is a sacramental, is not to be omitted. It can also be done in second nuptials, even if the same ring had already been used and blessed in the first. If the wedding ring is lost or broken, a new one can be blessed with the same ritual formula.

2. The nuptial blessing. a. Only he can give the nuptial blessing, either personally or through another, who can validly and licitly assist at the matrimony;[1580] for it is a function reserved to the parish priest.[1581] Therefore if another priest wishes to give it, he needs the license of the parish priest who can validly and licitly assist at the matrimony.

b. Where it is permitted by the prescription of the Church, it is always to be granted if the bride has not yet received it, whether she is a virgin, a widow, or deflowered, even if the bridegroom is a widower and has already once received the blessing.

c. The nuptial blessing is not to be given: if the bride is a widow and has already received the blessing; if the nuptials are celebrated in the closed time, even with the bishop permitting, yet it can afterward be supplied; if a mixed matrimony is contracted, even with dispensation of the supreme pontiff.

d. The votive Mass for spouses can be said only on account of the nuptial blessing; therefore it cannot be said where the blessing is not granted, even if by the rubrics a votive Mass could be said.

Article Six.. On the Celebration of Mixed Matrimony.

658. On licit assistance. 1. By common law, even in licit mixed marriages it is not permitted to furnish anything except passive assistance, which now consists in this, that the parish priest asks the questions concerning consent (perhaps with a brief address), but besides these is present by no positive act and by no sacred rite.[1582]

a. Active assistance is therefore especially forbidden so that the faithful may be admonished that the Church detests mixed marriages and never ceases to deter the faithful from contracting them.

b. Therefore a matrimony of this kind must be contracted outside the church, without sacred vestment and without any ritual ceremony. From a declaration of the Holy See, the cassock or customary prelatial garments are not considered sacred.[1583]

Notes

1578. Rituale Rom., tit. 7, c. 2.

1579. Council of Trent, sess. 24, c. 1, De reform. matr.; Cn. 1100.

1580. Cn. 1101, 2.

1581. Cn. 462, 4.

1582. Cn. 1102, 1, 2.

1583. S. Officium, 17 Jan. 1877.

2. Nevertheless, where graver evils would be feared from the denial of absolutely all active assistance, the ordinary can permit the matrimony to be celebrated in church with some of the customary ecclesiastical ceremonies, always excluding the celebration of Mass with the nuptial blessing.[1584]

a. Licit assistance is partly passive, partly less solemn active assistance; not only the votive Mass for spouses, but also any other Mass which would be considered as a complementary matrimonial ceremony, is always excluded. Therefore it is permitted to celebrate the matrimony in church, to use a surplice and stole, and to employ some sacred rite, e.g. the blessing of the spouses such as is usually contained in diocesan rituals.

b. The evils for the prevention of which the Holy See permits some active assistance are especially these: complaints and hatreds of heretics against the faithful and the Church; the danger of civil matrimony or of matrimony before a heretical minister; the danger that the cautions will not be observed or that the Catholic spouse will defect from the faith, and like things.

3. In illicit mixed marriages, namely those in which the due cautions have not been furnished, not even passive assistance can be furnished. Nevertheless Pius VIII on 25 March 1830 and Gregory XVI on 30 April 1841 granted merely passive assistance for Prussia, Bavaria, Austria, and Hungary. This assistance consists in this, that those about to marry express consent before the parish priest, who does not ask for the consent and does not employ any liturgical rite.

a. Since the questions concerning consent are required for the validity of matrimony by the decree *Ne temere* and by the new Code, the Holy See declared that these same questions are not necessary for validity in illicit mixed marriages, but that merely passive assistance is tolerated according to the concession and instruction of Gregory XVI.

b. Finally, on 5 August 1916 the Holy Office declared that merely passive assistance is tolerated only for those regions to which special concessions were given before the decree *Ne temere*; but in other regions mixed marriages, even if contracted with merely passive assistance, are invalid. Since such concessions were given for Austria, Hungary, and Transylvania, mixed marriages contracted there with merely passive assistance are valid.

659. On approaching a heretical minister.[1585] a. It is permitted to approach a heretical minister as a civil official, whether before or after the contracted matrimony, for a grave cause, where for example civil law prescribes this for fulfilling the civil act.

b. It is not permitted to approach a heretical minister as a sacred minister for celebrating matrimony; and those who do this sin gravely by reason of the ecclesiastical prohibition, scandal, and forbidden communication in sacred things, and furthermore they incur an excommunication reserved to the ordinary.[1586]

c. If the parish priest certainly knows that the spouses have already approached the heretical minister or are going to approach him, let him not assist at their matrimony except from a most grave cause, scandal being removed and the ordinary first consulted.[1587]

But if they approach the parish priest after they have already contracted before a heretical minister, as far as can be done care must be taken that the cautions be furnished and that the Catholic party, repenting of the deed, first be absolved from the committed sin and from the contracted censure.

Notes

1584. Cn. 1109, 3; Cn. 1102, 2.

1585. Here belongs the twofold instruction of the Holy Office, 17 Feb. 1864, to the bishops of the kingdom of Hanover, and 12 Dec. 1888, to the bishops of the oriental rites; Cn. 1063.

1586. Cn. 2319.

1587. Cn. 1063, 2.

Article Seven.. On Inscribing the Matrimony.

660. Declaration. The things which are prescribed concerning this matter by the Council of Trent[1588] and by the Roman Ritual[1589] are more accurately determined by the decree *Ne temere* and by the Code[1590] (a few things having been abrogated).

1. The parish priest or the one holding his place is bound to describe the celebrated matrimony as soon as possible in the book of marriages, even if the ordinary or a delegated priest stood by at the matrimony.

By recent law it is no longer the proper parish priest of the spouses who is bound to describe the celebrated matrimony in the book of marriages, but the parish priest of the place where the matrimony is celebrated, or the one holding his place. Therefore if the proper parish priest of the spouses assists at the matrimony in another parish, the parish priest of this place, and if a priest assists at the matrimony in the church of some sanctuary or in the church of regulars, the parish priest of the place in which the sanctuary or monastery is situated, must inscribe the matrimony. But the assisting priest is bound to inform the parish priest concerning the celebrated matrimony. If the parish priest is absent, the assisting priest should leave the necessary information for the parish priest in writing.[1591]

2. Moreover, he must also note in the book of baptisms that on such a day the spouses contracted matrimony in his parish, and this both at the name of the bridegroom and at the name of the bride. But if one spouse was baptized elsewhere, the parish priest of the matrimony should transmit notice of the entered matrimony, either personally or through the episcopal curia, to the parish priest of baptism, so that the matrimony may be entered in the book of baptism.[1592]

The new matter which is prescribed by these things is grave, because its end is grave, namely that the contracted matrimony be established, and that no matrimony can be hidden or denied.

3. If matrimony is contracted without the parish priest, the priest, and if matrimony is contracted without the assistance of a priest, the witnesses in solidum with the contracting parties, are bound to take care that the entered union be noted as soon as possible in the prescribed books.[1593] Therefore the contracting parties in the first case, together with the priest, and in the other, together with the witnesses, are bound to take care that the inscription be made as soon as possible.

Question Ten.. On the Revalidation of Matrimony.

661. Declarations. 1. It can happen that a matrimony contracted either in good faith or in bad faith afterward, on account of an occult impediment, is found to be invalid. The means of arranging the matter in this case is either a declaration of nullity and separation of the spouses, or cohabitation as brother and sister, or dissimulation, or else the revalidation of the matrimony.

2. The revalidation of matrimony is that act by which a matrimony hitherto invalid is rendered valid; for if a contract hitherto invalid receives value, it is said to be revalidated. A twofold revalidation of matrimony is distinguished: the one is called simple revalidation, the other sanation in the root.

Notes

1588. Sess. 24, c. *Tametsi*, 1.

1589. Tit. 10, c. 5.

1590. Cn. 1103, 1.

1591. From the prescription of C. A. 80 ff. it can happen that the celebrated matrimony must also be described by the proper parish priest of those about to marry.

1592. Cn. 1102, 2.

1593. Cn. 1103, 3.

a. Between each mode of revalidation this chief difference exists: in convalidation a renewal of consent is required, but in sanation matrimony becomes valid without renewal of consent.

b. Since by the revalidation of matrimony a sacrament is administered and received, as far as can be done care must be taken that the spouses be in the state of grace when the matrimony is revalidated, i.e. when the consent is renewed or the sanation is applied.

What a confessor must do when he notices that some matrimony is invalid. He must beware lest he incautiously at once declare the nullity of the matrimony.

1. If the spouses are in good faith and greater evils would follow from a declared nullity of the matrimony, they are to be left in good faith.

This must be observed not only where the impediment which is detected is occult and indispensable, and therefore the spouses can neither be separated without scandal nor cohabit without danger of sinning, but also where there is question of an occult and dispensable impediment; for morally it cannot be hoped that the putative spouses will not use the matrimony, and therefore an admonition would effect this, that from material sinners they would become formal sinners.

2. If the nullity of the matrimony is known to both, but revalidation cannot be obtained, the spouses must be separated entirely. But what separation is to be urged depends on the circumstances, namely:

a. If the nullity of the matrimony can be proved juridically, they must be separated perfectly by sentence of the ecclesiastical judge.

b. If the nullity of the matrimony cannot be proved juridically, and from cohabitation there arises a danger of incontinence, they must be separated under the appearance of divorce from bed and cohabitation.

c. If no danger of incontinence arises from cohabitation, it suffices that they be separated from the common bed and cohabit as brother and sister.

3. If the matrimony can be revalidated, this ought to be procured as soon as possible; meanwhile, however, until the matrimony can be revalidated after the dispensation has been obtained, the following things must be observed:

a. If the nullity of the matrimony is publicly known, the spouses must be separated from bed and cohabitation until the dispensation from the impediment is obtained.

b. If the nullity of the matrimony is known only to both parties, and no danger of sinning arises from cohabitation, it suffices that they be separated from bed; but if the danger of sinning exists, they must also be separated from cohabitation under some pretext, e.g. of a journey.

c. If the nullity of the matrimony is known only to one party, this party must admonish the partner, if this can be done, that he or she abstain from the use of matrimony. If he cannot admonish the partner without danger of grave evil and there is not time to wait for the dispensation, the parish priest or confessor has power to dispense from the impediment, so that the party conscious of the impediment can renew consent in order to convalidate the matrimony and render the debt.

Until now this case in practice was of such great difficulty that most authors probably thought that the ecclesiastical law with so great an inconvenience did not oblige, and consequently that the impediment ceased; now every difficulty vanishes through this power of dispensing granted by cn. 1045, 2, 3.

d. If the nullity of the matrimony is known to neither party and admonition is foreseen to be harmful, they are to be left in good faith until the dispensation is obtained and the matrimony can be convalidated.

Article One.. On Simple Revalidation.

Through simple revalidation matrimony is convalidated by this, that what was lacking from the beginning and made the matrimony invalid is supplied. Now matrimony can be invalid from a threefold defect: from a defect of capability in the persons because of a diriment impediment; from a defect of consent; and from a defect of form. Therefore there is a threefold different mode of revalidating an invalid matrimony.

662. Revalidation from defect of capability. If matrimony is invalid because of a diriment impediment which can be removed by dispensation, first the dispensation must be sought; once it has been obtained, the persons are capable of contracting. And if the consent furnished by them at the beginning persists, from the nature of the thing nothing now prevents the matrimony from becoming valid without renewal of consent.[1594] But the Church does not recognize this consent as valid unless either each party or at least the party conscious of the impediment has renewed consent, and indeed in such a way that a new act of the will is posited, by which he or she again consents to the matrimony,[1595] knowing that it had hitherto been invalid; otherwise the renewal would be nothing except a confirmation of the previous consent, ineffective for convalidating the matrimony. The renewal must be made according to the following rules:[1596]

1. If the impediment is public, the consent must be renewed by both parties in the form prescribed by law, i.e. before the parish priest and witnesses, so that the convalidation is publicly established.
2. If it is occult and known to both parties, it is sufficient that the consent be renewed by each party privately and secretly.
3. If it is occult and unknown to one party, it is sufficient that only the party conscious of the impediment renew the consent privately and secretly, provided the other perseveres in the consent already furnished.

a. By the old law dispensation from an occult impediment was granted only on this condition, that the other party ignorant of the impediment be made certain concerning the nullity of the matrimony. Yet since the party ignorant of the impediment often could not be made certain of this without great difficulty, and since this making certain itself was required only by positive law and not from the nature of the thing, it is no longer required by the new Code (cn. 1135, 3).

b. If the party ignorant of the impediment can be admonished concerning the nullity of the matrimony without difficulty, it is better that he or she be admonished and that both renew consent together. The difficulties which frequently stand in the way of admonition are these: that the party would be vehemently saddened; or that the party would come to knowledge of the crime because of which the matrimony is invalid; or that the party would no longer consent to the matrimony if he or she knew its invalidity.

c. If both parties or either party cannot be brought to contract again publicly, the parish priest, with the license of the ordinary, can carry out the matter occultly, provided scandal is removed; but if not even this can be obtained, sanation in the root must be sought.

d. The consent furnished at the beginning is presumed to endure unless it has been expressly revoked.[1597] It is renewed privately and secretly either through an internal act or through conjugal life continued with this intention.

Notes

1594. Cn. 1138, 2.

1595. Cn. 1134.

1596. Cn. 1135.

1597. Cn. 1093.

663. Revalidation because of defect of consent. If matrimony is invalid because of a defect of consent, whether because consent was furnished fictitiously, or from error, or from fear, nothing else is required for its convalidation except that a new consent be formally furnished either from each party or at least from one party, and indeed:

1. If consent was lacking from each party, it must be furnished formally by each party, as if the matrimony were first being contracted.

Since the matrimony was entered in the due form, and moreover the persons were capable, and only the consent was invalid, of itself it suffices that each party consent to the matrimony either through a merely internal act or also through an external act (cohabitation, conjugal copula).

2. If consent was lacking from one party only, this party certainly must supply it; and it suffices that one party add his or her consent to the consent of the other, which at the beginning was true and valid and morally still endures, without the other party being admonished concerning the nullity of the matrimony.

a. There are those who say that the renewal of consent furnished by each party is necessary even in this case, but undeservedly; for matrimony follows the nature of a contract, and for contracting validly it is not required that each party elicit consent at the same time in act, but it suffices that the consent of one still morally endure when the other formally elicits consent. This is confirmed by the new Code.[1598]

b. If the consent furnished at the beginning has been retracted by the other party, the matrimony can be convalidated only by the consent of each. But for retracting consent a positive act of the will is required; an interpretative revocation, or a disposition of mind by which he would retract consent if the nullity of the matrimony were known, does not suffice.[1599]

3. The defect of consent can be merely internal or also external.

a. If it was merely internal, it is sufficient that the party who did not consent inwardly consent.

b. If it was also external, it is necessary to manifest consent also externally, either in the form prescribed by law if the defect was public, or in another private and secret manner if it was occult.

In this latter case it is necessary that the consent be expressed by some sign; but it can be expressed either by words or by deeds, namely by cohabitation or by conjugal copula with the intention of consenting to matrimony. But consent must be manifested in the form prescribed by law, i.e. a new celebration of matrimony is necessary, if the defect is known to so many persons, under the new law at least two, that the nullity of the matrimony could be proved in the forum. For since the matrimony is void before the Church, it must be convalidated in the forum of the Church.[1600]

664. Revalidation because of defect of form. 1. If matrimony is invalid because it was contracted clandestinely, it must be convalidated by this, that the consent is renewed in the prescribed form, unless a dispensation from this law is given, which is very rarely granted.

2. If the nullity of the matrimony is publicly known and the contracting parties do not refuse to present themselves publicly before the parish priest and witnesses, consent must be renewed publicly in order to remove scandal; but if the nullity of the matrimony is occult, it suffices that consent be renewed secretly before the parish priest and two witnesses in order to prevent the infamy of the spouses.

Notes

1598. Cn. 1136, 1.

1599. Cn. 1093.

1600. S.C.C., 2 Aug. 1907; Cn. 1137.

The publicity of the renewal can be greater or lesser. The supreme degree of publicity is had if the customary proclamations have been premised before the matrimony is celebrated anew. Such publicity is of itself necessary where the nullity of the matrimony has become notorious. Yet if sufficient reasons counsel lesser publicity, dispensation from the proclamations can be sought, and the ordinary can permit the renewal of consent to be made either in the parish house or in the house of the spouses before the parish priest clothed with no sacred vestment and two witnesses, who will be able to promulgate the revalidation if there is need.

3. If either both parties or one party cannot be brought to appear before the parish priest and witnesses for renewing consent, one must proceed in this way:

a. If one party only refuses to appear before the parish priest and witnesses, care must be taken that this party express his or her consent before the parish priest and witnesses through a procurator or by a letter directed to him who by law assists at the matrimony. But if not even this can be obtained, sanation of the matrimony in the root must be sought, provided it is established that the matrimonial consent has not been revoked.

b. If each party refuses to appear before the parish priest and witnesses, nothing can be done except that prayers be poured forth for their eternal salvation; for for those who are contumacious against the laws of the Church, the favor of dispensation or of sanation in the root is not to be sought.

c. If one party or each party refuses only to go to the church, but does not refuse to renew consent before the parish priest and witnesses, they are to be joined in their house or in another place to which they are prepared to go.

Note. Marriages which were contracted invalidly because of an impediment abrogated by the new Code remain invalid even after the Code began to exercise its force, and therefore they need revalidation. But since the impediment has already lost its force, renewal of consent suffices for convalidation.

The abrogated impediments are these:

1. Consanguinity in the fourth degree of the collateral line.
2. Consanguinity in the second and third, etc., because the spouses descend several times from the same stock.
3. Affinity from illicit copula.
4. Affinity from matrimony in the third and fourth degree of the collateral line.
5. Public honesty from valid betrothals.
6. Public honesty from a ratified only matrimony.
7. Spiritual kinship from confirmation.
8. Spiritual kinship between the baptizer and the parents of the baptized.
9. Spiritual kinship between the one lifting and the parents of the one lifted.
10. Legal kinship in Austria and Germany.

Article Two.. On Sanation in the Root.

1601

Notes

1601. Cn. 1138-1141.

665. Declaration. 1. Sanation in the root is dispensation from a diriment impediment which stands in the way of matrimony; when this has been granted, the supreme pontiff heals the matrimonial consent, truly but invalidly furnished, from nullity in such a way that he renders the matrimony valid and removes the effects of nullity.

The first example of a matrimony sanated in the root occurs under Boniface VIII (d. 1303); afterward invalid marriages were more frequently revalidated by this way, especially where many invalid marriages had to be convalidated at the same time.

a. Sanation of matrimony in the root must be understood in this way. The root of matrimony to be healed is consent. Now because of the diriment impediment which stood in the way from the beginning, the consent was invalid, and this invalid consent still endures. Now the supreme pontiff by dispensation removes the law invalidating the consent; when this has been removed, he heals the consent invalid at the beginning and renders it fit for effecting a valid matrimony. Ordinary dispensation does not concern the consent, but only removes the invalidating law; when this has been removed, power is given to the putative spouses to elicit a new and valid consent. But dispensation in the root concerns the consent invalid from the beginning, which, when the invalidating law has been taken away, it renders effective for producing the matrimonial bond. Moreover, by the same act of sanation, the supreme pontiff wills that the matrimony, as regards juridical effects, be held as if it had been valid from the beginning.

b. Sanation in the root, the diriment impediment having been removed by dispensation, has two proper effects: the convalidation of the matrimony and the legitimation of the offspring. The former is produced from now, i.e. from the day of the granted and applied sanation; the latter is produced from then, i.e. from the day of the contracted matrimony. But these two are not always granted together; for if either spouse has already died, legitimation is granted without convalidation, which is impossible. Likewise, while the spouses are living, it can happen that the matrimony is revalidated, but the legitimation of the offspring, if the offspring was procreated in adultery, is impossible.

c. From these things it is clear that there is chiefly a twofold difference between each species of revalidation: sanation in the root does not properly and necessarily require a new consent; the matrimonial bond arises from the first consent healed from inefficacy. But in revalidation made in the ordinary way, new consent must be formally furnished; the matrimonial bond arises from the new consent. Sanation in the root extends its effects even to past time; ordinary revalidation, however, only to future time.

2. By ecclesiastical use sanation is usually done without renewal of consent, especially where the putative spouses are ignorant of the nullity of their matrimony and cannot be admonished concerning it. Nevertheless the supreme pontiff sometimes prescribes a renewal of consent as a penalty, namely where one party acted in bad faith at the time of celebration. But if new consent is prescribed, it is necessary for the validity of the matrimony.

From these things it is clear that the sanation of matrimony can be done even with each party unaware, and in fact is done as often as harm is feared from admonition; for on the part of the spouses no act is required for sanation.

3. The power of sanating matrimony in the root belongs to the Roman pontiff alone. Nevertheless, in our times this power is also granted to bishops by special indult, especially in mission regions, "when it is discovered that there was present a diriment impediment over which they themselves can dispense from an indult of the Apostolic See, and that there would be great inconvenience in requiring from the innocent party a renewal of consent."

666. Four conditions are required so that sanation in the root can be done:

1. That the impediment which stood in the way of the validity of the matrimony from the beginning be of ecclesiastical law, not of natural law or of divine law, because in these the Church cannot dispense.

It is manifest that the supreme pontiff cannot sanate a matrimony invalid because of an impediment of divine law which still endures. But if there stood in the way of the matrimony an impediment of natural or divine law which ceases of itself, e.g. the bond, he certainly could sanate the matrimony in the root after the impediment ceased; yet the Church does not sanate it, not even from the moment of the cessation of the impediment (cn. 1133, 2), as it seems, in punishment of the spouses. Thus, one who, during a legitimate matrimony, invalidly contracts another matrimony, after the prior spouse has died can obtain the convalidation of the second matrimony not through sanation in the root, but only through renewal of consent.

2. That in the beginning true consent was given; for the root of matrimony, or consent, is healed; but what in no way exists cannot be healed.[1602]

a. If one party only gave true consent and in good faith thinks the matrimony to be valid, his or her consent can be healed; but the other party must renew consent. If each spouse, knowing the nullity of the matrimony, contracted in bad faith, the matrimony cannot be sanated in the root, because no true consent was present.

b. Even civil matrimony can be sanated in the root from a just cause, and in fact, when a grave cause exists, it is usually sanated, provided that true matrimonial consent was given from the beginning. Besides a grave cause for granting sanation, two things are required in this case: that in contracting civil matrimony true matrimonial consent was present, and not only the intention of entering an illicit union or of living in concubinage; then, that in the case of the granted dispensation scandal be absent. Scandal will be absent if it is unknown that only civil matrimony had been contracted.

3. That the consent given in the beginning endures on the part of each; for matrimony begins to be valid through sanation. But a valid matrimony cannot begin except through mutual consent; yet consent is not renewed in sanation. Therefore it must at least endure.

a. The question whether consent must endure virtually, or whether it suffices if it endures only habitually, seems to be useless; for in spouses who cohabit and live a matrimonial life, it certainly endures virtually. Hence sorrow once conceived concerning the entered matrimony, or even repeated more often, does not stand in the way of sanation. Likewise, an interpretative intention of departing does not stand in the way of the required duration of consent, but only a positive will of dissolving the matrimony. Matrimony cannot be sanated when both spouses or either spouse is dead; but nothing prevents the matrimony of deceased spouses from being sanated as regards juridical effects, especially as regards the legitimacy of offspring.

b. If the matrimony was contracted in good faith on the part of each from the beginning, and afterward, when the impediment had been discovered, the spouses persevered in the matrimony against conscience, the matrimony can nevertheless be sanated in the root, provided the consent given at the beginning still endures.

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4. That there be a proportionately grave cause. For although the sanation would be valid which the supreme pontiff granted without cause, nevertheless for the dispensation to be granted licitly there is required a cause which ought to be the graver, the greater the favor is which is granted by this dispensation.

In a fourfold case there is present a sufficiently grave cause, and therefore in this fourfold case sanation in the root can be sought:

Notes

1602. Cn. 1141.

a. if one party cannot be brought to renew consent and nevertheless wishes to remain in the matrimony;

b. if the nullity of the matrimony is known to one party only, and cannot be revealed to the other party without grave inconvenience;

c. if both spouses are in good faith and cannot be admonished concerning the nullity of the matrimony;

d. if many marriages are to be convalidated which cannot be convalidated by another way.

667. On procuring sanation in the root. If sanation is to be sought because of an occult impediment, these things are to be observed:

1. The sanation must be sought occultly and committed to execution occultly.

2. The confessor can procure it, if the impediment was detected in confession.

3. Recourse must be had immediately to the Holy See, and indeed to the Penitentiary, not to the bishop; although the letters (closed on account of the seal) can be directed through the bishop to the Holy See.

4. In the petition: a. the case must be accurately described, and in particular it must be expressed whether consent was present from the beginning and endures in each party, whether the spouses were in good faith; b. the mode of convalidation through sanation in the root must be sought, and the causes of dispensation must be indicated, especially the causes which demand sanation in the root; c. at the end the name of the confessor must be added, with the diocese and the place where he dwells, so that the rescript can be directed to him.

5. The execution of the dispensation, or the application of the sanation, is not properly required, nor in fact is any made, if each spouse is ignorant of the impediment. But if one party knows the impediment and is rightly disposed, the application is usually made in sacramental confession (but it could also be done outside confession), after absolution from sins and before the prayer *Passio*. For the rest, the rescript must be accurately observed.

Although no formula is necessary in executing the sanation of matrimony in the root, nevertheless this or a similar one is suitably employed: "By the apostolic authority granted to me, I heal in the root the matrimony contracted by you with N., and I declare legitimate the offspring received and to be received. In the name of the Father," etc.

6. If an impediment previously occult afterward becomes public, sanation in the root for the external forum (unless it was also granted for this forum) avails nothing; therefore a new one must then be sought.

Question Eleven.. On the Dissolution of Matrimony.

A twofold dissolution of matrimony, or separation of spouses, is distinguished: the one as to the bond (full), the other, with the bond remaining, as to cohabitation or as to table and bed (imperfect). The latter can be done either by mutual consent of the spouses or from a cause of one party, from which there is granted to the other party the right of departing. Each can be either perpetual or temporary. Concerning the dissolution of matrimony as to the bond through the Pauline privilege, through religious profession, and through dispensation of the supreme pontiff, it was said above (n. 496 ff.); concerning dissolution as to cohabitation, we must now treat.[1603]

Notes

1603. In the old law separation of spouses is called divorce (*divortium*, from *divertere*), and indeed imperfect divorce, so that it may be distinguished from perfect divorce, which signifies the dissolution of matrimony even as to the bond. The new Code does not use this term.

Article One.. On Separation from Mutual Consent.

Spouses are bound to preserve an undivided association of life, unless a just cause excuses them.[1604] The just causes of separation are those by which it happens that they can depart from one another licitly, whether perpetually or temporarily.

668. Perpetual separation. 1. In a twofold case spouses can dissolve the association of life in perpetuity, if either spouse intends to enter religion or the man intends to receive sacred orders, since the Lord says: "Everyone who shall have left wife … for my name's sake shall receive a hundredfold and shall possess eternal life."[1605]

2. That a spouse may enter religion or receive sacred orders, these conditions are required:

a. That the consent of the other spouse be present.

Religious profession is invalid not only if it is emitted by one spouse against the will of the other, but also if it is emitted by one spouse without the consent of the other. The spouse who has professed invalidly is bound to return to the other if the latter wills it. The sacred order which is received by a man against the will of his wife is indeed not invalid, but the man is bound to return to the wife if he is required by her.[1606]

b. That dispensation of the Holy See be obtained. In the new law a state contrary to matrimony cannot be assumed without dispensation of the Holy See. For men having wives are simply impeded from receiving sacred orders;[1607] and spouses during matrimony cannot be validly admitted to the novitiate.[1608]

669. Temporary separation. Spouses can separate for a time both on account of a supernatural cause, namely a greater perfection of spiritual life, and on account of a natural cause, provided it is honorable and truly grave, e.g. on account of business, studies, duties, and other things of this kind.

a. To this supernatural separation spouses can consent even with a vow of continence added; once this has been emitted, they ought to be separated from bed in order to exclude dangers. Because of these dangers separation is not to be permitted except for a time (in a novena, in preparation for feasts of the Lord or of the Blessed Virgin, in the time of Advent, in the time of Lent); therefore the Apostle adds: "And return together again, lest Satan tempt you because of your incontinence."[1609]

b. Since on account of long separation each spouse is exposed to great dangers, they are to be admonished not to separate except from a truly grave cause, and that the husband, as far as can be done, have his wife with him.

Article Two.. On Separation from a Cause of One Party.

670. Perpetual separation. 1. The new Code admits one cause of perpetual separation, namely the adultery of one party.[1610] It is established both by divine law[1611] and by ecclesiastical law[1612] that because of the adultery of one party separation of spouses can be made.

Notes

1604. Cn. 1128.

1605. Matt. 19:29.

1606. Cf. Ferraris, *Bibliotheca*, word *Coniux*, n. 15 ff.; Ballerini-Palmieri V, n. 514.

1607. Cn. 987.

1608. Cn. 542.

1609. 1 Cor. 7:5.

1610. In the old law also one spouse's lapse into heresy or apostasy from the faith gave the other party the right of departing.

1611. Matt. 19:9.

1612. Council of Trent, sess. 24, can. 7; Code, i.e. cn. 1129, 1.

a. If Christ permits that a wife (a spouse) can be dismissed on account of fornication, he grants that which belongs to spouses by the law of nature; for since by force of the matrimonial contract they are bound to cohabitation, the innocent party is exempted from this obligation as soon as the other party has injured the matrimonial contract through adultery.

b. For instituting divorce any foreign concubitus suffices, even that which is done through sodomy or bestiality, provided that the division of flesh with another occurs through the effusion of seed in another vessel; for the division of flesh is the proper cause of divorce, because through the division of flesh matrimonial fidelity is broken.

2. These conditions are required so that adultery be a just cause of separation:

a. That it be morally certain; for in doubt no one is to be deprived of his right. Nevertheless it is not required that adultery be proved juridically, but most vehement suspicions suffice, which provide moral certitude, as if a wife already otherwise of bad reputation is found alone with a man alone in a place fit for sinning, or if a husband is made certain concerning the adultery of his wife by a most trustworthy person.

b. That it be perfect or consummated by carnal copula, without which there is no division of flesh.

c. That it be formal, not merely material without internal consent; for the penalty of divorce supposes a preceding fault.

d. That the other spouse did not consent to the crime or give cause to it. Since injury is not done to one who consents, the spouse does not have the right of departing if he or she consents to the adultery of the other party.[1613]

e. That the other spouse did not expressly or tacitly condone it.

Tacit condonation: alpha. is had if the innocent spouse, after having been made certain concerning the adultery, voluntarily lived with the other spouse with marital affection; beta. is presumed if within six months he or she did not expel or abandon or accuse the adulterous spouse.[1614]

f. That he or she did not also commit the same crime; in this case the injury is compensated by the injury, and the right of departing is lost.

3. These circumstances of separation to be instituted because of adultery are to be noted:

a. The innocent party can, but is not bound to, dismiss the adulterous party. For the right of separating was granted in his or her favor, and he or she can renounce this favor.

The obligation of dismissing an adulterous wife can arise from scandal, namely where, if the wife persists in adultery, the husband comes under suspicion of consent to the adultery. But this scandal can generally be prevented by other means, so that scarcely ever can an obligation of dismissing the wife be established.

b. If the adultery is certain, the innocent party can either separate by his or her own authority or seek a sentence of separation from the ecclesiastical judge. If the adultery is doubtful, the sentence of a judge must always be invoked.

c. The innocent party is never bound to admit the adulterous spouse, whether the separation was made judicially or by his or her own authority; but he or she can admit or recall that spouse, unless, with his or

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1613. Cn. 1129, 1.

1614. Cn. 1129, 2.

her consent, the latter has assumed a state contrary to matrimony.[1615] But if he is justly recalled, he is bound to return.

A state contrary to matrimony is the clerical state through the reception of sacred orders and the religious state through religious profession. Therefore the guilty party cannot assume a state of this kind without the consent of the innocent party. Yet if the latter has chosen a state which renders the continuation of conjugal life impossible, even the guilty party can choose such a state. But neither can the innocent party assume such a state without having obtained the license of the Roman pontiff.[1616]

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671. Temporary separation. 1. The causes of temporary separation are enumerated in this way in the new law:

"If the other spouse has enrolled in a non-Catholic sect; if he has educated the offspring non-Catholically; if he leads a criminal and ignominious life; if he causes grave danger either to the soul or to the body of the other; if by cruelties he renders the common life too difficult – these and other things of this kind are for the other spouse so many legitimate causes of departing, by the authority of the local ordinary and even by his or her own authority, if they are certainly established and there is danger in delay."[1617]

Not all causes of separation, but the chief ones by which separation can be done for a time, are enumerated here; concerning these the following things are to be noted:

a. What in the old law was a cause of perpetual separation, namely heresy and apostasy from the faith, now supplies a cause of temporary separation; to this is added a criminal and ignominious life.

b. Danger of soul is induced if a spouse tries to draw the partner to sin, e.g. to heresy or to other crimes. If the danger of falling is proximate and cannot be sufficiently removed by other means, the innocent party is bound to separate.

A husband is considered to draw his wife to sin also in this case, in which he supplies food to her from things taken by theft or unjustly acquired, because in this way he makes her a participant in his crime. Yet if the wife does not have from elsewhere that from which she may live, she can use those goods, because necessity excuses her. But if she has food from elsewhere, she cannot use those goods and licitly withdraws from her husband.

c. Danger of body arises from contagious disease, in our times especially from syphilitic disease, by which a spouse infects the spouse in the very use of matrimony; furthermore from severe and cruel treatment which renders cohabitation dangerous.

d. The following can render the common life too difficult:

Severe and harsh treatment.

How great the cruelty must be so that the other party acquires the right of separating must be determined by prudent judgment after considering the circumstances of places and persons. For the things which are considered light by wives of the common people can seem intolerable to a wife of more honorable condition.[1618] Thus insults and imprecations, even if frequent, are perhaps made little of by a woman of humble condition, but they can be most grave to a well-educated woman.

Notes

1615. Cn. 1130.

1616. Cf. cn. 987 and cn. 542.

1617. Cn. 1131, 1.

1618. Ballerini-Palmieri VI, n. 507.

Continuous quarrels, brawls, inveterate aversion and hatred by which one party is borne against the other. The danger which threatens the goods of fortune of the wife, if this danger cannot be removed by another means.

2. The causes of separation must be known and approved by the ecclesiastical judge, who grants separation either for a certain time or indefinitely, until the guilty party has come to his senses. Only if the fault is established and there is danger in delay is it permitted to the innocent party to depart by his or her own authority.[1619]

3. When the cause of separation ceases, the association of life must again be restored. Only if the separation was pronounced by the ordinary for a certain time is the innocent party not bound to return unless the determined time has elapsed; and if no determined time was established, he or she can await a new sentence of the ordinary.[1620]

4. Once separation has been instituted, the children to be educated are with the innocent spouse; and if the other spouse is non-Catholic, with the Catholic spouse, unless in each case the ordinary for the good of the children themselves, with their Catholic education always preserved, has decreed otherwise.[1621]

Note. These things must be admonished for practice.

a. It belongs neither to the spouses nor to the civil power, but to ecclesiastical authority alone, to examine the cause of separation and to pronounce its sentence. Therefore the parish priest or confessor must direct the spouse alleging a cause of separation to the ecclesiastical judge. Yet because today the faithful can scarcely be brought to have recourse to the ecclesiastical judge, it will often be better for the confessor to dissimulate this obligation before those who are ignorant of it, provided the cause of separation is certain. This dissimulation must especially be advised when spouses already live separated in good faith, either by their own authority or by the authority of the civil judge, provided that there is no scandal underneath.

b. The confessor must beware lest he easily believe wives complaining of cruelties and troubles from the husband, and lest he either counsel or permit separation as to habitation. For morose wives are accustomed to dissimulate their own defects, but greatly to enlarge the defects of the husband. Moreover the matter would become much worse if the wife, with the confessor permitting, left the husband, but he, with the help of the civil power, recovered the wife who cannot prove the cause of separation before a judge.[1622]

c. Since from the separation of spouses so many and so great evils arise, such as hatreds, enmities, adulteries, it must always be the last remedy, to be used only in the greatest necessity. Wives, however, must continually be admonished that by entering matrimony they have contracted, on the one hand, an obligation of patience and meekness, and on the other hand, through the sacrament, have received the helps of grace for bearing the burdens of matrimony with equanimity.

Article Three.. On Civil Separation.

[1623]

672. State of the question. 1. From those things which were disputed above, nothing stands in the way of civil judges treating matrimonial causes of infidel subjects, provided they observe the statutes of natural law; likewise, the causes of marriages of the faithful in which there is question of merely civil effects; or if there is

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1619. Cn. 1131, 2.

1620. Cn. 1131, 2.

1621. Cn. 1132.

1622. Cf. Genicot II, n. 558; Aertnys II, 537.

1623. Cf. Lehmkuhl, *Das burgerliche Gesetzbuch des deutschen Reiches*, 5 (Freiburg: Herder, 1900), p. 415 ff.

question of a merely civil matrimony; or if there is question of a matrimony indeed entered in the face of the Church, which nevertheless has already been declared invalid or dissolved by the sentence of an ecclesiastical judge; or finally if the judicial sentence is conformable to divine and canonical law, as when a separation or dissolution which the spouses seek unjustly and illicitly is denied.

In these last cases the civil judge indeed exceeds his competence, because he usurps jurisdiction which does not belong to him; but the sentence as to the matter or object is not contrary to divine or ecclesiastical law.

2. But it happens that civil judges in matrimonial causes issue sentences which are contrary to ecclesiastical or divine law, namely if they decree the separation of spouses where canonical causes of separation are lacking, or if spouses are compelled to cohabit where cohabitation is forbidden by divine law; likewise, if they declare valid marriages which the Church judges invalid, or if they dissolve marriages which are indissoluble by divine law. Now in these cases it is asked: a. whether it is permitted to a civil judge to pronounce a sentence of divorce according to the prevailing civil laws; b. whether it is permitted to the parties to seek civil divorce; c. whether it is permitted to an advocate to conduct a cause of civil divorce before the judge.

673. On the civil judge. A civil judge who conducts causes of divorce of this kind and gives sentence in them as if they pertained to the civil forum acts illicitly and unjustly, because he usurps ecclesiastical jurisdiction. But if he recognizes the power of the Church, the civil judge conducting a cause of divorce and pronouncing the sentence of divorce seems to act licitly, provided he observes these conditions: a. if he regards only the civil contract, i.e. intends only to break off the civil effects of matrimony; b. if he has a most grave motive for conducting a cause of this kind; c. if, for preventing scandal, he opportunely admonishes both the spouses and others that his sentence in no way regards the matrimony itself, but only the civil effects; d. if there is no special prohibition of the Church.

a. The action of the civil judge in this case is not intrinsically evil, but is an action indifferent of itself. For his sentence contains two things: that their matrimony is no longer considered by the civil power as a true matrimony, and consequently that a new matrimony which they would contract is not impeded by inflicted penalties; but neither of these is intrinsically evil. The spouses indeed abuse this sentence for dissolving a valid matrimony and attempting a new one; but this cooperation of the judge is licit from a most grave cause.

b. There are authors (Bucceroni, Gasparri, Matharan) who say that the sentence of civil divorce in this case is absolutely illicit as being intrinsically evil and repugnant to divine law. Their reasons are: the law of divorce itself is intrinsically evil and unjust; therefore a fortiori the sentence of divorce is evil and unjust; from divorce most grave evils follow: an erroneous judgment concerning the dissolubility of matrimony and also concerning the competence of the civil power in matrimonial causes gradually steals into the minds of the faithful; furthermore separated spouses are prohibited from restoring the society of life, and the prerogative of legitimacy is denied to their offspring afterward received; finally a new civil matrimony is permitted to separated spouses, to which all the rights and effects of true matrimony are granted, by which it happens that adulteries are fostered. This opinion is evidently confirmed from the decisions of the Roman congregations, since they establish the internal malice of that act.

c. But others (Ballerini-Palmieri, Lehmkuhl, Sabetti, De Becker, Genicot) do not hold the sentence of civil divorce to be intrinsically evil; but, after excluding a depraved intention, say that it is in itself indifferent. And indeed a sentence of this kind does not necessarily refer to the dissolution of the matrimonial bond, but only deprives the matrimony of the effects of a legitimate matrimony and asserts impunity for the spouses if they enter a civil matrimony. For just as civil matrimony can accede to true matrimony without affecting the matrimonial bond, so civil matrimony can be dissolved without its dissolution affecting the true matrimonial bond. This indeed can be admitted, even if the legislator and the spouses who seek divorce intend the dissolution of the matrimonial bond itself.

The following things must be noted regarding the arguments of the first opinion:

a. The intention of the legislator, who intends to dissolve the matrimonial bond itself, is not necessarily included in the sentence of divorce, but can be separated from it. And indeed the depraved intention of the legislator, by which he intends to bind the matrimonial bond itself, can be separated from the assistance which the judge furnishes to those contracting matrimony; therefore it will also be able to be separated from the sentence of divorce. Thus the civil law in the intention of the judge is not necessarily to be called unjust, since it must not necessarily be received in such a way that it declares the spouses dissolved from the bond itself.

b. From divorce most grave evils follow; but from this nothing else follows except that cooperation toward divorce, and therefore toward these evils, is licit only from a most grave cause. But a proportionately grave cause for cooperating is certainly present in this case, in which a matrimonial cause is offered to a Catholic judge for judgment which he cannot refuse without being deprived of office, but he cannot be deprived of office without harm following both to himself and to the common good, because a bad and impious judge would succeed in his place.

c. Finally, to remove the scandal of the faithful, the judge must declare to the parties that the sentence of divorce does not effect this, that the conjugal bond is dissolved, but only this, that the matrimony is no longer recognized by civil authority as a valid matrimony, and therefore no longer enjoys the rights of a valid matrimony.

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674. On the responses of the Holy See. The question has rather often been treated in the Roman congregations, and several responses concerning this matter have been issued.[1624]

a. No general decree exists which settles this question; indeed, the Holy See has hitherto deliberately abstained from settling the question.

b. Several particular decrees exist, of which some proclaim the sentence of divorce illicit in France, while others proclaim that the same can be tolerated in Belgium.

c. The reason on account of which the Church has tolerated the cooperation of a judge toward civil divorce in some places, but has forbidden it in others, seems to be this. Namely, in this case there is question of cooperation in executing laws which are opposed to the rights and laws of the Church; cooperation of this kind, however, is altogether illicit when it redounds to the common harm of the Church. Now the judgment whether civil laws redound to the common harm of the Church belongs to the Church herself; therefore in particular cases recourse must be had to the Holy See.

d. From all these things this follows for practice: although it cannot be affirmed that the cooperation of a judge or syndic in civil divorce is certainly licit, this at least can be conceded, that it is not established that it is illicit and therefore to be prohibited to judges, unless the Church has declared it illicit. Therefore judges who exercise it in good faith are not to be disturbed unless the Church has prohibited it.

Notes

1624. Holy Office, 3 Apr. 1877, to the bishop of St. Gall, which orders judges in particular cases to have recourse; Holy Office, 27 May 1886, which prohibits the sentence of divorce for France; letters of the apostolic nuncio to the minister of the kingdom in Belgium, 14 Sept. 1886, where it is said that the prohibition issued for France is not to be extended to Belgium; S. Poenitentiary, 24 Sept. 1887, which tolerates the sentence of divorce in a particular case (of Lucon); S. Poenitentiary, 4 June 1890, which declares that the case of Lucon cannot be extended to other cases.

675. On spouses. a. If spouses do not intend to seek divorce so that they can pass to other nuptials, but only so that matrimony may be deprived of civil effects and they themselves may in this way be freed from a grave evil and inconvenience from which they cannot be freed in another way, this is permitted.[1625]

b. If they can obtain the intended end even through mere separation as to habitation and goods, it is not permitted to them to seek the sentence of divorce; for there is no reason for seeking it.

c. If spouses seek the dissolution of the bond itself, so that they can pass to other nuptials, it is not permitted to seek divorce, because they seek an evil thing and one repugnant to divine law.

d. Since matrimonial causes pertain to the Church, it is not permitted to spouses to seek civil divorce unless beforehand, from a canonical cause, they have obtained license of separating.

676. On advocates. a. If an advocate performs the parts of defender of the matrimonial bond, which is a true matrimony, there is no other difficulty except that the cause is conducted in an incompetent forum, namely the civil forum. But the Holy See has declared that cooperation in causes of this kind can be tolerated, "provided it is established to the bishop concerning the probity of the advocate, and the advocate does nothing which deflects from the principles of natural and ecclesiastical law."[1626]

b. If an advocate conducts the cause of divorce when the spouses licitly seek divorce, he licitly argues for divorce.

c. But if the spouses seek divorce either without a just reason or from the depraved intention of afterward entering a new matrimony, he certainly cannot undertake the cause without a most grave reason. But if a most grave reason is present, e.g. of avoiding notable harm, he can conduct the cause; for he is not necessarily bound to conform himself to the intention of the parties, and cooperation toward their sin is excused by a most grave cause.

Appendix I.

On Civil Matrimony.

677. Definition. Civil matrimony is called matrimonial consent declared before a civil magistrate for this end, that the matrimony be recognized in the civil forum as true and legitimate.

a. Matrimonial consent. Civil authority cannot require that those contracting civilly have the intention of entering true matrimony, but it can require only this, that they perform the rite prescribed by civil authority for this end, that their matrimony be held as true and legitimate. The first is always illicit, but the other is not illicit in itself, provided a true and legitimate matrimony has either already been entered or is soon to be entered. For in itself it is not prohibited that those about to marry appear before a civil magistrate and under a certain rite make him certain concerning the matrimony contracted or to be contracted, so that their matrimony may obtain the effects of legitimate matrimony.

b. That it be recognized as true. In antiquity the civil power itself also recognized as valid those marriages which were considered valid in the forum of the Church, and it attributed civil effects to them. But in recent time it arrogates to itself the right of establishing that matrimony can or must be entered (also) before the

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1625. To the question whether a husband can seek divorce from an adulterous wife, intending only to break off merely civil effects, when no other means is available for obtaining repudiation of paternity concerning adulterine children and their exclusion from the portion of legitimate offspring, the S. Penitentiary on 30 July 1892 responded: let the petitioner consult approved authors.

1626. S. Officium, 19 Dec. 1860.

civil magistrate, and it holds this matrimony as valid and licit, even if in the forum of the Church it is invalid or illicit because of a diriment or prohibiting impediment.

c. The faithful who contract civil matrimony sin gravely if they intend to enter true matrimony before the civil magistrate; for true matrimony of itself can be entered licitly only in the forum of the Church.

678. Division. A threefold civil matrimony is distinguished: obligatory, facultative, and of necessity.

a. Obligatory civil matrimony (*die obligatorische oder Zwangs-Zivilehe*) is had when all contracting parties are obliged to furnish matrimonial consent before the civil magistrate so that their matrimony may be held as valid in the civil forum.

In various regions of Europe obligatory civil matrimony now flourishes, namely in Germany, in France, in Italy, in Hungary, in Belgium, in Switzerland.

Where obligatory civil matrimony is prescribed, the civil authority, caring nothing for the matrimonial laws of the Church, holds only the matrimony entered before a civil magistrate as true and valid matrimony. In like manner, in all matrimonial causes, whether they refer to matrimony itself or to betrothals, it attributes competence for judging them to the civil forum alone.

b. Facultative civil matrimony (*die fakultative oder Wahl-Zivilehe*) is had when to any contracting parties a faculty or option is given of entering matrimony either before the Church or before the civil magistrate. Each matrimony is held as valid in the civil forum, and civil effects are attributed to each.

Facultative civil matrimony flourishes in England and in North America.

c. Civil matrimony of necessity (*die Not-Zivilehe*) is had when contracting parties are permitted only in a case of necessity to enter matrimony before the civil magistrate.

It is called matrimony of necessity because it is admitted only in a case of necessity. A twofold necessity is distinguished: absolute, when those about to marry cannot contract because an ecclesiastical impediment stands in the way of matrimony which civil law does not recognize; relative, when those about to marry cannot enter ecclesiastical matrimony because they adhere to no religious confession.

Civil matrimony of necessity flourishes in Austria, where those about to marry, who cannot contract in the forum of the Church because of some impediment, are permitted to have the matrimony promulgated by the political power and to enter it before a political official, provided an impediment of civil law does not stand in the way.

679. On the liciety of civil matrimony. 1. The Church rejects and condemns any civil matrimony whatever; therefore she proscribed this proposition: "By force of the merely civil contract, a matrimony of true name can exist between Christians."[1627]

And indeed she condemns it by right: a. Laws concerning civil matrimony have been issued by an authority to which no right competes concerning matrimony. b. Matrimony is stripped of that sanctity which belongs to it by its own nature, and the same is treated as a merely profane thing. c. Subjects are compelled, against liberty of conscience, to posit an action prohibited by ecclesiastical law. d. The civil power protects illicit unions by its authority. e. The same power unjustly dissolves marriages valid before God and the Church. f. It contemns the rights of the Church and promotes indifferentism, because it admits marriages to which there stands opposed the impediment of mixed religion, indeed even of disparity of cult. g. It promotes the false doctrine by which the contract can be separated from the sacrament.

Notes

1627. Cf. *Syllabus*, n. 33; Encyclical of Leo XIII, *Arcanum*, 10 Feb. 1880.

2. Although any civil matrimony whatsoever is illicit of itself, nevertheless not every species of the same is to be rejected in an equal way.

The least degree of malice belongs to civil matrimony of relative necessity; the greatest to that of absolute necessity. Authors dispute whether obligatory civil matrimony or facultative civil matrimony is more to be reproved.[1628]

3. Obligatory civil matrimony can be entered licitly, provided matrimony in the forum of the Church has either already been entered or is soon to be entered, and the intention of contracting the matrimonial bond itself before the civil magistrate is excluded. For from a just cause it can be permitted that the conditions which civil authority exacts be posited, so that the matrimony may be recognized as valid and endowed with civil effects.

a. Whether the civil act is performed before or after ecclesiastical matrimony, those about to marry are to be admonished that they intend to perform nothing other than a merely civil ceremony, so that civil effects may be attributed to their matrimony.[1629]

b. Where civil law requires that civil matrimony be contracted before ecclesiastical matrimony, this can licitly be done. But it is better that civil matrimony be done after ecclesiastical matrimony has already been entered. For the nature of the thing requires that the principal precede the accessory; but the principal is the matrimony itself, which is contracted before the Church, and the accessory is the civil effects which are attributed to matrimony through civil matrimony. Moreover, in this way the inconveniences which can arise from this are guarded against, namely that one party, after the civil matrimony has already been entered, refuses to contract in the face of the Church.

c. Therefore where civil matrimony must be entered before ecclesiastical matrimony, those about to marry must be admonished: alpha. that they not enter the civil contract before it is certainly established to them that no impediment stands in the way of ecclesiastical matrimony; beta. that in the time which intervenes between civil and ecclesiastical matrimony, they are not spouses but betrothed persons, and therefore must live after the manner of betrothed persons; gamma. that they must take care that each matrimony be celebrated on the same day, or at least that only a slight delay intervene between the two.

4. Ordinarily there exists an indirect obligation of contracting obligatory civil matrimony; for charity both toward themselves and toward future offspring requires that the contracting parties take care that their matrimony be endowed with civil effects.

This indirect obligation is grave or light according as the harms and inconveniences which arise from omitted civil matrimony are great or light. That the faithful may be preserved from these harms, in some regions, e.g. in Belgium, it has been prohibited by the bishops that parish priests assist at marriages unless the performance of civil matrimony has been established.

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680. On the value of civil matrimony. 1. Civil matrimony entered between heretics, and indeed with the intention of contracting true matrimony, is valid, provided some diriment impediment does not stand in the way of it; indeed it is also licit where there is question of marriages of heretics to be contracted among themselves.[1630] But if some diriment impediment stands in the way of it, civil matrimony is nothing except shameful concubinage.

Notes

1628. Cf. Schnitzer, p. 65 ff.

1629. Benedict XIV, *Redditae sunt nobis*, 17 Sept. 1746.

1630. S.C.C., 2 Aug. 1907, n. 11, 3.

2. Civil matrimony entered between Catholics is invalid, however much no other diriment impediment stands in the way, only because it is contracted clandestinely.

a. Those who notoriously live in civil matrimony are to be held as public sinners, because they live in manifest concubinage, and they cannot be admitted to the sacraments unless they first are either separated from one another or joined in the forum of the Church.

b. If those civilly joined present themselves to the parish priest for contracting matrimony in the face of the Church, they must be subjected to the examination of spouses; and if no impediment stands in the way, unless dispensation is sought, their matrimony must be proclaimed, after which they can be joined in the face of the Church.

Note. Mixed civil matrimony is everywhere invalid, unless it has been entered in the face of the Church with the due conditions; the German empire and the kingdom of Hungary are no longer excepted.

3. Since invalid civil matrimony has the character of an attempted matrimony, these things follow from it:

a. If it concurs with adultery, i.e. if one party is married, from it there arises the impediment of crime.

b. Clerics constituted in sacred orders and regulars (or nuns) bound by a solemn vow of chastity, who contract civil matrimony, incur an excommunication reserved to the ordinary.[1631]

c. Clerics and religious who attempt civil matrimony contract irregularity.[1632]

681. Whether magistrates and witnesses can licitly assist at civil matrimony. a. They can licitly assist as often as the faithful appearing before the civil magistrate intend only to make him certain concerning the matrimony contracted or to be contracted; for they assist at a licit act.

b. If it is established that those about to marry from an evil will do not wish to contract ecclesiastical matrimony and intend only the civil one, nevertheless assistance from a grave cause is licit. For to assist as an authorizable witness at an act evil in its own nature is not evil; otherwise neither could the parish priest assist at the matrimony of those who contract sacrilegiously.[1633]

Causes which can render the cooperation of a magistrate licit do not indeed avail for witnesses; yet sometimes there will be other causes which also make honorable the cooperation of witnesses, such as fear of grave offense of relatives, hope of afterward bringing those civilly joined to celebrate matrimony in the face of the Church, and similar things, especially in great cities, where civil marriages are done more often and move minds little.[1634]

c. There is greater difficulty if a spouse joined in valid matrimony, having obtained a sentence of civil divorce while the partner is still living, attempts to enter civil matrimony. But the assistance of the syndic does not seem to be intrinsically evil even in this case, and therefore it seems to be licit from a most grave cause, especially one of avoiding harm.[1635]

Authors who say that assistance in this case is intrinsically evil argue thus: alpha. an injury is done to the matrimony already existing; beta. the effects of true matrimony are attributed to those about to marry who are

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Notes

1631. Const. *Apostolicae sedis* III, 1; Cn. 2388, 2.

1632. Cn. 985, 3.

1633. Cf. Gasparri II, n. 1230, who, pressing the footsteps of St. Alphonsus, defends this opinion.

1634. Genicot II, 508.

1635. Cf. Gasparri II, 1231; Genicot II, n. 562; Lehmkuhl II, n. 725, (n. 952) note.

not capable of them; gamma. several responses of the Roman congregations declare this assistance altogether illicit.[1636]

For the other opinion these things can be adduced: alpha. That injury is inflicted on the prior matrimony only demonstrates that the sin of those contracting civilly in this case is greater, and therefore that a graver cause is required for making honorable the cooperation of the syndic. beta. The formality of civil matrimony is in itself indifferent, provided the syndic declares that it has no value before the Church and in conscience; for the syndic does not attribute civil effects to those about to marry, but performs the formality, upon which having been posited the law considers those about to marry as legitimate spouses and asserts for them the civil rights of true matrimony. gamma. The responses of the congregations do not seem to declare assistance intrinsically evil, but altogether illicit in those particular cases, either because of the scandal of the faithful or because of the defect of a cause making the cooperation honorable.[1637]

Appendix II.

Excommunications.

I. They incur an excommunication reserved to the Apostolic See in a most special manner:

1. Those who have thrown away the consecrated species, or have carried them off or retained them for an evil end (can. 2320).
2. Those who have laid violent hands upon the person of the Roman Pontiff (can. 2343).
3. One absolving or pretending to absolve an accomplice in a base sin; and this even in the article of death, if another priest, though not approved for confession, can hear the confession of the dying person without some grave infamy and scandal arising, except in the case in which the dying person refuses to confess to another.

The same excommunication is not escaped by one absolving or pretending to absolve an accomplice who indeed does not confess the sin of complicity, from which he has not yet been absolved, but therefore acts in this way because he has been induced to this by the accomplice-confessor either directly or indirectly (cn. 2367).

4. A confessor who has presumed directly to violate the sacramental seal (cn. 2369).

II. They incur an excommunication reserved to the Apostolic See in a special manner:

1. All apostates from the Christian faith, and all and individual heretics or schismatics (cn. 2314).
2. One suspected of heresy, who, having been admonished, does not remove the cause of suspicion and suffers in vain the penalties therefore to be inflicted, if within six completed months from the contracted penalty he has not yet corrected himself, is to be held as a heretic, subject to the penalties of heretics (cn. 2315).

According to the new law, the following become suspected of heresy:

a. Those who in any way spontaneously and knowingly aid the propagation of heresy.

b. Those who communicate in divine things with heretics (having an active part in their sacred rites).

c. Those who enter matrimony with an implicit or explicit pact that some offspring be educated outside the Catholic Church.

Notes

1636. Ballerini-Palmieri VI, n. 530 s.

1637. Cf. Schnitzer, p. 78 ff.; Gennari, *Consultazione* etc. (Rome, *Monitore eccles.* 1902) I, cons. 41.

d. Those who knowingly presume to offer their children to non-Catholic ministers to be baptized.

e. Parents or those holding their place, who knowingly hand over children to be educated or instructed in a non-Catholic religion.

f. One who has thrown away the consecrated species, or has carried them off or retained them for an evil end.

g. Those appealing from the laws or mandates and decrees of the Roman Pontiff to a universal Council.

h. One who with an obstinate mind has remained for a year in excommunication.

i. All, even those of episcopal dignity, who through simony knowingly have promoted to orders or have been promoted, or have administered or received other sacraments.

3. Publishers of books of apostates, heretics, and schismatics which defend apostasy, heresy, schism, after the work has been made of public right; likewise those defending the same books or others forbidden by name through apostolic letters, or knowingly reading or retaining them without due license (cn. 2318).

4. All and individual persons, of whatever state, grade, or condition, even royal, episcopal, or cardinalitial, who appeal from the laws, decrees, and mandates of the Roman Pontiff existing for the time to a universal council (cn. 2332).

5. Those having recourse to the lay power in order to impede letters or any acts whatever proceeding from the Apostolic See or from its legates, or those directly or indirectly prohibiting their promulgation or execution, or on their account harming or terrifying either those to whom the letters or acts pertain, or others (cn. 2333).

Thus you have three classes of those who are subject to this censure:

a. those having recourse to the lay power;

b. those prohibiting promulgation or execution;

c. those harming or terrifying anyone at all on account of those acts.

6. Those who publish laws, mandates, or decrees against the liberty or rights of the Church.

Those who directly or indirectly impede the exercise of ecclesiastical jurisdiction, whether of the internal or external forum, having recourse for this to any lay power (cn. 2334).

7. If anyone has dared to draw before a lay judge any of the cardinals or legates of the Apostolic See, or the major officials of the Roman Curia on account of business pertaining to their office, or his own ordinary, without the permission of the Apostolic See (cn. 2341, 120).

8. Those who have laid violent hands upon a cardinal or legate of the Roman Pontiff, upon a Patriarch, Archbishop, Bishop, even titular only (cn. 2343).

9. One not promoted to the priestly order, who has simulated the celebration of Mass or heard sacramental confession (cn. 2322).

10. Those usurping or detaining, by themselves or through others, goods or rights pertaining to the Roman Church (cn. 2345).

11. All fabricators or falsifiers of letters, decrees, or rescripts of the Apostolic See, or those knowingly using the same letters, decrees, or rescripts (cn. 2369).

12. If anyone by himself or through others has falsely denounced a confessor before superiors for the crime of solicitation . . . nor can he be absolved in any case unless he has formally retracted the false denunciation and, according to his powers, repaired the harms, if any have followed from it, with a grave and long penance imposed besides (cn. 2363).

III. They incur an excommunication simply reserved to the Apostolic See:

1. Those giving their name to the Masonic sect or to other associations of the same kind which plot against the Church or legitimate civil powers (can. 2335).

Clerics and religious giving their name to a sect or association of this kind must furthermore be denounced to the Sacred Congregation of the Holy Office (cn. 2336).

2. Those presuming without due faculty to absolve from an excommunication latae sententiae reserved to the Apostolic See in a most special or special manner (can. 2338, 1).
3. Those furnishing any aid or favor to an excommunicated person to be avoided in the delict on account of which he was excommunicated; likewise clerics knowingly and spontaneously communicating with the same person in divine things and receiving him in divine offices (cn. 2338, 2).
4. If anyone has dared to draw before a lay judge another's bishop (not his own), even merely titular, or an abbot or prelate nullius, or any of the major superiors of religions of pontifical right, on account of business pertaining to their office, without permission of the Apostolic See (cn. 120).
5. Violators of the cloister of nuns, of whatever kind, condition, or sex they are, by entering their monasteries without legitimate license; and likewise those introducing or admitting them.

Women violating the cloister of male regulars, and superiors and others, whoever they may be, introducing or admitting them of whatever age (cn. 2342).

Nuns illegitimately leaving the cloister even for a brief time, on whatever pretext, without special indult of the Holy See, except in the case of imminent danger of death or of another most grave evil. This danger, if time permits, must be recognized in writing by the local ordinary (cn. 2342, 3, 601).

6. If anyone has presumed, by himself or through others, to convert and usurp for his own uses ecclesiastical goods of any kind, whether movable or immovable, whether corporeal or incorporeal, or to impede the fruits or revenues from the same from being received by those to whom they belong by right, he is subject to excommunication until he has fully restored the goods, has removed the aforesaid impediment, and has then obtained absolution from the Apostolic See (cn. 2346).
7. Those perpetrating a duel, or simply provoking another to it or accepting it, or furnishing any assistance or favor, as well as those deliberately watching it and those permitting it or, as far as lies in them, not prohibiting it, of whatever dignity they may be (cn. 2351).
8. Clerics constituted in sacred orders, or regulars or nuns after the solemn vow of chastity, and likewise all presuming to contract matrimony, even civilly only, with any of the aforesaid persons (cn. 2358).
9. Those making profit from indulgences (cn. 2327).
10. Those perpetrating the delict of simony in any ecclesiastical offices, benefices, or dignities (cn. 2392).
11. A vicar capitular or any others, both from the chapter and outsiders, who by themselves or through another have removed or hidden or substantially changed any document pertaining to the episcopal curia (cn. 2405).

IV. They incur an excommunication reserved to the Ordinary:

1. Catholics who enter matrimony before a non-Catholic minister.

2. Those who are united in matrimony with an explicit or implicit pact that all or some offspring be educated outside the Catholic Church.
3. Those who knowingly presume to offer their children to non-Catholic ministers to be baptized.
4. Parents or those holding the place of parents, who knowingly hand over children to be educated or instructed in a non-Catholic religion (cn. 2319).
5. One who makes false relics, or knowingly sells, distributes, or exposes them to the public veneration of the faithful (cn. 2326).
6. One who has laid violent hands upon the person of other clerics (other than the Roman Pontiff, a cardinal or legate of the Roman Pontiff, a patriarch, archbishop, bishop, or even titular bishop), or of religious of either sex (cn. 2343).
7. Those procuring abortion, the effect having followed, the mother not excepted (cn. 2350).
8. Professed of perpetual simple vows, both in orders and in religious congregations, and likewise all presuming to contract matrimony with such persons, even civilly only (cn. 2388, 2).
9. Apostates from a lay or non-exempt religion (cn. 2385).

An apostate from another religion is subject to an excommunication reserved to the major superior of his own religion.

V. They incur an excommunication reserved to no one:

1. Authors and publishers who, without due license, take care that books of sacred Scripture or their annotations or commentaries be printed, after the work has been made of public right (cn. 2318, 2).
2. Those who have dared to command or compel to be handed over to ecclesiastical burial infidels, apostates from the faith, heretics, schismatics, or others either excommunicated by sentence or interdicted (cn. 2339).
3. Those presuming to alienate (and those cooperating or consenting) ecclesiastical goods without apostolic approval, when this is prescribed (cn. 2347).
4. All, shining even with whatever dignity, who in any way compel either a man to embrace the clerical state, or a man or woman to enter religion or to emit profession, whether solemn or simple, whether perpetual or temporary (cn. 2352).
5. A faithful person who knowingly has omitted, within a month, to denounce him by whom he was solicited, is not to be absolved unless after he has satisfied the obligation or has seriously promised that he will satisfy it (cn. 2368, 2).

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