COMPENDIUM OF MORAL THEOLOGY

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II

Treatises XI-XXI

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Treatise XI. On Sacraments in General

Chapter I. On the Nature and Division of the Sacraments

A Sacrament is a sensible sign, permanently instituted by Christ for signifying and conferring grace. Hence three things are necessarily required in every sacrament, namely the sensibility of the sign, divine institution, and the force of producing grace promised by Christ.

All sacraments are perfected by three things: 1st. by things as matter; 2nd. by words as form; 3rd. by the person of the Minister confecting the sacrament with the intention of doing what the Church does.

Besides habitual grace common to all, the sacraments also produce grace which is called sacramental, and which is nothing else than habitual grace itself with the connotation of helps for obtaining the special end for which each sacrament was instituted, if due conditions are not lacking.

The sacraments operate *ex opere operato*, that is, by force of the sacramental action independently of the work of the one operating, namely of the Minister and of the subject of the sacraments. Hence they are essentially distinguished from sacramentals, which are certain sacred things or actions instituted by the Church, as are holy water, blessings, etc.

Sacraments are distinguished thus according to various properties:

1st. Necessary or not necessary; the first are either necessary by necessity of means or necessary by necessity of precept. Necessary by necessity of means, in reality or in vow, at least implicit, are Baptism, which is the gate of the Church and of the kingdom of heaven, and Penance for those who have fallen into mortal sin after Baptism; necessary by necessity of precept are all the rest, excepting Order and Matrimony, which are not necessary for private individuals but only for the community.

2nd. Those imprinting or not imprinting a character in the soul. Baptism, Confirmation, and Order imprint a character; the rest do not imprint one.

3rd. Sacraments of the dead or of the living, according as by force of their institution they first confer sanctifying grace, as are Baptism and Penance, or suppose it and only increase it, as must be held concerning the other sacraments.

Questions

Question 1. Can sacraments of the dead ever confer second grace?

Resp. Affirmatively, and indeed in a twofold case: 1st. when only venial sins or mortal sins already remitted are subjected to the keys; 2nd. when a penitent, guilty of mortal sin, approaches the Sacrament of Penance with perfect contrition, or when an adult, likewise perfectly contrite, receives Baptism, because perfect contrition with only the vow of the Sacrament of Penance or of Baptism justifies a man.

Question 2. Can sacraments of the living sometimes be able to confer first grace?

Resp. Affirmatively, more probably, not indeed through themselves, as is plain from their institution, but accidentally; for it can happen that someone guilty of mortal sin, unaware of this, approaches a sacrament of the living in good faith, attrite; moreover in these circumstances a sacrament of the

living pours grace into the soul and therefore destroys sin. For sacraments always confer grace on those not placing an obstacle; but an obstacle is not placed by him who approaches attrite in good faith. Cf. St. Thomas, 3, q. 71, art. 7, ad 2; and q. 79, art. 3. - St. Alphonsus, n. 268. - De Augustinis, *de Sacram. in genere*, Thesis 19, p. 272.

Question 3. What are the effects of sacramental grace proper to each sacrament, besides sanctifying grace common to all?

Resp. 1st. The effect of the grace of Baptism is to remit every fault and penalty of fault, to illumine the mind, to diminish concupiscence, and to make the soul fruitful unto Christian works. But this habitual grace brings to the baptized person a right of obtaining helps by which he may happily attain these effects.

2nd. The effect of the grace of Confirmation is strength for constantly professing the faith, where there shall be need, and for defending it when opportunity is given. And therefore it brings to the soul a right to helps by which it may furnish this.

3rd. The effect of the grace of the Eucharist is to nourish spiritual life, to increase the same, to generate a distaste for worldly things, to draw toward union with God, and therefore to bring a right to graces by which communicants may be able to attain all these things.

4th. The effect of the grace of Penance is to remit sins committed after Baptism, and to confer strength for avoiding sins and for persevering in the state of grace, and a right to helps suitable for furnishing these things.

5th. The effect of the grace of Extreme Unction is to take away the remains of sins, to lighten the soul of the sick person, to strengthen confidence, to render the inconveniences of illness less troublesome, indeed even at times to restore health of body where it will have been expedient for the salvation of the soul, to bestow strength for repelling extreme temptations, and to confer a right to helps proportionate to these things.

6th. The effect of the grace of Order is to render the Ministers of Christ fit for sacred ministries, so that they may perform these with due piety, and to confer a right to helps suitable for these things.

7th. The effect of the grace of Matrimony is to restrain disordered concupiscence, to bestow strength for sustaining the burdens of the conjugal state, for preserving conjugal fidelity, and for educating offspring in a Christian manner, and therefore to confer a right to helps necessary for fulfilling these things.

Chapter II. On the Matter and Form of the Sacraments

The matter of the sacraments is a sensible thing, to be determined to the notion of a sacrament by the form. A twofold matter is distinguished, namely remote and proximate. - The former is the sensible thing itself which is employed in the sacrament, or the thing about which the sacramental action is exercised. The latter is the very application or use of the remote matter in the sacramental action.

But the form is the part of the sacrament which determines the matter to signifying, and which regularly consists in words pronounced by the Minister.

I say. - Matter and form are not only absolutely necessary for the validity of a sacrament, but they must also be applied by the same Minister and toward the same subject; and so great a conjunction between both must be present that, according to the moral estimation of men, with the nature of each sacrament considered, one affects the other. The reason for the first is that, if either one is lacking, the sensible sign is no longer had as it was divinely instituted. But the reason for the second is that if one person were to place the matter and another the form, or if indeed the same person were to place both, but while he applied the matter to one subject, he properly directed the form to another, the words of the form would not be verified. Finally the reason for the third is that the form together with the matter must constitute one total sign. - I said with the nature of each sacrament considered, because while in Baptism, for example, such a conjunction is required that the Minister pronouncing the words is morally judged also to wash; in Penance absolution can be deferred long enough, as in judgments a sentence after the examination of the cause; and in Matrimony the consent of one can follow the consent of the other for so long as this consent is judged morally to remain, as in other contracts. - Cf. St. Alphonsus, nn. 8 and 9. - Ballerini, note (b) and (c), p. 129.

You Will Resolve. 1st. Every substantial change, whether in the matter or in the form, invalidates the sacrament. Moreover, that change is called substantial which, if it affects the matter, brings it about that this matter can no longer be said to be the same as that which was determined by Christ; but if it affects the form, the sense of the words is changed into another. Cf. St. Alphonsus, n. 11.

2nd. An accidental change, namely that which is concerned only with the qualities of the matter and form, with the essential nature of the sign being preserved, indeed does not invalidate the sacrament, as is plain of itself, and it induces grave or light sin according as it is or is not notable; in the first case grave irreverence would be committed, and in the other only light irreverence. - Cf. St. Alphonsus, ibid.

3rd. When a prudent doubt has arisen concerning the validity either of the matter or of the form, the sacrament can be repeated under condition, indeed also must be, if charity, justice, or religion postulates it. For although repetition made without just cause inflicts injury upon the sacrament, nevertheless, while doubt stands, provision is made for the holiness of the rite by the addition of the condition and for the necessity of the faithful by repetition. The reason is deduced from the very well-known axiom: Sacraments are for men. Cf. St. Alphonsus, nn. 27 and seq.

4th. But if a prudent doubt exists whether the Sacraments of Baptism, Confirmation, and Order were truly or validly conferred, they are to be conferred again under condition. - Cf. Can. 732. Indeed the

more necessary sacraments, and those which are conferred only once, namely Baptism and Order, are more readily to be repeated, even if a much greater probability militates for the value of the sacrament against doubtful or slenderly probable reasons to the contrary. - Cf. St. Alphonsus, ibid. - Lehmkuhl, nn. 16 and seq.

Chapter III. On the Minister or on the Conferral of the Sacraments

Article I. On the Attention and Intention of the Minister

Attention is an act of the intellect, namely the application of the mind to those things which are being done, and it is distinguished as twofold: for one is internal, which is the very advertence of the mind to that which is being done, and another is external, which consists in this, that every external action physically incompatible with internal attention be excluded.

But intention is an act of the will tending toward some end, and it is chiefly divided: 1st. into internal and external, according as some true act of the will exists or only an external action; 2nd. into actual, virtual, habitual, and interpretative, according as the force and quantity of the tendency of the will is diverse according to those things which have been said in the treatise on human acts under n. 5.

I say 1st. Although for the licit conferral of the sacraments so great an attention is required that every voluntary distraction be absent, nevertheless for their validity only that attention is required and suffices which is found in every truly human act. The reason for the first is taken from the reverence owed to the sacrament and from the obligation of avoiding the danger of error. But the reason for the second is that, on the one hand, the Minister of the sacraments must act as a rational being, and on the other, if the act is supposed to be truly human, the agent is already truly judged to act morally, which certainly suffices for the notion of ministry. Hence a Minister even distracted, or thinking at the same time about other business, validly confers sacraments, but he is not without fault, although ordinarily only venial fault, unless he exposes himself to the danger of gravely erring, or, according to the more common opinion, unless there is question of the confection of the Eucharist. - Cf. St. Alphonsus, nn. 11 and 14. - Lacroix, lib. 6, part 2, n. 443.

I say 2nd. Actual intention, although best and desirable, nevertheless is not required for the valid conferral of a sacrament, because sometimes it is morally impossible; but virtual intention is required and suffices. It is indeed required, because otherwise a human act could be present by force of habitual or interpretative intention, which surely is repugnant; it suffices, however, because once the virtual influx of the will upon the action of the Minister has been posited, this can and must truly be called human and deliberate. - Cf. St. Alphonsus, n. 16. - De Augustinis, Thesis 17, p. 222.

I say 3rd. § 1. Since all the Sacraments of the New Law, instituted by Christ Our Lord, are the principal means of sanctification and salvation, the greatest diligence and reverence must be employed in administering and receiving them opportunely and rightly (Can. 731).

Questions

Question 1. Does only external intention suffice for validly conferring a sacrament?

Resp. Negatively, because although an intention of confecting the sacrament, or of doing what the Roman Church does, is not properly required in the Minister, nevertheless there is required in him the intention of doing what the Church does, and consequently that his action be determined to a sacred rite; but this cannot be done without some internal intention. Besides, it is clear from proposition 28 condemned by Alexander VIII, which is as follows: "Baptism conferred by a Minister

who observes every external rite and the form of baptizing is valid, but inwardly in his heart resolves with himself: I do not intend to do what the Church does." Moreover, even if the opinion of Catharinus, which is here rejected, enjoyed some probability, it could be of no use in the administration of the sacraments. Cf. St. Alphonsus, nn. 21, 22 and 23. - De Augustinis, Thesis 17, p. 228.

Question 2. Is a sacrament valid when conferred with conditioned intention?

Resp. Negatively, if the condition placed is concerning the future; because then, by suspending the intention of the Minister, it prevents the form from being applied here and now to the matter; nor can it afterward be applied, when the condition has been verified, since the matter and form have already ceased to be present. - Except, however, the Sacrament of Matrimony, as will be said in its own place. - But if the condition is concerning the past or concerning the present, and in reality this condition exists, any sacrament whatever will be valid. - Cf. St. Alphonsus, n. 26.

Question 3. Is the conferral of the sacraments with conditioned intention licit, in doubt whether they have been validly conferred?

Resp. Affirmatively, if a sufficient cause is present for placing the condition. The reason is that sacraments are for men, and by conditioned conferral provision is made, insofar as can be done, both for the good of those who receive the sacrament, if perhaps they are capable of it, and also for the reverence of the sacrament. But it is certain that in extreme necessity, where no matter is present except doubtful matter, the Minister not only can, but also is bound under grave obligation to minister the sacrament under condition. - Cf. St. Alphonsus, nn. 27, 28 and 29.

Question 4. Must the condition be expressed in words?

Resp. Negatively, and the reason is that it suffices for reverence toward the sacrament if it is conceived in the mind. Indeed, according to some, it is not even necessary to have the condition explicitly and formally in the mind; but it is enough if it is had implicitly and virtually, as he has it who wishes to hear confessions according to the institution of Christ or the intention of the Church; for thus also the reverence owed to the sacrament is sufficiently preserved. Yet it must be added by mouth where the Rubric prescribes this, as in conditioned Baptism, especially if it is conferred publicly, lest, namely, those standing by believe that Baptism is being repeated absolutely and take scandal. Cf. St. Alphonsus, *Hom. Ap.*, n. 3. - Lacroix, lib. 6, part 1, n. 83. - Gobat, tract. 7, n. 272.

Article II. On the Faith and Probity of the Minister

I say. Although neither faith nor probity, or the state of grace, is required in the Minister for the valid conferral of the sacraments, nevertheless it is required, and indeed under grave obligation, for their licit administration, at least if the Minister has been consecrated for conferring them, and confects them solemnly, namely with the whole rite prescribed by the Church. The reason for the first is taken both from the practice and perpetual tradition of the Church, which never willed those baptized by heretics and wicked Ministers to be rebaptized, and from the Council of Trent, sess. 7, can. 12, *de Sacram. in Genere*, and can. 4, *de Baptismo*. But the reason for the second is that a Minister destitute of faith or stained by mortal sin inflicts grave injury upon God and Christ by treating holy things unworthily and, as much as is in him, contaminating them. - Cf. De Augustinis, Thesis 16, p. 201.

Questions

Question 1. Does a Minister sin gravely who, necessity urging, confers a sacrament in mortal sin, for which he has not been specially ordained or consecrated, or, if indeed he is consecrated, does not act as such or does not minister solemnly?

Resp. Negatively, probably, because the obligation in the Minister of having sanctity does not arise precisely from the very sanctity of Christ and of the sacrament considered in itself, but from the Minister's consecration or deputation for conferring the sacraments. But in the aforesaid cases one acts rather from charity for aiding the necessity of a neighbor than as a deputed Minister. - Cf. St. Thomas, 3, q. 64, art. 6; and in 4, dist. 5, q. 2, art. 2. - Billuart, dissert. 5, art. 4. - St. Alphonsus had taught the negative opinion under n. 34, but afterward in *QQ. Reform.* turned aside to the affirmative. - Cf. Ballerini, note (a) p. 137; and note (a) p. 138.

Question 2. Does a priest or Deacon sin gravely by ministering the Eucharist in mortal sin?

Resp. Affirmatively, according to the more probable opinion which St. Alphonsus holds. The reason is that he inflicts grave injury upon the most holy Eucharist; for although he himself does not act as an efficient cause in confecting the sacrament, nevertheless he is its dispenser, specially consecrated for this, and he performs a ministry which immediately cooperates with the sanctification of the soul. Yet the opinion of Lugo and the Salmanticenses, asserting that in this case only venial sin is committed, seems probable. But a fortiori the opinion of those who hold that to touch or carry the Most Holy Eucharist in mortal sin is not mortal must be judged probable. Cf. St. Alphonsus, n. 35. - Lugo, disp. 8, n. 155. - Salmant., tract. 1, cap. 7, n. 100. - Lacroix, lib. 6, part 1, n. 101. - Ballerini, note (b) p. 138.

Question 3. How many sins does a Minister commit who administers several sacraments in mortal sin, successively indeed, but in one continuous action?

Resp. In the administration of the Eucharist it is easily conceded, even by those who hold that one sins mortally, that only one sin is committed; because the individual distributions must be held as after the manner of one, since they constitute one banquet. But if the discourse is about the administration of Penance, the more common and truer opinion holds that there are several sins, because there are several and distinct judgments. - Nevertheless Card. de Lugo and the Salmanticenses think it probable that one sins only once; and if indeed this is probable, the same, at least from parity, would have to be said of the administration of Baptism and Confirmation. - Cf. St. Alphonsus, nn. 35 and seq. - Lugo, *de Paenit.*, disp. 16, n. 558. - Salmant., *de Censuris*, cap. 1, n. 182. - Ballerini, note (a) p. 140.

Article III. On the Obligation of Ministering the Sacraments

I say. Priests having the care of souls are bound under grave obligation from justice to minister the sacraments to their subjects reasonably asking. For by undertaking the care of souls, they have bound themselves to this by a tacit contract entered into with their subjects, from whom they receive sustenance or at least honor. But others not having the care of souls are not bound from justice to minister the sacraments; sometimes, however, they are bound from charity, namely in a grave necessity of the neighbor. - Cf. St. Alphonsus, n. 58. Cf. Can. 467.

You Will Resolve. 1st. Those having the care of souls sin gravely not only if they deny their ministry without reason, but also if they often show themselves morose and difficult; because thus they deter the faithful from the sacraments, which is the same as if they denied the sacraments.

2nd. Nevertheless, mortal sin is not present, setting aside the case of grave scandal, if they deny the Sacrament of Penance or of the Eucharist to one or another, or to the same one once or again, asking apart from necessity; because the harm can easily be repaired, nor is the subject thereby judged to be gravely unwilling.

3rd. If subjects ask irrationally, there is no sin. Hence the Parish Priest is not bound to spend time every day with a scrupulous person or with little devout persons, since so frequent confession is not expedient for them, nor do they themselves have a strict right to such frequent absolution.

4th. If the Parish Priest has suitable Vicars, he will not be bound so rigorously to hear the confessions of his subjects; yet he must satisfy the faithful who expressly require him by name, unless either he is impeded or the penitents would willingly approach another confessor.

5th. Generally speaking, those who have charge of souls sin gravely who are unwilling to hear the confessions of their subjects except on a few determined days within the month; because they are the cause why the faithful remain long in the state of sin and are kept from receiving the sacraments. - Cf. St. Alphonsus, n. 58 and elsewhere passim.

Question. Are any sacraments, and which ones, to be ministered even with danger of death, whether by those having the care of souls or by others?

Resp. Only two, namely Baptism and Penance. For, on the one hand, the eternal life of the neighbor must be valued more highly than the temporal life of the Minister of the sacraments, and, on the other, only the two aforesaid sacraments are necessary for salvation.

Observe, however, 1st. that those who have the care of souls are bound to expose life not only in extreme necessity, but also in grave necessity, while other Ministers are bound to this only in extreme necessity; 2nd. that this obligation ceases when only a probability of success or necessity is present. - Hence you are not bound to expose your life for baptizing or absolving someone if you probably must perish before you can fulfill it, or if you probably presume that he has been baptized, or is not living in the state of mortal sin, or even can easily provide for himself through an act of perfect contrition. - Cf. St. Alphonsus, n. 58; and *de praec. caritatis*, n. 27.

Article IV. On the Obligation of Denying the Sacraments to the Unworthy

I say. The Minister is bound under grave obligation, speaking in itself, to deny the sacraments to the unworthy, both because the natural law obliges a dispenser to dispense faithfully the goods of the Lord, and because it is the positive will of Christ that the sacraments not be conferred upon the unworthy, according to that saying of Matthew, vii, 6: "Do not give what is holy to dogs, nor cast your pearls before swine." - I said, speaking in itself, because in particular cases one must attend to the following:

1st. To a public sinner, whether asking secretly or publicly, the sacrament must be denied; because there is no reason why an exception should be made to the general rule; indeed grave scandal of the

faithful would follow from the concession of the sacraments. - Cf. St. Thomas, 3, q. 80, art. 6. - St. Alphonsus, n. 44.

§ 1. Those who are publicly unworthy, such as the excommunicated, the interdicted, and the manifestly infamous, are to be kept away from the Eucharist, unless their repentance and amendment are established and they have first satisfied for the public scandal (Can. 855).

2nd. To a secret sinner asking secretly, likewise the sacrament must be denied; because reverence toward it and charity toward the neighbor demand this in these circumstances. - Cf. St. Thomas, ibid. - St. Alphonsus, n. 50.

§ 2. But secret sinners, if they ask secretly and the minister has known them not to be amended, he is to repel; not, however, if they ask publicly and he cannot pass them by without scandal (Can. 855).

3rd. To a truly secret sinner asking publicly, the sacrament is not to be denied. The reason is deduced from the inconveniences which would follow from the denial of the sacrament: for scandals and disturbances would arise in the Church, and especially the faithful, having been brought into suspicion, would withdraw from them lest they be prohibited from the sacraments. - Cf. St. Thomas, ibid. - St. Alphonsus, ibid. - Lehmkuhl, nn. 38 and seq.

4th. § 2. 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 (Can. 731).

Questions

Question 1. Must the sacrament be denied to a sinner asking publicly, but whose crime, although notorious, because namely it can no longer be hidden, nevertheless is not yet properly public; or, if public, is not so where he asks?

Resp. Negatively, at least more probably, because on the one hand those standing by would take no scandal, or no great scandal, from such administration; and on the other, if the sacrament were denied, those inconveniences and harms would arise which come from a denial made to a sinner who is wholly secret. Indeed the same solution must be given if most of those standing by know the crime and it is not yet simply public. Cf. St. Alphonsus, nn. 45 and 46.

Question 2. Is it licit to simulate, or at least to dissimulate, a sacrament, lest it be conferred upon the unworthy?

Before an answer is given, it must be noted beforehand what the simulation of a sacrament is and in what it differs from its dissimulation. Now since simulation in general is, as St. Thomas says, "a lie of deed," or the placing of some sign expressing something contrary to that which is had in the mind, it follows that simulation of a sacrament is nothing other than a fictitious placing of a sacramental action, so that outwardly there does not appear the defect on account of which no sacrament is rendered. But it is called a fictitious placing of a sacramental action when matter and form are placed with the intention of not confecting the sacrament. But if the Minister, in acting thus, directly intends to deceive, then the simulation of the sacrament is called formal; if, however, he is induced to simulate from another motive, for example from grave fear, then it will be only material. But to dissimulate a sacrament is to omit some essential part of it, namely matter or form, whether another

thing is substituted in its place or nothing is substituted; yet in such a way that this omission or substitution can be known outwardly, and this alone is sought, namely to hide the truth. These things having been noted, now to the question:

Resp. Certainly it is never licit to simulate a sacrament, whether there is question of formal simulation or only of material simulation. The reason is both because to simulate a sacrament is properly to lie, and because to act thus is to abuse sacred things and to mock God Himself; and since an abuse of this kind contains grave irreverence toward the sacrament, he who simulates some sacrament can never be excused from mortal sin. Besides, it is clear from proposition 29 condemned by Innocent XI, which is thus stated: "Urgent grave fear is a cause for simulating the administration of the sacraments." But in this condemnation even material simulation is reproved, since it is treated specially in the proposition. - Nevertheless, contempt being set aside and a just cause being added, it is licit to dissimulate a sacrament. The reason is that in dissimulation no injury is done to the sacrament, because no sacramental action is placed, nor is a lie committed, but only the truth is hidden. - Cf. Viva, on the cited proposition. - Scavini, lib. 3, n. 31. - Ballerini, note (a) p. 145. - Haine, vol. 2, p. 331.

You Will Resolve. 1st. A confessor would sin gravely who pronounced the words of absolution without the intention of absolving, even if he did this in order to extricate himself more easily from a penitent who was indisposed and asking insistently for absolution, or even demanding it by very grave threats. - But a confessor does not sin who, in the aforesaid case, would say: "I do not absolve you" . . . pronouncing the particle not so softly that it is not heard by the penitent; although he would act better if he then pronounced other words or prayers than the form of absolution. Recourse is especially to be had to this means as often as, on the one hand, the penitent is indisposed, and, on the other, those standing by can easily notice that he is dismissed without absolution. Cf. St. Alphonsus, n. 59.

2nd. A priest would sin most gravely who in Mass pronounced the consecratory words over bread and wine while excluding the intention of consecrating, both by reason of simulation and by reason of idolatry, by exposing the bread to the public adoration of the faithful. But if the words themselves of consecration are omitted, then, according to some, the sin of simulation would cease, but the most grave sin of idolatry would still remain. And this is the reason why, by Innocent III in cap. *de homine*, 7 *de celebr. Miss.*, it is said that the priest who has fraudulently presumed to simulate that he consecrates sins more gravely than if he celebrated in mortal sin.

3rd. Likewise a priest would sin most gravely who would offer an unconsecrated host as consecrated, even to one knowing and consenting, as sometimes happens to wretched priests with an accomplice, who approaches the sacred table for the sake of preserving reputation. The reason is that thus the unconsecrated host is exposed to the adoration both of those standing by and also of the very one knowingly receiving it, with external reverence, which constitutes external and material idolatry and therefore something intrinsically evil.

4th. According to the common opinion they do not sin, at least gravely, who, either from grave fear unjustly inflicted or with knowledge of a diriment impediment but under urgent necessity, because, for example, all things are prepared, fictitiously contract Matrimony. The reason is that, consent being lacking, the contract itself is lacking, and therefore also the matter and form of the sacrament are lacking, and consequently there can be no true simulation.

Chapter IV. On the Subject or on the Reception of the Sacraments

Article I. On the Requisites for the Valid Reception of the Sacraments

I say. Besides the Sacrament of Baptism, which, since it is the gate of the Church, is prerequired essentially and in all things for the validity of the other sacraments, it must be held that for receiving the sacraments validly some intention is certainly necessary in adults, but that no probity or faith properly so called is required, excepting the Sacrament of Penance. The reason for the first is that it is repugnant for some adult to be sanctified unless in some way he wills it; but whoever validly receives a sacrament is sanctified, at least by right. But the reason for the second is taken from the practice of the Church, which never permitted heretics or wicked men duly baptized and ordained to be baptized or ordained again. Yet I said 1st. in adults, because in infants or those perpetually without the use of reason no intention is required, so that they may validly receive the sacraments of which they are capable, namely Baptism, Confirmation, Order, and the Eucharist, which was formerly ministered to them. The reason is that, on the one hand, they cannot have any intention, and, on the other, it would be unlawful to assert that the Church permits or has permitted an invalid reception of a sacrament. - I said 2nd. some intention, because for most sacraments habitual intention suffices, even sometimes only confused or implicit, considering the nature of each sacrament; for the conferral of the sacraments is a certain donation and benefit, for accepting which habitual intention suffices. - I said 3rd. excepting the Sacrament of Penance, because the matter of this sacrament is the acts themselves of the penitent. - Cf. St. Alphonsus, nn. 80 and seq.

Questions

Question 1. What intention is required in adults for receiving each of the sacraments?

Resp. For validly receiving Baptism in adults, an intention at least habitual is required, which was previously expressed and never retracted. Some, however, say that an implicit will of Baptism suffices, such as would be in him who had the will of doing all things necessary for salvation and nevertheless expressly refused Baptism because through error he thought it not necessary. - For Confirmation, a habitual will suffices, even implicit, or, as St. Alphonsus says, interpretative; wherefore it can be conferred on a dying person deprived of his senses. - For Penance, intention either actual or at least virtual is required; and therefore habitual intention does not suffice. - For Extreme Unction, habitual or implicit, or interpretative, intention suffices, as theologians commonly say, and as is clear from the Roman Ritual, where it is said concerning it: "This sacrament is to be furnished to those deprived of their senses, who previously asked for it or likely would have asked for it." - For Order, certainly in an adult interpretative intention does not suffice, because without explicit will no adult can undertake the most grave obligation of the clerical state. Yet habitual intention seems to suffice. In practice, however, actual or at least virtual intention must be required. - For Matrimony, intention at least virtual is required, because Matrimony is perfected by a contract, for which deliberation and full will are necessary. - Cf. St. Alphonsus, n. 82. - Ballerini, note (a) p. 148.

But no intention is required for the Eucharist, which, since it is a permanent sacrament, is always validly received.

Question 2. Is internal attention required in an adult subject, so that the sacrament may be validly received?

Resp. Negatively, for if attention is not required in the Minister for confecting a sacrament, as is clear from what has been said, a fortiori it is not required in the subject, for less is always required for receiving than for making something. - Hence penitents are sometimes troubled in vain by scruples from the fact that they have suffered distractions while they were being absolved, or that they have been absolved without noticing it. - Cf. Sporer, n. 157.

Article II. On the Requisites for the Licit Reception of the Sacraments

For the licit and fruitful reception of the sacraments, besides the intention of receiving them, the state of grace is prerequired if there is question of sacraments of the living; and if there is question of sacraments of the dead, acts of faith, hope, and sorrow concerning sins are required. - The reason for the first is that the sacraments of the living, from their primary institution by Christ, are ordered not to conferring first grace but second grace, and therefore those who knowingly receive the aforesaid sacraments in the state of mortal sin sin gravely, and indeed more gravely than those who unworthily minister and confect them. But the reason for the second is taken both from the Apostle saying, Hebr. xi, 6: "It is necessary that one approaching God believe that He is, and that He is a rewarder to those seeking Him"; and from the fact that it is repugnant for remission of sins to be given without retraction of them and sorrow. - Cf. St. Alphonsus, n. 86.

Questions

Question 1. Do sacraments received validly but with an obstacle, when this has been removed, revive or produce the graces proper to themselves?

Resp. Affirmatively, although not with the same certainty for all the sacraments. The reason is that it happens only accidentally that they do not produce their proper effects, namely because of the obstacle, and therefore those effects remain as though suspended while the obstacle remains; yet when this has been removed, they must be applied to the soul. This is admitted as certain for the sacraments imprinting a character. According to some, the same probably seems to have to be said of the Sacrament of Penance, and by a stronger reason of the sacraments of Extreme Unction and Matrimony, which cannot be repeated during the same illness or the same marriage. But concerning the Eucharist, this is more probably to be denied. - Cf. St. Alphonsus, nn. 6 and 87.

Question 2. What disposition is required in the subject, so that an unformed sacrament may revive?

Resp. This general rule is commonly established: that disposition is required which was lacking and whose absence caused the obstacle to the effect of the sacrament, or precisely that must be placed which was necessarily required in the reception of the sacrament. Hence, in itself, attrition suffices for the reviviscence of Baptism, and likewise it must be said for Penance, according to those who hold that this sacrament can be given validly but unformed. But perfect contrition is required, or attrition with confession, for the other sacraments, namely for Confirmation, Extreme Unction, Order, and Matrimony. - Cf. Lugo, disp. 9, nn. 50 and seq. - Lacroix, n. 207.

Question 3. Does attrition suffice for unformed Baptism to revive, if the one receiving has afterward committed other grave sins?

Resp. Negatively, because sins committed after Baptism are the necessary matter of the Sacrament of Penance, and therefore they cannot be remitted except through that sacrament, or through perfect contrition with the vow of the Sacrament of Penance included in it. - Cf. Lugo, disp. cit. n. 55. - Lacroix, loc. cit.

Question 4. Is it licit to ask a sacrament from an unworthy Minister?

Resp. It is not licit without cause, because thus without reason an unworthy Minister would be induced to sin gravely. But this is illicit in itself, because charity requires that we impede the sin of a neighbor which we can easily impede. But it is licit if the sacrament cannot easily be asked from another priest, nor can its reception easily be deferred; for no one is bound with great inconvenience to yield from his own right for impeding the free sin of another. Then the one asking the sacrament simply permits the sin, but is not the cause of the sin. But a sufficient cause would be, for example, the Paschal precept to be fulfilled, or if someone otherwise would have to remain long in the state of mortal sin or be deprived of Communion, etc. - Cf. St. Alphonsus, n. 89.

Question 5. Is it licit to ask a sacrament from an excommunicated Minister?

Resp. If the Minister is excommunicated as one to be avoided, it is not licit except in extreme necessity; but if he is tolerated, it will be licit even without grave cause, because the Council of Constance granted absolutely to the faithful that they can communicate with tolerated persons. - Cf. St. Alphonsus, n. 88.

On Ceremonies In The Administration Of The Sacraments

The administration of the sacraments could not be committed to the judgment or devotion of each individual priest; for otherwise both uniformity would be lacking and the very validity of the sacramental action would be exposed to great danger. Wherefore from the time of the Apostles the Church established laws and always willed them to be observed. Paul V willed that these laws, rites, and ceremonies, called customary, be collected in one volume, and he again sanctioned and promulgated them by the Constitution *Apostolicae Sedi*, where he speaks thus: "In which (volume), since we have beheld the received and approved rites of the Catholic Church arranged in their order, we have judged that it should deservedly be published under the name of the Roman Ritual for the public good of the Church of God."

§ 1. In confecting, administering, and receiving the Sacraments, the rites and ceremonies which are prescribed in the ritual books approved by the Church are to be accurately observed.

§ 2. But each one is to follow his own rite, with the prescription of can. 851, § 2, 866, being saved (Can. 733).

Questions

Question 1. Whether in administering the sacraments there is given a true obligation, especially for this region, of observing the ceremonies prescribed in the Roman Ritual?

Resp. Affirmatively, and the reason is that, on the one hand, the laws of the Roman Ritual oblige in conscience, and, on the other, no custom to the contrary can be invoked among us.

The first, namely that the laws of the Roman Ritual oblige in conscience and are not only certain norms usefully to be followed, is proved from the fact that according to the Council of Trent, sess. 7, can. 13, the approved and received rites of the Church, customarily employed in the solemn administration of the sacraments, cannot be omitted without sin. But the Roman Ritual, as Paul V himself bears witness, is nothing other than the collection of the approved and received rites of the Church. Therefore . . . - This argument is set forth at the front of the Roman Ritual as a preface in this way: "That those things which in this book are prescribed from the ancient institutes of the Catholic Church and from the sacred Canons and Decrees of the Supreme Pontiffs, concerning the rites and ceremonies of the sacraments, may be kept with fitting diligence and religion, and faithfully observed everywhere; it is fitting before all things to know and observe that which the Most Holy Tridentine Synod, sess. 7, can. 13, decreed concerning these rites in these words: 'If anyone shall have said that the received and approved rites of the Catholic Church customarily employed in the solemn administration of the sacraments can either be contemned, or be omitted without sin by the Ministers at pleasure, or be changed into other new rites by any Pastor whatsoever of the Churches: let him be anathema.'"

But the other, namely that no custom can be invoked among us against the laws of the Roman Ritual, is clear from the Fathers of Baltimore, Second Plenary Council, who at n. 209 speak thus: "With how great diligence our predecessors labored that the Roman Ritual would be accurately observed everywhere among us, and with how great zeal they took care lest new rites, or rites foreign to the custom of the Holy Roman Church, be introduced, is plain from their several decrees, which we add here and, insofar as there is need, confirm again." - Consult by all means the Second Plenary Council of Baltimore, nn. 209 and seq.

Question 2. What kind of sin is it to omit the ceremonies prescribed in the Roman Ritual for the administration of the sacraments?

Resp. A distinction must be made, for if grave scandal arises and great contempt of religion, the omission will certainly be grave sin. But setting aside this hypothesis, again a distinction must be made: omission in grave matter will be grave, and light in light matter. But what must be judged grave matter and what light should be left rather to the judgment of prudent persons than defined by a certain rule. Nevertheless, it can be said generally that ceremonies instituted on account of sacred signification are graver and are omitted more culpably than those which are for ornament and decorum alone; and in the same proportion, those whose signification is higher are judged graver, especially if with the signification they have some spiritual effect. But from those things which pertain to decorum, the circumstances of prescribed place and time, speaking in itself, are customarily considered grave, because these circumstances greatly regard external ornament and public solemnity and esteem.

Question 3. Who must bless the sacred oils? Can old ones be used? From whom must the parish priest ask for them?

Resp. § 1. The sacred oils which serve for administering certain Sacraments must have been blessed by the Bishop on Thursday in the Lord's Supper next preceding; nor are old ones to be used unless

necessity urges.

§ 2. To blessed oil soon to be deficient let other non-blessed oil of olives be added, even repeatedly, yet in lesser quantity (Can. 734).

The Parish Priest must ask for the sacred oils from his Ordinary and in the church must diligently preserve them under key in safe and decent custody; nor may he keep them at home, unless because of necessity or another reasonable cause, with the permission of the Ordinary being added (Can. 735).

Chapter V. On Sacramentals

"Besides the sacraments properly so called," say the Fathers of Baltimore in the Second Plenary Council, "the Church has other sacred things also, which formerly, indeed, in a broader and less proper sense were also called sacraments, but for many centuries it has come into custom that they be called sacramentals. The origin of the name is from this, that although they are far inferior to the sacraments in power and merits, nevertheless they imitate them in some way by their effects." Now concerning these sacramentals we shall here briefly say three things, namely what they are, how many and which they are, and what effects they produce. - Cf. Konings, nn. 1244 and seq.

I. Sacramentals are things or actions which the Church, in some imitation of the Sacraments, is accustomed to use for obtaining, by her impetration, effects especially spiritual (Can. 1144).

II. Only the Apostolic See can constitute new Sacramentals, or authentically interpret those received, or abolish or change any of them (Can. 1145).

Concerning the number of sacramentals theologians do not agree; for some assign more, others fewer. Yet more commonly they are reduced to six heads, according to the little verse:

Praying, wetted, eating, confessed, giving, blessing.

1st. Praying signifies the daily prayers of the faithful, but especially the Lord's Prayer and the public prayers of the Church, as are those which are made on the days of Rogations.

2nd. Wetted denotes the use of lustral water, which must be traced back to the first centuries of the Church. It also denotes all other anointings which do not constitute some sacrament properly so called.

3rd. Eating expresses the devout eating of blessed bread, which in the ancient Church, when the former fervor of charity was gradually failing, was given to the baptized, and sometimes to catechumens, in place of the Eucharist. This custom is still preserved today in some Churches, where fragments of blessed bread are offered to the faithful within the solemnities of Masses before or after the time of Communion. The aforesaid word also expresses the eating of blessed fruits, especially if they are new, for which a special blessing exists.

4th. Confessed designates the public confession of faults to be made in a general manner by the prescription of the Church, whether in Mass or in reciting the Canonical Hours. It also designates the suppliant and humble striking of the breast, and also the sprinkling of ashes upon the heads of the faithful customarily done on the first day of Lent.

5th. Giving comprehends first of all almsgiving, and secondarily any other work of mercy, whether spiritual or corporal, specially designated by the Church as to be furnished by the faithful in some public calamity or in the Lenten season.

6th. Blessing comprehends first of all all blessings which are ordinarily given either in writing or by voice by the Pope, Bishops, and priests; then those solemn blessings described in the Roman Ritual as to be given to virgins, kings, queens, etc.; and finally blessings of things and animals. Now of these blessings some are papal, or reserved to the Pope, for example, the blessing of Pallia or of the Golden

Rose; others are episcopal, which by right pertain to Bishops alone, such as consecrations of churches, altars, chalices, bells, priestly vestments, altar-cloths, corporals, the first stone of a church or cemetery, the tabernacle, a new cross and images, if however the blessing of the cross and images is done publicly with solemnity; finally others are priestly, namely those which regard priests, with this distinction, however, that every priest can give some, while some can be given only by a Parish Priest or another delegated by him. - I said that some blessings are episcopal by right, but it must be observed that Bishops cannot delegate a simple priest to impart all of them without a pontifical indult.

III. The effects of sacramentals are numbered differently by different persons, but the principal ones are the following two:

1st. The remission of venial sins, not indeed immediately and by force of the sacred rite itself, which pertains only to the sacraments properly so called, but by means of the pious movements of contrition which certainly are customarily excited more easily and more frequently through the use of sacramentals. To this point belong those words of St. Augustine: "This prayer (the Our Father) wholly destroys minimal and daily sins." And elsewhere the same holy Doctor bears witness: "sins without which one does not live here are cleansed by works of mercy and pious prayers."

2nd. The repression and flight of the demon; and this not only by way of impetration but also by way of command. Hence St. Alphonsus admonishes the priest that, when agony is pressing, he should more often sprinkle the sick person with holy water and fortify him with the sign of the cross.

Questions

Question 1. Who is the legitimate minister of Sacramentals?

Resp. The legitimate minister of Sacramentals is a cleric to whom power for this has been conferred and who has not been prohibited by competent ecclesiastical authority from exercising the same (Can. 1146).

§ 1. No one who lacks the episcopal character can validly perform consecrations, unless either by law or by apostolic indult this is permitted to him.

§ 2. But any presbyter can impart blessings, excepting those which are reserved to the Roman Pontiff or to Bishops or to others.

§ 3. A reserved blessing which is given by a presbyter without necessary permission is illicit, but valid, unless the Apostolic See has expressed otherwise in the reservation.

§ 4. Deacons and lectors can validly and licitly give only those blessings which are expressly permitted to them by law (Can. 1147).

Question 2. What rites are to be employed in confecting and administering Sacramentals?

Resp. § 1. In confecting or administering Sacramentals, the rites approved by the Church are to be accurately observed.

§ 2. Consecrations and blessings, whether constitutive or invocative, are invalid if the formula prescribed by the Church has not been employed (Can. 1148).

Question 3. To whom can Sacramentals be conferred?

Resp. Blessings, to be imparted first of all to Catholics, can also be given to catechumens, indeed, unless a prohibition of the Church stands in the way, even to non-Catholics for obtaining the light of faith or, together with it, health of body (Can. 1149).[1]

It is not necessary to add more concerning sacramentals, but it is altogether useful to place before the eyes this most wise admonition of the Fathers of Baltimore:

"Let preachers and rectors of souls take care first of all to explain to the faithful the nature, signification, and right use of these things, and to inculcate them more often. Let them persuade those who rely too much on their own wisdom and talent that these things, although they may seem light and small, are not to be contemned, since they profit not a little for living piously and attaining salvation. But let them again and again admonish the more untaught common people, who are swept away by the contrary error, lest they attribute too much efficacy to the things themselves, nor preserve them with a certain blind and immoderate confidence and pursue them with superstitious veneration, as though they themselves, by themselves, without a pious disposition of mind, could do very much. But let them most sharply rebuke those who have sacred things of this kind, as was the custom among the Heathen, as though in place of amulets, which would keep them immune from the wrath of God and vengeance even when they are involved in the most foul filth of vices." - Cf. Second Plenary Council of Baltimore, n. 350.

[1] Cf. Addenda, p. 1088, n. 9.

Treatise XII. On Baptism

Chapter I. On the Nature, Properties, and Necessity of Baptism

Baptism is defined according to the Roman Catechism: the Sacrament of regeneration through water in the word; and it is the first sacrament of the new law, and most necessary, instituted by Christ for the spiritual regeneration of man.

Thus the new Code:

§ 1. Baptism, the gate and foundation of the Sacraments, necessary for all unto salvation in reality or at least in vow, is not validly conferred except through the washing of true and natural water with the prescribed form of words.

§ 2. When it is ministered with all the rites and ceremonies which are prescribed in the ritual books being observed, it is called solemn; otherwise non-solemn or private (Can. 737).

From Baptism of water, which is called of the stream, there is distinguished Baptism of the Spirit and Baptism of blood, by which Baptism properly so called can be supplied, if the latter is impossible. The former is full conversion to God through contrition or perfect charity, insofar as it contains either an explicit or at least implicit will of receiving Baptism of water, according as the notion of this Baptism is or is not present to the mind of him who is thus converted to God. But the latter is the shedding of blood, or death, endured for the faith or for another Christian virtue. But only Baptism of water is properly called Baptism in reality; Baptism of the Spirit and Baptism of blood are called Baptisms in vow.

The principal effects of Baptism are numbered as three, namely: 1st. the remission of original sin and of actual sins, if there are any, through the infusion of sanctifying grace; 2nd. the total remission of eternal and temporal penalty due to sins; 3rd. the impression of a character, by which the baptized person is marked as a son of God and co-heir of Christ and is rendered incapable of receiving Baptism again. All these things are clear from the Council of Trent, sess. 5, in the decree *de peccato orig.*; and sess. 7, *de Baptismo*; and from the Council of Florence in the decree for the Armenians.

Baptism of water in reality or in vow, as this has been explained, from divine institution is altogether necessary for salvation by necessity of means. This is clear both from the words of Christ, John iii, 5: "Unless someone has been reborn from water and the Holy Spirit, he cannot enter into the kingdom of God"; and from the Council of Trent, sess. 7, can. 6, *de Baptismo*: "If anyone shall have said that Baptism is free, that is, not necessary for salvation, let him be anathema." - Cf. De Augustinis, art. 5, p. 354.

By Baptism a man is constituted in the Church of Christ as a person with all the rights and duties of Christians, unless, as concerns rights, an obstacle stands in the way, impeding the bond of ecclesiastical communion, or a censure imposed by the Church (Can. 87).[1]

[1] Cf. Addenda, p. 1146, n. 119.

Chapter II. On the Matter and Form of Baptism

Article I. On the Matter, Both Remote and Proximate, of Baptism

I say 1st. The valid remote matter of Baptism is only true and natural water; but the licit matter, outside the case of necessity, is only the same water, yet not turbid or foul, and moreover in solemn baptism water blessed for this must be employed. Cf. Can. 757, § 1. The first is clear from the Council of Trent, sess. 7, can. 2, *de Baptismo*, where these things are had: "If anyone shall have said that true and natural water is not of the necessity of Baptism, and therefore shall have twisted to some metaphor the words of Our Lord Jesus Christ: 'Unless someone has been reborn from water and the Holy Spirit,' let him be anathema." But the other is clear from the Roman Ritual and the unanimous consent of theologians. - I said outside the case of necessity, because in danger of death any matter whatever, provided that it is not certainly invalid, can and must be employed under this condition: If this matter is sufficient. - But if he who was baptized with such matter has survived, when an abundance of certainly valid matter is had, he must be baptized again under this condition: If you are not baptized, I baptize you, etc. - But just as, according to St. Alphonsus, even a slight probability concerning the validity of the matter suffices for baptizing under the first condition, so also a slight probability concerning its invalidity suffices for rebaptizing under the other condition. Cf. St. Alphonsus, n. 102; and *Hom. Ap.*, n. 8.

I say 2nd. The proximate matter of Baptism is washing, which can be done in three ways, namely by immersion, sprinkling, and pouring, according to the practice of the different Churches, so that by the moral judgment of men the baptized person is judged to have been washed. This is clear from the words of the form and the perpetual practice of the Church.

I say 3rd. Although baptism can be conferred validly either by pouring, or by immersion, or by sprinkling, nevertheless the first or second manner, or one mixed from both, which is more in use, is to be retained, according to the approved ritual books of the different Churches (Can. 758); so that with a triple washing the head of the one to be baptized is poured over, or he is immersed in the manner of a cross at one and the same time at which the words are pronounced, and the same one is applying the water and pronouncing the words. - Cf. Roman Ritual, Tit. II, c. 1, n. 10.

Questions

Question 1. What is the rule for knowing true and natural water?

Resp. The best rule of all is to have recourse to the common use and estimation of God-fearing men, leaving aside those things which are discussed by naturalists. Hence:

1st. Valid matter is: 1st. water of springs, wells, rivers, the sea, ponds, marshes, lakes; 2nd. water dissolved from ice, snow, or hail, because it preserves the same substance, although it is accidentally changed as to color, taste, or odor; 3rd. sulfurous or mineral water, water collected from vapor, dew, or flowing in rainy weather from a wall, leaves, etc.; 4th. turbid water, mixed with another substance, provided that water is truly and certainly the predominant matter.

2nd. Invalid matter is: 1st. milk, blood, tears, sweat, saliva, spittle, urine; 2nd. wine, oil, beer, thick juice from fat, etc.; 3rd. mud, ink; 4th. snow or ice not yet dissolved, because in this state it is not natural water, although some doubt concerning this, for ice is dissolved by contact, and thus some washing can be had.

3rd. Doubtful matter is: 1st. very thin broth, lye, thin beer, water from dissolved salt; 2nd. moisture flowing from a vine and other plants. - Cf. St. Alphonsus, nn. 103 and seq. - Cretoni, vol. 2, p. 134. - Lehmkuhl, nn. 58 and seq.

Question 2. What must be done in the case in which consecrated water, which is preserved in the baptismal font, appears diminished and foul?

Resp. It must be noted first of all that baptismal water often appears turbid and foul on account of chrism which perhaps has been mixed into it in too great a quantity, but in reality it is not so.

§ 2. If blessed water in the baptistery is so diminished that it seems less than sufficient, other non-blessed water is to be mixed in, even repeatedly, yet in lesser quantity.

§ 3. But if it has become corrupt, or has flowed out, or in any way has failed, the parish priest is to pour fresh water into the font, well cleaned and neat, and bless it by the proper rite prescribed in his liturgical books (Can. 757).

Among us the formula approved for our use is to be employed. - Cf. St. Alphonsus, n. 102. - Second Plenary Council of Baltimore, n. 234. - Cretoni, vol. 2, p. 134. - Excerpts from the Roman Ritual, p. 238, edition 1878.

Question 3. Can a child in the womb of the mother be validly baptized?

Resp. Affirmatively, if he is touched by water by means of some instrument, because an infant enclosed in the womb of the mother is already a wayfaring man. But since some doubt concerning the validity of this Baptism, because such an infant, since he cannot properly be said to have been born, cannot be reborn, therefore it would have to be repeated under condition, and a fortiori if the water does not touch the child immediately.

Concerning this matter the new Code establishes these things:

§ 1. No one enclosed in the womb of the mother is to be baptized until there is probable hope that, once duly brought forth, he can be baptized.

§ 2. If the infant has put forth the head and danger of death is imminent, he is to be baptized on the head; nor afterward, if he escapes alive, is he to be baptized again under condition.

§ 3. If he has put forth another member, he is to be baptized on it under condition, if danger is imminent; but then, if once born he lives, he is again to be baptized under condition.

§ 5. A fetus baptized in the womb, after birth, must be baptized again under condition (Can. 746).

Several physicians, in a case of necessity, are accustomed to baptize infants especially in the womb of the mother with water mixed with corrosive bichloride of mercury (in English, Bichloride of Mercury). This water is composed by a solution of one part of this mercuric chloride in a thousand parts of water, and the mixture is employed lest the uterus be affected by disease. This use is licit

where there is a true danger of disease. Thus from S. C. S. O., 21 Aug. 1901. - Cf. St. Alphonsus, n. 107. - Lehmkuhl, nn. 61 and seq.

Question 4. Is Baptism valid if the water touches only the garments or hair of the one to be baptized?

Resp. If the water touches only the garments, Baptism is certainly invalid; because thus no one would say that a man is washed; but it is more probably valid if the water touches the hair. But in practice the safer part is to be followed. Hence if the one to be baptized has hair, let the priest either part his hair with the fingers of the left hand while he pours water with the right, or baptize him on the forehead. - Cf. St. Alphonsus, n. 107, q. 3.

Question 5. Is Baptism valid when conferred on another part than on the head?

Resp. Affirmatively, more probably, especially if Baptism is conferred on some more principal part, for example, on the breast, shoulders, etc. Nevertheless if necessity has compelled this, afterward, if it can be done, Baptism would have to be repeated under condition. - Cf. St. Alphonsus, n. 107, q. 4.

Question 6. Does one or another drop of water suffice for baptizing?

Resp. Negatively, more probably, especially if the water does not flow, because it cannot be called washing, which is altogether required for Baptism; yet it is doubtful matter, which in a case of necessity would have to be employed. But theologians commonly say that it is certain matter if the one baptizing, by the movement of a wetted finger, were to wash a part of the body. Nevertheless, concerning certain persons baptized after the manner of an anointing on the forehead with the thumb wetted in baptismal water, the Holy Inquisition, 14 Dec. 1898, responded: "Care is to be taken that they be baptized again privately, under condition, with only the matter together with the form being employed, without ceremonies." - Cf. St. Alphonsus, n. 107, q. 6. - Elbel, n. 16.

Question 7. Is triple washing required for Baptism?

Resp. Certainly it is not required for validity; for a single washing suffices that one be judged truly washed. Thus all with St. Thomas, 3, q. 66, art. 8. But it is required for liceity, and indeed under grave obligation, because it is prescribed in the Roman Ritual, although this prescription seems to be understood only of solemn Baptism.

Question 8. What are the causes on account of which conditional Baptism is customarily conferred?

Resp. "For nearly three causes we have found that it has prevailed by the custom of the Church that a condition be employed in conferring Baptism: when it is prudently doubted whether Baptism previously conferred is valid or not; when necessity compels doubtful matter to be employed; when it is doubted whether the subject is capable of Baptism, as in monstrous births, or as in a difficult birth when it is doubted whether the sacrament can be confected by washing that part which alone can be washed; in one word, according to the custom of the Church, a condition is employed in Baptism when there is place for doubting whether something has been lacking or is lacking which is required for the validity of the sacrament." S. C. d. P. Fide, 17 April 1777.

The conditions required for the licit reception of Baptism must be carefully distinguished from those which are necessary for valid reception. . . . "In doubt whether an adult near death has been sufficiently instructed concerning the mysteries of faith and has sufficiently believed them, and in

doubt whether he sincerely repents of his past life, when the necessity of death urges, the sacrament must be ministered to him absolutely without any condition. In doubt whether he truly intends to receive baptism, if after a previous diligent examination there is still doubt concerning this intention, baptism must be conferred under condition, provided that he is capable of baptism." 3 Aug. 1860, Holy Office.

Article II. On the Form of Baptism

I say. The form of Baptism is: I baptize you in the name of the Father and of the Son and of the Holy Spirit. Thus the Council of Trent defined, according to that saying of Matthew xxviii, 19: "Going therefore, teach all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit." - Nor is the addition of the word Amen required, the omission of which St. Alphonsus, with others, had thought to be a venial sin; for, when a doubt had been proposed, the Sacred Congregation of Rites, 9 June 1853, responded: "Strictly in the case let the Roman Ritual be observed," where certainly that word is not found.

Questions

Question 1. Do all and each of the words of the aforesaid form pertain to the essence of the sacrament?

Resp. Negatively, for the omission of the pronoun "ego," at least if the Latin language is employed, is not essential, nor would it exceed venial sin. The same seems more probably to have to be said concerning the omission of the conjunction "et," especially if only once, namely before the second Person, it is omitted. The same also is more probably to be held concerning the preposition "in," although several grave theologians contradict. But the other words are altogether required for validity. - I said if the Latin language is employed; for otherwise it would have to be said if the English, French, or German language were employed, because then, the pronoun having been omitted, the verb by itself alone does not determine the person of the Minister. - Cf. St. Alphonsus, n. 111. - Kenrick, tract. 15, n. 9. - *Analecta Jur. Pont.*, ser. 8, col. 1608. - Lehmkuhl, n. 64.

Question 2. Must the form be judged valid if in place of the word "baptize" there is said in the vernacular language "I christen"?

Resp. Negatively, probably, because by saying "I christen" there is indeed expressed the effect of baptism, which is that someone is aggregated to Christ, but the mode or action by force of which such aggregation is obtained is not expressed; and this indeed seems necessary. - Cf. Lehmkuhl, n. 63. - *Amer. Eccl. Rev.*, vol. 1, p. 137 and seq.

Question 3. Is the form of Baptism valid if it is said: "I baptize you in the name of the Most Holy Trinity"?

Resp. Negatively, at least more probably, because in such a form the individual persons of the Holy Trinity are not expressed distinctly enough; since the word Trinity signifies the persons only confusedly and implicitly; but Christ willed that they be expressed distinctly. - But a fortiori the form would be invalid if it were said "in the name of Christ," because then the Trinity of persons would in no way be expressed. - Cf. St. Thomas, 3, q. 66, art. 6. - St. Alphonsus, nn. 111 and seq.

Question 4. Is Baptism valid if to the accustomed form there is added: "and in the name of the blessed Virgin Mary"?

Resp. A distinction must be made: it is not valid if someone doing this intends to confer Baptism in the name of the blessed Virgin, namely by attributing to such a name true efficacy for the validity of Baptism. But otherwise, if he does it from importunate devotion. - Cf. St. Alphonsus, n. 111.

Chapter III. On the Minister of Baptism

I say 1st. § 1. The ordinary minister of solemn baptism is a priest; but its conferral is reserved to the parish priest or to another priest with the permission of the same parish priest or of the Ordinary of the place, which in a case of necessity is legitimately presumed (Can. 738).

This is clear from the Council of Florence in the Decree of Union, from the Roman Ritual, *de Baptismo*, and from the Second Plenary Council of Baltimore, where at n. 227 it is read thus: "The ordinary Minister of Baptism is the Bishop in his Diocese, the Parish Priest in his Parish. Hence worthy of very grave rebuke are priests who rashly baptize infants offered to them from another parish or diocese, when they could easily have been baptized by their own Pastor. This abuse, already noted by the Sixth Provincial Council of Baltimore, we again condemn and prohibit."

In another's territory it is licit for no one, without due permission, to confer solemn baptism, not even upon inhabitants of his own place (Can. 739).

I say 2nd. Any human being using reason, whether man or woman, whether Catholic or heretic, whether believer or unbeliever, is the extraordinary Minister of Baptism, so that he can always baptize validly and, in necessity, also licitly. The extraordinary minister of solemn baptism is the deacon; yet he is not to use his power without the permission of the local Ordinary or of the parish priest, to be granted for a just cause, which, where necessity urges, is legitimately presumed (Can. 741). The first is drawn from the Council of Florence in the Decree of Union and from the universal practice of the Church. But the other is clear from the Roman Pontifical, or from the Instruction of the Bishop to Deacons while he ordains them. Cf. Second Plenary Council of Baltimore, n. 228.

Where parishes or quasi-parishes have not yet been constituted, account must be taken of particular statutes and received customs, so that it may be clear to which priest, besides the Ordinary, the right of baptizing belongs in the whole territory or in part of it (Can. 740).

You Will Resolve. 1st. Parents sin who, outside the case of necessity, bring their offspring to be baptized by other priests; for by acting thus they violate the right of their own Pastor. Cf. St. Alphonsus, n. 114.

2nd. With permission either express or tacit, or even reasonably presumed, outsiders can be baptized, but then the alms, if any is had, must be remitted to the proper Pastor. - Cf. St. Alphonsus, n. 115.

3rd. § 2. Even a traveler is to be solemnly baptized by his proper parish priest in his own parish, if this can easily and without delay be done; otherwise any parish priest in his own territory can solemnly baptize the traveler (Can. 738).

4th. § 1. Non-solemn Baptism, of which in can. 759, § 1, can be ministered by anyone, with due matter, form, and intention being preserved; but insofar as it can be done, two witnesses, or at least one, are to be employed, by whom the conferral of baptism can be proved (Can. 742).

5th. The order to be observed among the different Ministers of Baptism is thus described in the Roman Ritual: "If . . . a Priest is present, let him be preferred to a Deacon, a Deacon to a Subdeacon, a Cleric to a layman, and a man to a woman, unless for the sake of modesty it is fitting that a woman

rather than a man baptize, or unless the woman knows better the form and manner of baptizing." Tit. II, c. 1, n. 16. - Cf. St. Alphonsus, n. 117. - Lehmkuhl, n. 67.

§ 3. It is not licit for a father or mother to baptize his or her own offspring except in danger of death, when another who may baptize is not at hand (Can. 742).

Let the parish priest take care that the faithful, especially midwives, physicians, and surgeons, thoroughly learn the right manner of baptizing for a case of necessity (Can. 743).

The baptism of adults, where it can conveniently be done, is to be referred to the local Ordinary, so that, if he wills, it may be conferred more solemnly by him or by his delegate (Can. 744).

Chapter IV. On the Subject of Baptism

I say. § 1. The subject capable of baptism is every and only wayfaring man, not yet baptized (Can. 745).

Every one indeed, because on account of the universality of original sin, all need to be regenerated; but only, because the sacraments have been instituted for wayfaring men alone, and to them alone the entrance into the Church lies open. Finally I said not yet baptized, because by force of the character which is imprinted in Baptism, this sacrament can be repeated neither licitly nor validly.

§ 2. When there is question of baptism:

1st. By the name of little ones or infants there come, according to the norm of can. 88, § 3, those who have not yet attained the use of reason, and to these are reckoned those without reason from infancy, established in whatever age;

2nd. But adults are judged to be those who enjoy the use of reason; and this is enough that each one, by his own motion of soul, may ask for baptism and be admitted to it (Can. 745).

You Will Resolve. 1st. Infants are validly baptized.

§ 1. Those without reason and the frenzied are not to be baptized, unless they were such from birth or before having attained the use of reason; and then they are to be baptized as infants.

§ 2. But if they have lucid intervals, while they are in possession of their mind, they are to be baptized, if they wish.

§ 3. They are also to be baptized when danger of death is imminent, if, before they became insane, they showed the desire of receiving baptism (Can. 754).

Indeed, when it is not plainly established that they did not ask for Baptism, more safely they can be baptized under condition, because according to many, as was said above, it is enough that someone had the will of receiving all things necessary for salvation.

2nd. If it is doubtful whether an infant lives, he is to be baptized under condition. Care must be taken that all aborted fetuses, at whatever time brought forth, if they certainly live, are baptized absolutely; if doubtfully, under condition (Can. 747); especially since today the opinion commonly received by experts is in force, that the fetus is informed by a soul from the beginning of conception. Wherefore physicians, midwives, and mothers are to be admonished, with prudence however, concerning an obligation of this kind. But this is not to be understood in such a way that Baptism can be given even then when not even the first outlines of human life appear. But concerning the manner of baptizing such a fetus Capellmann hands down these things: "For those who are very little or not sufficiently skilled in these matters, the most useful and most certain counsel will be that they confer baptism by immersion, and indeed in such a way that they break open the membranes in or under the water, and, with these having been broken, immediately pronounce the form of baptism: If you live, I, etc. Therefore take hold of some fold of the membrane with the thumb and index finger of each hand and break it open in such a way that the matter of the ovum flows out, that is, so that the baptismal water washes the whole matter of the ovum. But if it is done thus, the access of the approaching air

to the embryo, which some so greatly fear, will also be avoided." *Medicina Pastoralis*, p. 112, note. Lehmkuhl adds to these things, n. 74: "But so that you may act more safely, while saying the form both immerse the fetus into the water and draw it out from it." - Cf. O'Kane, n. 211. - Ballerini, note (a) p. 160. - Lehmkuhl, n. 74.

Indeed, all recently born infants, although commonly believed dead, are to be baptized without delay under the condition: if you live, unless they are already corrupted and putrefied. For it frequently happens that such infants, seized by asphyxia and apparently dead, in reality live within. This is clear from the fact that these very often, with suitable remedies having been employed, have manifested undoubted signs of life several hours after birth have elapsed. Hence those standing by are bound to provide for their eternal salvation through baptism; physicians are bound to employ every care that newborns may be brought back to life; finally parish priests are bound to instruct the faithful concerning the grave obligation of baptizing them, unless signs of advanced putrefaction appear. - Cf. Gury-Ferreres, n. 249 bis, Scholion. - Eschbach, *Disput. Physiol. Theologicae*, p. 318. - Antonelli, *Medicina Pastoralis*, vol. 2, nn. 598 and seq. - But especially Ferreres, *La muerte real y la muerte apparente*, nn. 23-33. - *Amer. Eccl. Rev.*, vol. 33, p. 273 and seq.

3rd. He is validly baptized whom the Minister thinks to be another; indeed even if it is a female whom he thinks to be male; because he intends to baptize the one present and not another.

4th. Several persons are validly baptized at once with this form: I baptize you, etc., provided that they are washed at the same time. But outside the case of necessity this is illicit.

5th. Monsters and prodigies are always to be baptized at least under condition; but in doubt whether they are one or several human beings, one is to be baptized absolutely, the others under condition[1] (Can. 748).

6th. § 4. If a pregnant mother has died, the fetus extracted by those to whom it pertains, if it certainly lives, is to be baptized absolutely; if doubtfully, under condition (Can. 746).

[1] Cf. Addenda, p. 1141, n. 102.

Questions

Question 1. Whether and when can the children of unbelievers not yet having the use of reason licitly be baptized, against the will of the parents?

Resp. Generally speaking, it is not licit to baptize them, both because the natural right of parents would be violated, and because they would be exposed to the danger of perversion, and consequently injury would be done to the sacrament, and finally because it is repugnant to the practice of the Church. And this is the doctrine of St. Thomas, who, 3, q. 68, art. 10, says: "According to natural right, they (children of this kind) are under the care of the parents as long as they cannot provide for themselves . . . and therefore it would be against natural justice if such children, against the will of the parents, were baptized: just as also if someone having the use of reason were baptized unwillingly. It would also be dangerous to baptize children of unbelievers in such a way, because they would easily return to unbelief on account of natural affection for their parents. And therefore the Church does not have this custom, that the children of unbelievers, against the will of the parents, be baptized."

Yet I said 1st. generally speaking, because it is licit in the following cases: 1st. if they are in danger of death, not any danger whatever, but certain or proximate; 2nd. if, justly or unjustly placed outside the care of the parents, there is no fear that they will return to them; 3rd. if it is already known that they will be perpetually without the use of reason; 4th. if one of the parents consents, or if, the father being dead, the paternal grandfather consents, the mother being opposed. - I said 2nd. it is not licit, because concerning validity there never was or can be any question. - I said 3rd. not yet having the use of reason, for those who certainly have it can, indeed if they ask and are sufficiently instructed, must be baptized, with necessary prudence nevertheless being employed. But if there is doubt concerning the use of reason, then according to St. Alphonsus, Benedict XIV, and others, Baptism must be deferred before the seventh year, until it is established concerning the use of reason. The Code establishes the following:

§ 1. The infant of unbelievers, even against the will of the parents, is licitly baptized when he is in such danger of life that it is prudently foreseen that he will die before he attains the use of reason.

§ 2. Outside danger of death, provided that provision has been made for his Catholic education, he is licitly baptized:

1st. If the parents or tutors, or at least one of them, consent;

2nd. If the parents, that is, father, mother, grandfather, grandmother, or tutors are lacking, or have lost their right over him, or can in no way exercise it (Can. 750).

Question 2. Must the same be said concerning the children of heretics among us?

Resp. Affirmatively. That the Church has the right of compelling heretics to furnish the necessary means of salvation to their children, and therefore that they not only procure valid baptism for them but also permit a suitable education to be given, is a certain matter and admitted by all Catholics. But the present question, which entirely regards fact, is not solved from the admission of that right but only from this: namely, whether that right can be actuated. For where the Church cannot execute a right of this kind, "the same seems to have to be said in that case concerning a heretic and any other unbeliever, if there is the same moral danger." S. C. de P. F., 17 April 1777. Thus the Ecclesiastical law defines the matter:

Concerning the baptism of infants of two heretics or schismatics, or of two Catholics who have fallen into apostasy or heresy or schism, generally the norms established in the preceding canon are to be observed (Can. 751). - Cf. St. Alphonsus, loc. cit. - Kenrick, n. 28. - The cited Instruction in Cretoni. - *Amer. Eccl. Rev.*, vol. 1, p. 185 and seq.

Question 3. What must be done when non-Catholic parents offer their own infants to a priest that they may be baptized by him?

Resp. A distinction must be made; for either they ask for the priestly ministry because they wish the offspring to be educated as Catholic; or they do this only for the sake of opportunity or another temporal advantage, without any hope of future Catholic education. If the first, it is licit to confer Baptism, with safeguards nevertheless being employed for averting non-Catholic instruction; if the other, we think it is not licit on account of the danger of perversion. - I recently said without any hope of future Catholic education; for hope must be so much the principle of the solution of all similar cases that as often as it is prudently judged to be present, so often Baptism can be given.

Wherefore the Congregation of the Holy Office thus responded for the Diocese of Bardstown (today Louisville) on 13 Sept. 1827: "The Sacred Congregation maturely weighed all the circumstances in which it was set forth that those regions were placed, and the reasons brought forward, and, all things having been weighed, judges that this rule must not be departed from in practice; that infants of heretics offered by their parents are not to be baptized unless a probable hope of their Catholic education shines forth." This same thing was established by the First Provincial Council of Baltimore and solemnly confirmed by the Second Plenary Council of Baltimore. - But if you ask when in fact a probable hope of Catholic education will be present? - the answer is that this depends upon particular circumstances according to the judgment of prudent persons. But it is certainly present when, for example, the parents promise, either both or at least one, that they will embrace the true faith; when they are well disposed concerning it, although they do not wish to embrace it; when they permit a Catholic godmother or godfather to be chosen and to promise specially, etc. - Cf. Second Plenary Council of Baltimore, n. 229. - Kenrick, nn. 29 and 30. - *London Tablet*, year 1882, Oct. 21, p. 659; Nov. 4, p. 738; and Nov. 25, p. 859. - *The Pastor*, vol. 4, p. 342.

Question 4. Are exposed infants to be baptized?

Resp. Affirmatively; exposed and found infants, unless, the matter having been diligently investigated, their baptism is established, are to be baptized under condition (Can. 749). - Cf. St. Alphonsus, n. 135.

Question 5. Must those baptized by heretics be rebaptized?

Resp. It is certain from faith, from Trent, that Baptism conferred by heretics is valid when all things required for the sacrament are employed. But theologians commonly and deservedly think that all children baptized by Protestant ministers are almost always to be rebaptized under condition; because doubt can arise concerning the matter and form applied by such ministers. Wherefore among us, when someone is converted to the true faith, Baptism is almost always repeated, not because the earlier Baptism conferred by heretics is considered invalid in itself, but because, practically speaking, it is almost always rightly judged that something was lacking to it. "As the carelessness and rashness of sects increase day by day," says Kenrick, "the custom was introduced in England, especially from the year 1773, of baptizing any converts whatever under condition, unless it were certainly established concerning Baptism previously validly received. The same has obtained among us." - But since this custom or practice rests upon a presumption of error, and presumption must always yield to truth, it follows that priests are often bound to institute an examination and, once the truth is had, cannot repeat Baptism without sacrilege. - I said often and not always, because although, according to the response of the Sacred Congregation of the Inquisition given on 20 Nov. 1878, that examination must be instituted "in individual cases," nevertheless it would be useless to pursue it when it has become known that the new convert belonged to some sect, for example, the Quakers, among whom no Baptism is conferred; unless, however, someone should wish to say that in cases of this kind the examination consists in a simple interrogation about the sect to which the new convert belonged. Cf. St. Alphonsus, n. 137. - Second Plenary Council of Baltimore, n. 240. - Third Plenary Council of Baltimore, n. 122. - Kenrick, n. 43. - *Revue des sciences ecclés.*, 40, p. 145.

Question 6. How in practice is the examination concerning the validity of received Baptism to be instituted?

Resp. The new convert is to be asked:

1st. Concerning the sect to which he belongs. Now we know:

Oriental heretics and Old Catholics are accustomed to administer Baptism accurately, and therefore a presumption favors them.

Socinians and Quakers confer no Baptism at all today.

Baptists baptize only at adult age, but their Baptism is considered doubtful by some on account of the separation which they place between matter and form, because the latter is pronounced by them before the immersion begins.

Congregationalists, Unitarians, and Universalists regard Baptism as something free, and therefore the presumption is that they do not administer it accurately.

Methodists and Presbyterians are accustomed to give Baptism by sprinkling, and therefore it is reasonably doubted whether the water always touched the skin and flowed.

Episcopalians, if not all, at least most, and especially today, judge that Baptism has no true efficacy, but is a bare rite, and consequently a founded fear is had concerning their skill and care in its administration.

2nd. The new convert must also be asked concerning the region in which he received Baptism from a heretical minister, and concerning the time when he received it. For it is clear that the manner of acting of ministers of the same sect is not everywhere the same, nor is Baptism today conferred by them in the same manner and with the same diligence as fifty years ago. - Cf. *Revue des sciences ecclés.*, vol. 40, pp. 147 and seq. - Konings, n. 1264.

Question 7. When must baptism be conferred?

Resp. Infants are to be baptized as soon as possible; and parish priests and preachers are frequently to remind the faithful concerning this grave obligation of theirs (Can. 770). In the old edition the Roman Ritual, Tit. II, cap. I, n. 15, prescribed thus: "It must be urged that baptism be administered as quickly as possible." Holy Office, 11 Jan. 1899. Concerning the inveterate abuse of deferring the Baptism of children "for weeks, for months, indeed even for years," Leo XIII speaks thus on 22 July 1899: "Surely nothing is more unjust than this evil custom, nothing more contrary to ecclesiastical sanctions: since it . . . brings the eternal salvation of so many souls into manifest danger by inexcusable rashness, . . . certainly deprives them within that time of the ineffable charisms of sanctifying grace; . . . we cannot but from our soul disapprove and execrate so detestable a custom, at once impious toward God and toward men . . ." Therefore the custom of deferring Baptism for children even "for weeks" is detestable, impious, than which nothing is more unjust; this certainly cannot but be a grave sin. What the mind of the Church is in this matter is also plain from the question to be answered by all Bishops in the visitation of the Sacred Thresholds: "Whether parents are generally solicitous that those recently born be washed with baptism within a week; whether there are some who defer too long or prohibit baptism from being ministered?" *De Rationibus Dioecesanis et Visitatione S. Liminum*: S. C. Consist., 31 Dec. 1909. Concerning this matter one must insist in stirring up parents to bring infants as soon as possible that they may be baptized. Certainly to defer it beyond three weeks without cause seems to be grave sin.

Question 8. What must be said concerning the instruction of adults who wish to return to the Church?

Resp. In ordinary cases, and excepting the danger of death, they must be sufficiently instructed concerning the principal mysteries of faith, the Apostles' Creed, the Lord's Prayer, the precepts of the Decalogue and of the Church, the effect of Baptism, and the dispositions necessary for receiving it rightly and holily, the acts of the theological virtues and their motives; they must also be forearmed against the singular dangers to which faith is exposed in their place; they must be taught concerning various grave obligations arising from their past life and their fulfillment; if there have been or are any abuses opposed to the Catholic thing, they must abhor them, or at least exhibit signs of amendment, if any is required. Finally, they are to be exercised and tested for a long time in faith and Christian morals. This time will vary according to the prudence of the parish priest or priest. Nevertheless the time can be restricted when there is question of the elderly or the sick, or of those who have given extraordinary signs of their conversion. Cf. Holy Office, 18 Oct. 1883.

§ 1. An adult is not to be baptized unless knowing and willing and thoroughly instructed; moreover he is to be admonished to grieve for his sins.

§ 2. But in danger of death, if he cannot be instructed more diligently in the principal mysteries of faith, it is enough, for conferring baptism, that he show in some way that he assents to the same and seriously promises that he will observe the commandments of the Christian religion.

§ 3. But if he cannot even ask for baptism, yet either previously or in his present state has manifested in some probable way the intention of receiving it, he is to be baptized under condition; if then he recovers, and doubt concerning the validity of the baptism conferred remains, baptism is again to be conferred under condition (Can. 752).

Or if this alone is known to you, that he has wished to make himself saved, let him be baptized under condition, as not a few theologians, and not of the lowest bench, say; or if among us you come upon a dying person deprived of his senses, concerning whose will here and now you can discover nothing, certainly very many priests would absolve him conditionally; but if the circumstances of your presence persuade you that you are present not without the care of God, I certainly would not dare condemn you, but would rejoice, if, scandal having been removed, you were to baptize such a one under condition; nor would I rebuke you if you did not do it, but would be silent. Cf. by all means the response of the Holy Office, 18 Dec. 1850. Who would not do the same in the same circumstances?

Note: The practice is to be reproved and is altogether illicit of administering baptism under condition to a non-Catholic party who declares that he wishes to remain in heresy, when a doubt concerning the validity of the same sacrament arises. For then this can be done licitly only when the heterodox party shows himself prepared to abjure errors and to return to the bosom of the Catholic Church. Thus Card. Caterini, Secretary of the Sacred Congregation of the Inquisition, 13 April 1878.

Cases which will illustrate the practice are brought forward here with Roman responses.

1st. "We likewise baptized," thus the report from the Vicar Apostolic of the Sandwich Islands, "old persons in danger of death and often deprived of their senses, when we believed it was not without reason that divine providence had led us to them; and when otherwise we had certainty that they had renounced idolatry and had not been enemies of truth, although by ignorance they had not embraced

it in a well explicit manner." The Holy Office, 11 Dec. 1850, responded: "The old persons concerning whom there is question can licitly be baptized, once it is first established that they are constituted in the proximate and morally certain article of death, and that they have antecedently renounced idolatry."

2nd. The Holy Office responds: that the missionary cannot baptize one not believing explicitly in the Lord Jesus Christ, but is bound to instruct him concerning all those things which are necessary by necessity of means according to the capacity of the one to be baptized:

that the missionary is also bound to intimate all the precepts of positive divine law to adult barbarians baptized or to be baptized:

as regards an adult outside danger of death, speaking in itself, the missionary is bound to explain to him the mystery of the Eucharist, unless such a motive to the contrary urges that delay until after baptism be judged expedient by a prudent missionary. As regards a dying person, he is likewise bound, unless either time is not available, or so great a disturbance of mind is foreseen in him that it could distract him from the reception of Baptism. 10 May 1703.

3rd. "An unbeliever who has given his name to a heretical sect of Protestants has obtained some notion of the mysteries of the Most Holy Trinity, Incarnation, and Redemption; but as regards the Catholic faith he seems to be in good faith, either because he has heard nothing about it or because he does not yet sufficiently discern truth from error, since Christ is announced on both sides. But having come to the article of death, he is not baptized by heretics, since these care very little about this; or if perhaps they baptize, they seem to employ an invalid form; for thus in their books they teach to baptize in the vernacular tongue: 'I baptize you in the name of our Father and of the Son and of the Holy Spirit.'"

It is asked: (a) Can such a one be baptized by a Catholic member of the faithful, or even must he be, when, dying, he cannot be instructed concerning Catholic dogma?

(b) Even if he can be instructed in some way, insofar as he is placed in good faith, can he be baptized without being instructed concerning Catholic dogma, if so great a disturbance of mind is feared that he may be distracted from the reception of baptism, and does good faith excuse?

R. to (a) and (b). Affirmatively, provided that it is certainly established concerning the will of receiving baptism, and provided that the catechumen himself adheres, if time is available, to the Apostles' Creed which is recited before him before the conferral of baptism; and let the instruction of feria IV, 1 Aug. 1860, to the Right Reverend Vicar Apostolic of Tche-Kiang, "Explorata res," be given, with this added, that if the catechumen has been baptized invalidly, he is to be baptized absolutely; but if he has been baptized doubtfully, he is to be baptized under condition. Holy Office, 27 Jan. 1892.

4th. Concerning a dying adult: that it is not licit for a missionary to "confer Baptism if he is morally certain that the sick barbarian has not sufficiently understood, according to the measure of his own capacity, the mysteries of the Christian religion, or does not sufficiently believe them, and from the sole motive of not contradicting promises that he will keep the commandments: but if the missionary prudently believes that the sick barbarian, when he says, I believe and I will do, then in reality sufficiently believes and seriously promises that he will observe, he must be baptized. But if the

missionary doubts concerning the aforesaid things, and time is not available for instructing him better, and danger of death is imminent, he must likewise be baptized under condition," the Holy Office responds, 10 May 1703.

5th. Can a savage adult be baptized who in the article of death, either because of brevity of time or because of a defect of ideas and ignorance, not only cannot be instructed concerning the things necessary by necessity of means, but cannot form an act of contrition or attrition for his sins? The Holy Office responded, 18 Sept. 1850: "If he previously gave signs of wishing to be baptized, or in his present state by a nod or in another way has shown the same disposition, that he can be baptized under condition, insofar, however, as the missionary, after all the circumstances of things have been inspected, will have prudently judged thus." Collection, ed. 2, n. 1050; the same response was repeated by the Holy Office, 30 Mar. 1898.

6th. To a dying adult Mohammedan who exists in good faith in his errors, if he still has full advertence, it is not licit to confer Baptism either conditionally or absolutely, by only exhorting him to sorrow and confidence, speaking not at all concerning our mysteries; nor is it licit, whatever advertence he has, by saying nothing to him, since on the one hand it is supposed that contrition is not lacking to him, but on the other it is not prudent to speak with him concerning our mysteries. Finally if he has lost advertence, see the responses of 18 Sept. 1850; 31 Mar. 1898.

7th. Before Baptism is conferred upon an adult, the missionary is bound to explain to him, even though dying, provided that he is not altogether incapable, the mysteries of faith which are necessary by necessity of means, as are especially the mysteries of the Trinity and Incarnation; nor does it suffice if the dying person were to promise that, when he recovers from the illness, he will take care to be instructed so that he may reduce into practice whatever shall have been prescribed to him. Collection, 254. Holy Office, 25 Jan. 1703.

8th. A parish priest or missionary called to a sick or dying person, especially one not baptized or a Protestant, whom he certainly knows to belong to the Freemasons and to be in good faith in the aforesaid secret society, cannot "generically speaking according to the decrees already issued, without any admonition as regards leaving the condemned society, baptize or absolve him: but since according to those things which Albitius has, children and the dying do not abjure, if there is question of those near death and materially or in good faith enrolled in sects condemned by the Holy See, and unless it is foreseen that a special admonition will be profitable, it suffices" that in general they be exhorted to subject themselves sincerely to the authority of the Church and to the commands of the Holy See; then they can be baptized and absolved. But scandal is to be repaired in that better manner in which it can be done, even after death. The Holy Office, 8 July 1874.

9th. § 4. He who suffers from lethargy or phrenesis is to be baptized only when awake and willing; but if danger of death is imminent, the prescription of § 3 is to be observed (Can. 754).[1]

[1] Cf. Addenda, p. 1113, n. 61.

Chapter V. On Sponsors to be Employed in Baptism

I say. § 1. From the most ancient custom of the Church, no one is to be baptized solemnly unless he has, insofar as can be done, his own sponsor (Can. 762).

This law, as is plain, is grave. - Cf. St. Alphonsus, nn. 146 and 154. - Second Plenary Council of Baltimore, n. 231. - Cretoni, vol. 2, note to n. 805.

Questions

Question 1. In private Baptism must a sponsor necessarily be employed?

Resp. § 2. Even in private baptism a sponsor, if he can easily be had, is to be employed; if he was not present, he is to be employed in supplying the ceremonies of baptism, but in this case he contracts no spiritual kinship (Can. 762).

And thus the dispute concerning the necessity of a sponsor in private Baptism is intercepted.

Question 2. In Baptism repeated under condition, is a sponsor necessary?

Resp. § 1. When baptism is repeated under condition, the same sponsor, insofar as can be done, is to be employed who perhaps was present in the former baptism; outside this case, in conditioned baptism a sponsor is not necessary (Can. 763).

Certainly any reasonable cause excuses.

Question 3. Are several sponsors admitted?

Resp. Only one sponsor, although of different sex from the one to be baptized, or at most one man and one woman, are to be employed (Can. 764).

The law seems to us to be grave in the sense that it would be mortal sin to have two men or respectively two women for a girl or for a boy, because spiritual kinship would be multiplied. Perhaps, with some most grave cause urging, the Ordinary having been consulted, it would be licit to employ more than two.

Question 4. What qualities are required that someone be a sponsor?

Resp. In order that someone be a sponsor, it is necessary that:

1st. He be baptized, have attained the use of reason, and have the intention of carrying out that office;

2nd. He belong to no heretical or schismatic sect, nor by condemnatory or declaratory sentence be excommunicated or infamous with infamy of law or excluded from legitimate acts, nor be a cleric deposed or degraded;

3rd. He be neither the father nor mother nor spouse of the one to be baptized;

4th. He be designated by the one to be baptized himself, or by his parents or tutors, or, these being lacking, by the minister;

5th. In the act of baptism, either through himself or through a procurator, he physically hold or touch the one to be baptized, or immediately lift or receive him from the sacred font or from the hands of the one baptizing (Can. 765).[1]

[1] Cf. Addenda, p. 1147, n. 120.

Question 5. What qualities are required that someone be licitly admitted as sponsor?

Resp. But in order that someone be licitly admitted as sponsor, it is necessary that:

1st. He have reached the fourteenth year of his age, unless otherwise for a just cause it seems good to the minister;

2nd. He not be excommunicated because of a notorious delict, or excluded from legitimate acts, or infamous with infamy of law, although no sentence has intervened; nor be interdicted or otherwise publicly criminal or infamous with infamy of fact;

3rd. He know the rudiments of faith;

4th. He be a novice or professed in no religion, unless necessity urges and the express permission of the Superior, at least local, is had;

5th. He not be constituted in sacred orders, unless the express permission of his own Ordinary is added (Can. 766). - Cf. St. Alphonsus, n. 156. - Second Plenary Council of Baltimore, n. 231.

Question 6. What must be done in doubt concerning the qualities of one to be admitted?

Resp. In doubt whether someone can validly or licitly be admitted or not to the office of sponsor, the parish priest, if time is available, is to consult the Ordinary (Can. 767).

In a case of persisting doubt, scandal having been removed if any is present, let him himself admit as sponsor the person concerning whom he doubted. - Cf. St. Alphonsus, n. 156. - Kenrick, n. 47. - O'Kane, n. 232. - Lehmkuhl, n. 71. - *Acta S. Sedis*, vol. 26, p. 448.

Question 7. What are the obligations of a sponsor?

Resp. It belongs to sponsors, from the office undertaken, to have the spiritual child perpetually commended to themselves, and, in those things which regard the instruction of Christian life, to take diligent care that he show himself in his whole life such as by the solemn ceremony they promised he would be (Can. 769).

Question 8. Who contract spiritual kinship?

Resp. From baptism, only the one baptizing and the sponsor contract spiritual kinship with the baptized person (Can. 768).

All other spiritual kinships are excluded from Baptism by this canon: the one baptizing contracts kinship with the baptized person, and the sponsor contracts it with the baptized person; but the one baptizing does not contract it with the sponsor, nor do the sponsors contract it among themselves if there have been two. The new Code resolves certain cases as regards sponsors.

§ 2. Even in private baptism a sponsor, if he can easily be had, is to be employed; if he was not present, he is to be employed in supplying the ceremonies, but in this case he contracts no spiritual kinship (Can. 762).

§ 2. When baptism is repeated under condition, neither the sponsor who was present at the former baptism nor the one who was present at the later contracts spiritual kinship, unless the same sponsor was employed in both baptisms (Can. 763).

Chapter VI. On Ceremonies in the Administration of Baptism

I say. § 1. Baptism is to be conferred solemnly, with the prescription of Can. 759 being saved (Can. 755).

Excepting the case of necessity or of another grave cause, it is mortal sin to omit all the ceremonies of Baptism or some notable one from them, because the matter of the precept is grave, at least by reason of the end. Hence:

1st. It is mortal sin to omit the anointing of chrism or of the oil of catechumens; because these anointings have a special signification, just as the mixing of water into wine in the celebration of Mass.

2nd. It is mortal sin to baptize solemnly with non-consecrated water, because an omission of this kind in the ceremonies of Baptism is reputed very grave. But otherwise it must be said if there is question of private Baptism.

3rd. It is mortal sin to baptize outside the church without necessity or another great inconvenience. - Cf. St. Alphonsus, nn. 141, 142 and seq. - Second Plenary Council of Baltimore, nn. 234 and seq. - Lacroix, n. 263.

4th. § 1. It is fitting both that the priest who is about to baptize adults, and that the adults themselves who are healthy, be fasting.

§ 2. Unless grave and urgent causes stand in the way, the baptized adult is immediately to assist at the Sacrifice of Mass and receive holy Communion (Can. 753).

5th. § 1. In danger of death it is licit to confer baptism privately; and, if it is conferred by a minister who is neither priest nor deacon, only those things are to be placed which are necessary for the validity of baptism; if by a priest or deacon, the ceremonies which follow baptism are also to be observed, if time is present.

§ 2. Outside danger of death, the local Ordinary cannot permit private baptism unless there is question of heretics who at adult age are baptized under condition.

§ 3. But ceremonies which for any reason have been omitted in the conferral of baptism are to be supplied as soon as possible in the church, unless in the case of which in § 2 (Can. 759).

6th. § 1. But in private homes solemn baptism must not be administered, except in these circumstances:

1st. If those to be baptized are children or grandchildren of those who actually hold the supreme rule of peoples or have the right of succeeding to the throne, as often as these have duly requested it;

2nd. If the local Ordinary, according to his prudent judgment and conscience, for a just and reasonable cause, in some extraordinary case, has judged that this is to be granted.

§ 2. In the mentioned cases baptism is to be conferred in the chapel of the home, or at least in another decent place, and with baptismal water blessed in the customary manner (Can. 776).[1]

[1] Cf. Addenda, p. 1127, n. 85.

Questions

Question 1. Can Baptism be conferred in the sacristy, especially where custom so bears?

Resp. Negatively. The proper place for administering solemn Baptism is the baptistery in a church or public oratory (Can. 773).[1]

§ 1. Every parish church, any contrary statute or privilege or custom being revoked and reproved, is to have a baptismal font, with the legitimate cumulative right already acquired for other churches being saved.

§ 2. The local Ordinary can, for the convenience of the faithful, permit or command that a baptismal font be placed also in another church or public oratory within the boundaries of the parish (Can. 774).

If the one to be baptized, because of the distance of places or other circumstances, cannot without grave inconvenience or danger approach or be transferred to the parish church, or to another church which enjoys the right of a font, solemn Baptism can and must be conferred by the parish priest in the nearest church or public oratory within the boundaries of the parish, even though this lacks a baptismal font (Can. 775).

[1] Cf. Addenda, p. 1141, n. 103.

Question 2. How must a priest conduct himself when the little ones to be baptized are very distant from the church?

Resp. Concerning this matter the Fathers of Baltimore establish thus: "Those who live in the country or in villages and small towns where there is no church are to bring infants to the nearer church or station, in which the Holy Sacrifice is customarily done, to be baptized. But if on account of the inclemency of the air, the difficulty of the journey, the poverty of the parents, or other grave causes this cannot be done, then we leave it to the prudence and conscience of the missionary that he baptize them at home with all the ceremonies of the Church." - This last, in some dioceses among us, is limited to the case in which the little ones are distant from the church by a space of three miles. - Cf. Second Plenary Council of Baltimore, n. 237. - Ninth Diocesan Synod of Baltimore, n. xxxviii, p. 39.

Question 3. How must the prohibition of using old chrism, or chrism of another year, be understood?

Resp. It must be taken rigorously when new chrism is had; therefore a priest would sin gravely who, the recent chrism having been disregarded, used old chrism. - Cf. Can. 734, § 1, above n. 650. From the responses of the Sacred Congregation of Rites, 7 Dec. 1844, 13 April 1874, the consecration of baptismal water regularly must be done twice in the year, that is, on Holy Saturday and on the vigil of Pentecost, and indeed with oils blessed on Thursday in the Supper of the Lord. But if the sacred oils cannot be obtained so quickly, on Holy Saturday the parish priest "is to bless the font without the infusion of the sacred oils, which will be done privately at a suitable time; unless he must baptize someone, for then in the solemn blessing let the old oils be infused." S. R. C., 31 Jan. 1896, in Annecy. On the vigil of Pentecost the baptismal font is to be blessed with the new oils. Cf. *Acta S. Sedis*, vol. 28, p. 504. - Lehmkuhl, n. 60. - Génicot, n. 134.

Question 4. Is it licit to employ the vernacular language in the administration of Baptism?

Resp. "Affirmatively, as regards the questions and responses of the godfather or godmother, if the same are first recited by the parish priest in the Latin speech." Thus the Sacred Congregation of Rites, 5 March 1904.

Question 5. Whether it is licit, among us, to use the shorter form established for little ones whenever Baptism is to be conferred upon adults?

Resp. § 2. The local Ordinary can for a grave and reasonable cause grant that the ceremonies prescribed for the baptism of infants be employed in the baptism of adults (Can. 755).

Question 6. Can a priest comply with parents or friends asking that some fabulous or ridiculous name be imposed on the one to be baptized?

Resp. Let parish priests take care that a Christian name be imposed on him who is baptized; but if they cannot obtain this, let them add to the name imposed by the parents the name of some Saint and write both names in the book of the baptized (Can. 761).

Question 7. Must abjuration always be made by new converts and how must one proceed in it?

Resp. Concerning this matter the Instruction of the Congregation of the Holy Office has it thus: "In the conversion of heretics, inquiry must first be made concerning the validity of Baptism received in heresy. Therefore, after a diligent examination has been instituted, if it has been found that no Baptism was conferred or that it was conferred nullly, they will have to be baptized absolutely. But if, the investigation having been completed, a probable doubt concerning the validity of Baptism still remains, then it is repeated under condition, according to the order of the Baptism of Adults. Finally, if it has been established that it was valid, they are to be received only to abjuration or profession of faith. Therefore a threefold method of proceeding is distinguished in reconciling heretics:

I. "If Baptism is conferred absolutely, no abjuration follows, nor absolution, because the sacrament of regeneration washes away all things.

II. "If Baptism is to be repeated under condition, it will be necessary to proceed in this order: 1st. abjuration, or profession of faith; 2nd. conditional Baptism; 3rd. sacramental confession with conditional absolution.

III. "Finally, when Baptism has been judged valid, only the abjuration or profession of faith is received, which absolution from censures follows." - Cf. Excerpts from the Roman Ritual, ed. year 1878, p. 270. - Second Plenary Council of Baltimore, Appendix vii, p. 291. - Third Plenary Council of Baltimore, n. 122. - Kenrick, tract. 15, nn. 33 and seq.

Note. - To certain Ordinaries, very recently, there has been granted for a quinquennium the faculty of using a shorter form in the baptism of adults, and of permitting it to all their presbyters. That formula sounds thus:

Priest: What do you ask from the Church of God?

Resp. Faith.

P. Do you believe in God the Father almighty, Creator of heaven and earth?

R. I believe.

P. Do you also believe in Jesus Christ, etc.?

R. I believe.

P. Do you also believe in the Holy Spirit, etc.?

R. I believe.

P. Do you wish to be baptized, if you have not been validly baptized?

R. I wish.

P. N. N., if you are not baptized, I baptize you in the name of the Father and of the Son and of the Holy Spirit.

Question 8. By what rite must offspring be baptized?

Resp. § 1. Offspring must be baptized by the rite of the parents.

§ 2. If one of the parents belongs to the Latin rite, the other to an eastern rite, the offspring is to be baptized by the rite of the father, unless something else has been provided by special law.

§ 3. If only one is Catholic, the offspring is to be baptized by the rite of this one (Can. 756).

Question 9. Are ceremonies to be supplied in Baptism repeated under condition?

Resp. When baptism is repeated under condition, the ceremonies, if indeed they were omitted in the earlier baptism, are to be supplied, with the prescription of can. 759, § 3, being saved; but if they were employed in the earlier baptism, they can be repeated in the other or omitted (Can. 760).

Question 10. What is the law concerning the inscribing of names, etc., of the baptized?

Resp. § 1. Parish priests must diligently and without any delay enter the names of the baptized, mention having been made of the minister, parents, and sponsors, of the place and day of conferred baptism, in the baptismal book.

§ 2. But where there is question of illegitimate children, the mother's name is to be inserted if her maternity is publicly established, or if she herself of her own accord asks this in writing or before two witnesses; likewise the name of the father, provided that he himself of his own accord requires this from the parish priest either in writing or before two witnesses, or is known from a public authentic document; in the other cases the one born is to be inscribed as the child of an unknown father or of unknown parents (Can. 777).[1]

If baptism was administered neither by the proper parish priest nor in his presence, the minister is to make the proper parish priest by reason of domicile of the baptized person certain concerning the baptism itself conferred as soon as possible (Can. 778).

[1] Cf. Addenda, p. 1106, n. 48.

Question 11. At what time must Baptism be administered?

Resp. Private Baptism, when necessity urges, is to be administered at any time and place (Can. 771).

Even solemn baptism can be administered on any day; yet it is fitting that the baptism of adults, according to the most ancient rite of the Church, be conferred, if it can conveniently be done, on the vigil of Easter and Pentecost, especially in metropolitan or cathedral churches (Can. 772).

Note. - For proving conferred baptism, if prejudice is done to no one, one witness above every exception suffices, or the oath of the baptized person himself, if he received baptism at adult age (Can. 779).

Treatise XIII. On Confirmation

Confirmation is a sacrament of the new law, by which through the anointing of chrism, under a certain form of words, there is given to the baptized the fullness of the Holy Spirit for firmly believing and for intrepidly confessing the faith.

It is indeed clear that Confirmation is truly and properly so called a sacrament and distinct from Baptism; but it is not clear concerning the time in which it was instituted. The more probable opinion is that it was instituted after the resurrection. According to others, Christ instituted the Sacrament of Confirmation at the Last Supper after the institution itself of the Eucharist. - Cf. De Augustinis, Thesis 1, p. 410.

Chapter I. On the Matter and Form of Confirmation

The Sacrament of Confirmation must be conferred through the imposition of hands with the anointing of chrism on the forehead and through the words prescribed in the pontifical books approved by the Church (Can. 780).

Article I. On the Matter of Confirmation

I say. The remote matter of Confirmation is chrism confected from oil of olives and balsam and blessed by the Bishop. But the proximate matter is the anointing of chrism applied to those to be confirmed by the Minister of this sacrament through the imposition of hands. The first is clear from the Council of Florence in the Decree on the Sacraments. But the other is clear from the declaration of Benedict XIV in the encyclical letter *Ex quo primum*, where he has these things: "Therefore let this be said, which is outside controversy: namely, that in the Latin Church the Sacrament of Confirmation is conferred by employing sacred chrism, or oil of olives mixed with balsam and blessed by the Bishop, and by tracing the sign of the cross by the Minister of the sacrament on the forehead of the recipient, while the same Minister utters the words of the form." - Cf. St. Alphonsus, n. 164.

Questions

Question 1. What is required by necessity of the sacrament?

Resp. It is certain that chrism is required, it is certain that episcopal blessing is required, it is certain that the Supreme Pontiffs have granted that in those regions in which the true species of balsam is not found, it is licit to use a certain fragrant juice or liquid which is commonly accepted as true balsam. - Cf. Eugene IV, *Exsultate Deo*; Benedict XIV, Const. *Etsi Pastoralis*, § IV, n. 1; encyclical letter *Ex quo*, n. 52. Thus Canon 781, § 1. The chrism to be employed in the Sacrament of Confirmation must be consecrated by a Bishop, even if the sacrament is ministered by a presbyter, by law or by apostolic indult. - Cf. St. Thomas, 3, q. 72, art. 2. - St. Alphonsus, nn. 126 and seq.

Question 2. How must the anointing be done?

Resp. It must be done with the right thumb of the Bishop in the manner of a cross on the forehead of the confirmed person. Yet the anointing would be valid if it were done with another finger of the Bishop, and even if it were a finger of the left hand, because it would truly be done through the imposition of the episcopal hand. Yet the Bishop would sin who did this without necessity, because he would recede from the practice of the universal Church; although it does not appear that the inversion of the said ceremony reaches grave fault. - Cf. St. Alphonsus, n. 165.

Question 3. Can the anointing validly be done by means of an instrument?

Resp. Negatively, and the reason is that the immediate imposition of the hand of the Minister would be lacking, which from what has been said is altogether required. Hence in the new Code:

§ 2. Let the anointing not be done with some instrument, but with the very hand of the minister duly imposed on the head of the one to be confirmed (Can. 781). - Cf. St. Alphonsus, n. 166.

Article II. On the Form of Confirmation

I say. The form of the Sacrament of Confirmation consists in these words: "I sign you with the sign of the cross, and I confirm you with the chrism of salvation, in the name of the Father and of the Son and of the Holy Spirit"; although not all and each, just as they stand, are required essentially. This is clear both from Eugene IV, in the cited Decree, and from the constant practice and tradition of the Church. - Cf. De Augustinis, Thesis 2, p. 419.

Questions

Question 1. What do the aforesaid words of the form import, or what do they signify?

Resp. Through the words, I sign you with the sign of the cross, it is signified that just as a soldier is accustomed to be adorned with the insignia of his leader, so man through this sacrament is marked outwardly with the cross and inwardly with an invisible character as with the military sign of Christ. Through the words, I confirm you with the chrism of salvation, it is expressed that man through this sacrament, after the manner of an athlete, is anointed outwardly with chrism, but inwardly with the grace and strength of the Holy Spirit. But through the remaining words, in the name of the Father, etc., there is expressed the principal cause conferring the fullness of spiritual strength, which is the Most Holy Trinity; and at the same time the chief mystery of the Christian faith, which is proposed both as to be believed by men in Baptism and as to be held and openly professed in this sacrament. Cf. St. Thomas, 3, q. 72, art. 4. - Second Plenary Council of Baltimore, n. 247.

Question 2. What words of this form are essential?

Resp. For validity the following are altogether essential: 1st. the word I confirm, unless it is supplied by another synonymous word; 2nd. the expression of the Most Holy Trinity, as in Baptism; 3rd. the word you, by which the subject of the sacrament is designated; 4th. the words I sign you with the sign of the cross, and also the words with the chrism of salvation. But to say I strengthen for I confirm, or of sanctification for of salvation, would be only an accidental change. - Cf. St. Alphonsus, n. 168.

Chapter II. On the Minister of Confirmation

I say. § 1. The ordinary minister of confirmation is only a Bishop (Can. 782).

As is openly had in the Council of Trent, Sess. 7, Can. 3, on Confirmation: "If anyone shall have said that the ordinary Minister of holy Confirmation is not only a bishop but any priest whatsoever, let him be anathema." But from the practice of the Church the following things proposed in Can. 782 are plain:

§ 2. The extraordinary minister is a presbyter to whom this faculty has been granted either by common law or by a peculiar indult of the Apostolic See.

§ 3. By the law itself there enjoy this faculty, besides Cardinals of the Holy Roman Church according to the norm of can. 239, § 1, n. 23, an Abbot or Prelate nullius, a Vicar and Prefect Apostolic, who nevertheless cannot validly use it except within the boundaries of their territory and only during their office.

§ 4. A presbyter of the Latin rite to whom, by force of an indult, this faculty belongs validly confers confirmation only upon the faithful of his own rite, unless something else has been expressly provided in the indult.

§ 5. It is unlawful for presbyters of an eastern rite, who enjoy the faculty or privilege of conferring confirmation together with baptism upon infants of their own rite, to minister the same to infants of the Latin rite (Can. 782). - Cf. St. Alphonsus, nn. 163 and 170. - Lehmkuhl, nn. 96 and seq.

Question. When is a Bishop bound to confirm?

Resp. § 1. A Bishop is held by the obligation of conferring this sacrament upon subjects duly and reasonably asking, especially at the time of the visitation of the diocese.

§ 2. A presbyter endowed with apostolic privilege is held by the same obligation toward those in whose favor the faculty has been granted.

§ 3. An Ordinary impeded by a legitimate cause or lacking the power of confirming must, insofar as can be done, provide at least within any five-year period that this sacrament be administered to his subjects.

§ 4. If he has gravely neglected to minister the Sacrament of Confirmation to his subjects through himself or through another, the prescription of can. 274, n. 4 is to be observed (Can. 785).

Chapter III. On the Subject of Confirmation

I say. The subject of the Sacrament of Confirmation is every and only baptized man not yet confirmed, although lacking the use of reason. For Confirmation perfects spiritual life, which is received in Baptism and was instituted for all, as Baptism was. From the practice, however, generally in force in the Church, children who have not yet attained the use of reason are not to be confirmed, unless the legitimate custom of places, which is in force somewhere, bears this, or a grave cause persuades otherwise. Wherefore the Fathers of Baltimore established that the Sacrament of Confirmation is to be administered to no one who is less than seven years old, unless because of peculiar reasons, for example, in danger of death. - Cf. Second Plenary Council of Baltimore, n. 252. - Benedict XIV, *de Synod. dioec.*, lib. 7, cap. 10, n. 8.

Questions

Question 1. Whether, or what kind, is the obligation of receiving the Sacrament of Confirmation?

Resp. Although this sacrament is not of the necessity of means for salvation, nevertheless it is licit for no one, when the occasion has been offered, to neglect it; indeed parish priests are to take care that the faithful approach it at a suitable time (Can. 787).

Is the obligation on account of which it is licit for no one, when the occasion has been offered, to neglect the Sacrament grave or light? To us the obligation of not neglecting it, when the occasion has been offered, seems grave. Thus the Sacred Congregation for the Propagation of the Faith, instruction, 4 May 1774: "For although this Sacrament is not of the necessity of means for salvation, nevertheless without the guilt of grave sin it cannot be rejected and neglected when the occasion of receiving it is present. Now this doctrine, if it is true for all who are Christians everywhere, has place much more in those who dwell in the lands of heretics or pagans, in which persecutions sometimes press upon Catholics. Whence there is need that they be strengthened by the power of the Sevenfold Spirit, etc., etc." And indeed, to neglect the Sacrament "through which, by the supreme benefit of God, the strength of special grace is conferred for constantly professing the Catholic faith even in graver dangers," as Pius IX says in the encyclical letter *Nostis et Nobiscum*, when the occasion of receiving it is offered, is also to neglect the supreme benefit of God, which wholly strengthens us in the spiritual battle against the internal and external enemies of the faith, and which from its institution was born to be the ordinary means of protection and strength in this battle which every Christian man must wage. But to reject, neglect, cast aside such a means, when by extending, as it were, the hand we can obtain it, is without cause to reject the supreme benefit of God, that special armor by which Christians, by the will of Christ, may become most strong. Now this seems to us to have in itself a special malice, and a grave one, of carelessness for salvation. Therefore we judge that Confirmation is not necessary by necessity of means, nor in general is there a grave precept of receiving it, but that there is a grave precept of not neglecting it, when a suitable occasion of receiving it is offered, and therefore in that case also of receiving it; to say nothing of scandal or of the particular necessity of the grace of the Sacrament.

Question 2. What dispositions are required in those to be confirmed?

Resp. For validity there is required the baptismal character, and in an adult some intention, at least that which is called habitual implicit intention. - But for liceity, thus Canon 786: "that someone may licitly and fruitfully be confirmed, he must be constituted in the state of grace and, if he has the use of reason, sufficiently instructed" concerning the rudiments of Christian doctrine, especially those things which are of necessity of means and which regard the Sacraments of Penance and Confirmation.

Question 3. What age is required for receiving Confirmation?

Resp. Although the administration of the Sacrament of Confirmation is fittingly deferred in the Latin Church to about the seventh year of age, nevertheless it can also be conferred before that time, if the infant is constituted in danger of death, or if this seems expedient to the minister for just and grave causes (Can. 788). - Second Plenary Council of Baltimore, n. 252.

Question 4. Are sponsors required in Confirmation, as in Baptism?

Resp. From the most ancient custom of the Church, as in Baptism, so also in Confirmation, a sponsor is to be employed, if he can be had (Can. 793).

§ 1. Let the sponsor present only one to be confirmed or two, unless something else for a just cause seems good to the minister.

§ 2. Likewise let there be one sponsor for each of those to be confirmed (Can. 794).

Question 5. What conditions are required that someone be a sponsor?

Resp. In order that someone be a sponsor, it is necessary that:

1st. He himself also be confirmed, have attained the use of reason, and have the intention of carrying out that office;

2nd. He be enrolled in no heretical or schismatic sect, nor marked by any of the penalties of which in can. 765, n. 2, through a declaratory or condemnatory sentence;

3rd. He be not the father, mother, or spouse of the one to be confirmed;

4th. He be designated by the one to be confirmed or by his parents or tutors, or, if these are lacking or refuse, by the minister or by the parish priest;

5th. In the very act of confirmation, either through himself or through a procurator, he physically touch the one to be confirmed (Can. 795).

Question 6. What is required that someone be licitly a sponsor?

Resp. In order that someone be licitly admitted to the office of sponsor, it is necessary that:

1st. He be other than the sponsor of baptism, unless a reasonable cause, according to the judgment of the minister, persuades otherwise, or confirmation is legitimately conferred immediately after baptism;

2nd. He be of the same sex as the one to be confirmed, unless something else seems good to the minister in particular cases from a reasonable cause;

3rd. Besides these things, the prescriptions of can. 766 are to be observed (Can. 796).

Question 7. Does a sponsor in Confirmation contract spiritual kinship?

Resp. Even from valid confirmation there arises between the confirmed person and the sponsor spiritual kinship, from which the sponsor is held by the obligation of having the confirmed person perpetually commended to himself and of taking care of his Christian education (Can. 797).

Cf. Second Plenary Council of Baltimore, n. 253. Nevertheless, no matrimonial impediment arises from this.

Question 8. To whom can a Bishop and a privileged presbyter confer this Sacrament?

Resp. § 1. A Bishop in his own diocese legitimately ministers this sacrament even to outsiders, unless an express prohibition of their own Ordinary stands in the way.

§ 2. In another diocese he needs the permission of the local Ordinary at least reasonably presumed, unless there is question of his own subjects, to whom he confers confirmation privately and without staff and mitre (Can. 783).

It is also licit for a presbyter, if he is furnished with an apostolic local privilege, to confirm even outsiders in the territory designated to him, unless their Ordinaries have expressly forbidden this (Can. 784).

Question 9. What is the proper place of administering Confirmation?

Resp. Although the proper place of administering confirmation is a church, nevertheless from a cause which the minister has judged just and reasonable, this sacrament can be conferred in any other decent place (Can. 791).

The Bishop has the right of administering confirmation within the boundaries of his diocese even in exempt places (Can. 792).

Question 10. At what time can this Sacrament be conferred?

Resp. This sacrament can be conferred at any time; but it is especially fitting that it be administered in the week of Pentecost (Can. 790).

Question 11. Must the custom be observed by those to be confirmed of carrying a ticket?

Resp. Affirmatively, for the Fathers of Baltimore say: "Whenever Confirmation is administered to many, we establish that certain tickets, on which the names of those who are to be confirmed are inscribed, are to be given by the Pastor to each one, which they are to show to the Bishop about to administer the sacrament." - Cf. Second Plenary Council of Baltimore, n. 252.

Note. - I. Let the parish priest inscribe the names of the minister, of the confirmed, of the parents and sponsors, and the day and place of confirmation in a particular book, besides the notation in the book of the baptized of which in can. 470, § 2 (Can. 798).

II. If the proper parish priest of the confirmed person was not present, concerning the confirmation conferred let the minister, either by himself or through another, make the same certain as soon as possible (Can. 799).

Treatise XIV. On the Eucharist

In the most holy Eucharist, under the species of bread and wine, Christ the Lord Himself is contained, offered, and received (Can. 801).

Part I. On the Eucharist as a Sacrament

Chapter I. On the Nature and Efficacy of the Eucharist

The Eucharist can be defined: the Sacrament of the Body and Blood of Christ, under the species of bread and wine, for the spiritual refreshment of souls; or, a sacrament of the new law instituted by Christ the Lord for the spiritual refreshment of the soul, in which the Body and Blood of Christ are truly, really, and substantially contained under the species of bread and wine. But the following things must be held by faith:

I. In the Sacrament of the Eucharist Christ is truly, really, and substantially present, body and soul, together with divinity.

II. The whole Christ is permanently contained under each species and, once separation has been made, in any species, at least a sensible part.

III. In the Sacrament of the Eucharist there occurs true transubstantiation, or the real conversion of the whole substance of bread into the Body, and of wine into the Blood, of Christ, so that, once the consecration has been completed, nothing remains of bread and wine, excepting only the species. All these things are clear from the Council of Trent, sess. 13, can. 1 and seq. - Cf. De Augustinis, part 1, art. 3 and 5.

Questions

Question 1. How long does Christ remain really present in the Eucharist?

Resp. He remains as long as the species remain entire; but He ceases to be under them as soon as the species are so corrupted that according to the estimation of men they do not seem to be bread and wine. But then, according to St. Thomas, the dimensive quantity of bread and wine miraculously receives the force and property of substance. - Cf. De Augustinis, Thesis 5, p. 141. - Lacroix, n. 474.

Question 2. How long are the sacred species judged to remain entire after the reception of the sacrament?

Resp. In this matter no general rule can be given; for they remain a longer or shorter time according as the digestive power of different men is different, indeed also according as in the same man the circumstances are different which either stimulate or diminish this power. Yet it is certain that the sacramental species persevere longer in a priest, who in Mass communicates under each species and with a larger Host, than in a layman, who customarily receives only a small Host. - Cf. St. Alphonsus, n. 225. - Ballerini, note (a) p. 176. - Lehmkuhl, n. 111.

Question 3. Is the Eucharist one or a twofold sacrament?

Resp. It is one sacrament in species, although there are several signs. - For although the Sacrament of the Eucharist is composed of the physically distinct species of bread and wine, nevertheless it is ordered to one spiritual refreshment in species as to its end and signified effect, just as material food and drink are ordered to a single bodily refreshment. Thus also in Extreme Unction there are several anointings and yet there is one sacrament, because several anointings are ordered to that one end and effect, namely to taking away the remains of sins. - Cf. St. Thomas, 3, q. 73, art. 2. - St. Alphonsus, nn. 191 and 199.

Question 4. What are the effects of the Sacrament of the Eucharist in the soul?

Resp. They are several, but the chief of all is the increase of sanctifying grace or of spiritual life. For according to the words of Christ, John vi, 56: "My flesh is truly food," this sacrament was instituted as spiritual nourishment; but nourishment, on the one hand, supposes life in him who receives it, and, on the other, if it is taken with due dispositions, sustains and increases life itself. But the other effects are the most abundant bestowal of actual graces, which flow from habitual grace and infused habits; the weakening of evil habits and the amendment of vices, especially of lust; the remission of venial sins, and indeed not only by means of charity, which the Eucharist excites, but also immediately *ex opere operato*; the remission of temporal penalty due to sin, not indeed the whole of it, but according to the measure of devotion and fervor; finally, special union with Christ and His members. - Cf. St. Thomas, 3, q. 79, art. 5. - St. Alphonsus, nn. 268 and 269; and *Hom. Ap.*, n. 5. - De Augustinis, part 2, art. 7. - Lehmkuhl, nn. 112 and seq.

Chapter II. On the Matter of the Sacrament of the Eucharist

Article I. On the Remote Matter of the Eucharist

I say. Bread and wine, and indeed only wheaten bread and wine from the vine, are the valid remote matter of the Sacrament of the Eucharist. It is required, however, that a very small amount of water be mixed with the wine, not by necessity of the sacrament, but of ecclesiastical precept. The first is clear from many Councils, but especially from Florence in the Decree of Union, and from Trent, sess. 13, in nearly all the chapters. But the other is had both from the same Councils and from the Catechism of the Council of Trent, which, after it taught that this mixing cannot be omitted without mortal sin, adds: "Yet if it [water] is lacking, the sacrament can stand." - Cf. De Augustinis, part 2, art. 2 and 3.

The most holy Sacrifice of the Mass must be offered from bread and wine, to which a very small amount of water is to be mixed (Can. 814).

§ 1. The bread must be merely wheaten and recently made, so that there is no danger of corruption.

§ 2. The wine must be natural, from the fruit of the vine, and not corrupt (Can. 815).

Wine, even if it is from the vine, from which nevertheless by the aid of art all spirit of wine (alcohol) is removed, is not valid and licit matter of consecration. - Holy Office, 1 June 1910.

Questions

Question 1. Is bread confected from rye, oats, barley, and the like valid matter?

Resp. Negatively, according to the more common and more probable opinion; because although all these seem to pertain to the species of wheat, nevertheless they are not properly wheat as this is commonly employed and understood. - But concerning spelt it must be said that the solution depends on the diversity of the thing which is understood by such a word, since by the name spelt the same thing is not signified everywhere. - Cf. St. Alphonsus, n. 200. - Lehmkuhl, n. 119.

Question 2. Is both unleavened and leavened bread valid and licit matter?

Resp. Affirmatively, as regards validity, both because each is true bread, since it is confected from wheaten flour and natural water, and because each is called simply bread in Scripture. But it must be answered negatively as regards liceity; for, as is clear from the practice of each Church and from the Council of Florence in the Decree of Union, Latins are bound under grave obligation to consecrate in unleavened bread, and Greeks in leavened bread; and no other reason seems to excuse from this precept, excepting the necessity of completing the sacrifice. Even a traveling priest, if a church of his own rite is lacking, must conform himself to his own rite, and cannot conform himself to another rite. - Cf. St. Alphonsus, n. 203. - Lehmkuhl, n. 121. - Cf. Can. 816.

Question 3. Whether the matter becomes invalid if, besides natural water, something of milk, butter, or another liquid is placed for mixing with the flour?

Resp. Negatively, if the amount of natural water is far greater than that of the other liquid, so that true bread is had according to the common estimation of men. The same must be said if some grains from oats, millet, almonds, peas, beans, etc., are mixed with wheaten flour; but certainly he would sin gravely who used such matter. - Cf. Kenrick, tract. 17, nn. 1 and seq.

Question 4. Does a priest consecrating in souring wine sin gravely?

Resp. Affirmatively, and the reason is taken from the irreverence which in such a case would be inflicted upon the sacrament, from the common consent of theologians, and from the Rubric *de defect.*, tit. 4, n. 2, where these things are had: "If the wine has begun to sour or to corrupt, or has been somewhat sharp . . . the sacrament is confected, but the one confecting sins gravely." - But several theologians probably say that this Rubric is not to be accepted with such rigor that it also comprehends the first degrees of sharpness, but only those which proximately begin to constitute souring wine. Observe, however, 1st. that the question here is about souring wine, for if the wine were certainly corrupt and had properly become vinegar, then the consecration would be invalid and certainly gravely illicit. Observe 2nd. that a priest who after consuming the chalice doubts concerning acidity must not consecrate again, and must stand for validity, because wine somewhat sharp is accustomed to appear much sharper to a fasting priest. - Cf. St. Alphonsus, n. 207; and *Hom. Ap.*, Append. 3, *Exam. Ordinand.*, n. 98.

Question 5. Is frozen wine valid matter?

Resp. Some deny, because it is not drink; but several more probably affirm, because from the Rubric of the Missal the frozen species of wine after consecration must be liquefied, with heated cloths having been brought near, and then reverently consumed; for it is a true sacrament: therefore the sacred species are not changed substantially by freezing. - Cf. Rubr. *de defect.*, tit. 10, n. 11. - St. Alphonsus, n. 207.

Question 6. What must be said concerning must, and what concerning wine of our region?

Resp. Natural wine from the vine, incorrupt, and every wine from the fermented juice of ripe grape, is valid and licit matter of this second consecration. Another sense has been given by men to this word wine, so that it signifies must, new wine, as it is called, genuine juice of ripe grape not adulterated, containing the elements by which fermentation is naturally procured. The first sense is the most used among men; in this way the word is understood by the Councils, in tradition, and by Theologians for signifying the licit matter of this consecration. Eugene IV, Const. *Exsultate Deo*; Holy Office, 30 Aug. 1901; 22 July 1706; 7 May 1897; 4 May 1887; 30 July 1890; 5 Aug. 1896. In the Roman Missal, tit. 4, n. 2, we read: "If the wine has begun to sour, or to corrupt, or has been somewhat sharp, or must pressed then from grapes . . . the Sacrament is confected, but the one confecting sins gravely." In the Decree of Gratian, c. 7, D. 1, *de consecr.*: "If it is necessary, let a cluster be pressed in the chalice and water be mixed." In these cases there can be no question of perfect fermentation, or scarcely even imperfect fermentation, except in a broader sense: fermentation lasts for some time; at most there is had an inception of fermentation of the genuine juice of ripe grape, which contains the elements by which fermentation can be naturally obtained. Such matter can be employed in necessity, as is plain from the Ritual and from the Decree: "This necessity would be verified if fermented wine absolutely could not be had in the region." Gasparri, *De Eucharistia*, n. 819; Prümmer, vol. 3, p. 139: "Must, or juice recently pressed from ripe grapes, is indeed valid matter but gravely illicit." Biel, *Sacri Canonis Missae Expositio*, lect. 35: "And in necessity the pressing of wine from a cluster in the chalice is conceded." Suarez, disp. 45, Sect. 1, n. 6; Vasquez, disp. 175, c. 1, 2; Sylvius, q. 74, a. 5; Toletus, vol. 4, p. 162; Génicot-Salsman, vol. 2, n. 171; Gopfert, n. 126. Practically the reason of all is this: because that is wine in substance. "Likewise it is clear from the effect," says Suarez, "because must is warm, intoxicates, and from intrinsic and proper power is purified and ripened, and brings itself to the perfect state. Therefore it is a sign that it is substantially wine." - Cf. Alex. Alensis, *De Sacr. Eucharis.*, q. x. Wine in its ordinary sense, or fermented juice of ripe grape, is valid and licit matter of this sacrament. Must is valid matter, but outside the case of grave necessity is gravely illicit. But concerning wine of our region it must be said that the Fathers of Baltimore wish it to be preferred to any other, even if it is naturally sharp or less flavorful, because it is more easily established that it is genuine. It is licit to employ in the Sacrifice of the Mass wine confected from dried grapes provided that the liquid to be extracted from them is discerned by color, odor, and taste to be true wine. Holy Office, 7 May 1879. For preserving wine it is licit to add a quantity of spirit or alcohol, provided that the spirit was 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 seventeen or eighteen percent, and the mixture is made when tumultuous fermentation has begun to subside: this wine is licitly employed in the Sacrifice of the Mass. Holy Office, 5 Aug. 1896. The wine about which there is question in that decree exceeds twelve degrees of alcoholic strength. Concerning weak wine the following response was given: "Provided that the spirit (Alcohol) was 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 the mixture is made when the wine is very recent, nothing stands in the way of the same wine being employed in the sacrifice of Mass." Holy Office, 31 July 1890.

Besides, by the same decree of the Holy Office, 5 Aug. 1896, it was declared: that it is licit to use wine obtained from must which before vinous fermentation has been condensed by fiery evaporation, "provided that a decoction of this kind does not exclude alcoholic fermentation, and the fermentation

itself can be obtained naturally, and in fact is obtained." - Cf. Second Plenary Council of Baltimore, n. 373. - St. Alphonsus, nn. 206 and seq. - Kenrick, nn. 5 and seq. - Lehmkuhl, n. 119, with note 1.[1]

[1] Cf. Addenda, p. 1124, n. 79.

Question 7. What quantity of water is to be mixed into the chalice?

Resp. A very small quantity suffices according to the Council of Florence, and therefore, generally speaking, the priest ought not to exceed eight or ten little drops. But if by chance too great a quantity of water falls in, some wine will have to be added over and above. - Cf. St. Alphonsus, n. 210.

Article II. On the Proximate Matter or on the Use of Remote Matter

I say 1st. For valid consecration, besides suitable matter, it is required 1st. that the matter to be consecrated be so physically present that it can be designated by the pronouns this, here; for otherwise the words of the form would not be true; 2nd. that through the intention of the Minister it be determined in the individual, for otherwise the intention would have no force, because it would be applied to no thing. - Cf. St. Alphonsus, nn. 211 and 214. - Scavini, lib. 3, n. 148.

I say 2nd. For licit consecration it is required 1st. that the priest in no way recede from the use of the Church, especially as determined by the Rubrics of the Roman Missal: hence first of all it is necessary that the matter to be consecrated be decent and clean on account of the reverence owed to so great a sacrament; 2nd. that it be placed on the altar and on the corporal, indeed also on the sacred stone, according to Benedict XIV, *de Sacrificio Missae*, sect. 2, n. 139; 3rd. that the ciborium or chalice to be consecrated be uncovered; 4th. that it be done at the time of the Canon prescribed by the Rubric. - Cf. St. Alphonsus, nn. 218 and 219. 5th. But if it happens that the priest lacks the larger host and it cannot be obtained, he licitly celebrates with a smaller one, even if he celebrates only from devotion. - Sebastiani, n. 440.

You Will Resolve. 1st. Hosts lying hidden under others or otherwise covered are validly consecrated. Likewise wine in a chalice covered with a veil, pall, or for any reason is validly consecrated; because for the true presence of the matter it suffices that it can be demonstrated by the pronouns this or here. Cf. St. Alphonsus, n. 212.

2nd. The consecration is valid if a priest, indeed wishing to consecrate the matter which he holds in his hands or which he sees or knows to have been placed upon the corporal, thinks that there is only one host or two hosts to be consecrated, when there are several, whether placed by himself or by another; the reason is that a priest is always presumed to wish to consecrate whatever is decently consecrable; and therefore, by the general will of consecrating all things which are present, he has a virtual will also of consecrating those things which he thought were not present. - Cf. St. Alphonsus, n. 216.

3rd. The same must be said if someone has brought to the altar several hosts to be consecrated, or before the Sacrifice has been warned concerning hosts already placed on the altar to be consecrated, or notices that they are brought by another so that they may be consecrated, even if, while he consecrates, he does not so expressly remember them or even has not uncovered them at the oblation, provided that they are present on the corporal; because the preceding intention virtually perseveres. - Cf. St. Alphonsus, n. 216.

4th. A priest sins by consecrating a broken or stained host; but, scandal being set aside, only venially, unless the stain or fracture is enormous. Yet if he notices some fracture or stain, even a notable one, after he has offered the host, he will be able entirely licitly to consecrate it, because already through the oblation it was in some way dedicated and sanctified to God. - Cf. St. Alphonsus, n. 204.

Questions

Question 1. Must a ciborium left outside the corporal through forgetfulness be judged consecrated?

Resp. Many affirm from the fact that there was already present a positive will of consecrating that ciborium at the beginning of Mass, nor was that will retracted; therefore it persevered virtually at the time of consecration. But others deny, and St. Alphonsus calls their opinion common and more probable. The reason is that the priest is not presumed to have wished to consecrate that matter placed outside the corporal, since this is mortal sin, especially because it does not pertain to the integrity of the sacrifice. - Whatever may be the intrinsic value of each opinion, in practice that ciborium will have to be consecrated again under condition in another Mass; and if there is question of a small number of particles which can easily be consumed, they certainly should be consumed, but after the ablution and before the purification. - Cf. St. Alphonsus, n. 217; and *Hom. Ap. Exam. Ordinand.*, n. 99.

Question 2. Is a ciborium judged consecrated which indeed is placed on the corporal, but which through forgetfulness remained closed at the time of consecration?

Resp. Affirmatively, and the reason is both because thus bears the practice of priests and the almost common consensus of theologians, and because any priest is always judged to have the absolute intention of consecrating whatever, with his knowledge, is upon the corporal and is honorably consecrable. Nor should you object from parity sought from the preceding question, for it is answered that although the Church wills the ciborium to be opened for greater reverence, nevertheless, since this irreverence does not seem notable, and can happen more frequently, this precept does not press so much as the precept of not consecrating outside the corporal.

Question 3. Are drops of wine adhering to the chalice, either outside or inside, judged consecrated?

Resp. Negatively as to both; because the priest is not presumed to wish to consecrate anything except the wine which is in the chalice and which is drinkable after the manner of one. But because some think, not improbably, that drops adhering inside are consecrated, these are to be diligently collected. - Cf. St. Alphonsus, n. 215.

Chapter III. On the Form of the Sacrament of the Eucharist

I say. Just as the matter is twofold and distinct, so also the form of consecration is twofold, one of bread and the other of wine. The first consists in these words: "For this is My body." But the other is this: "For this is the chalice of My blood, of the new and eternal testament, the mystery of faith, which will be poured out for you and for many unto the remission of sins." This is established from the Council of Florence in the Decree of Union, from Trent, sess. 13, chap. 1, and from the divine institution itself of the Eucharist.

Questions

Question 1. How must the words of the form be uttered?

Resp. They must be uttered in the person of Christ, both recitatively and significatively, but not historically only: namely, the words of Christ are to be uttered by applying their signification to the present matter, so that this may be transubstantiated into the Body and Blood of Christ. Yet a scruple is not to be had as to whether the words are uttered in the due sense; for any priest is presumed to have the intention of doing that which Christ did and instituted, and so he sufficiently intends to utter the consecratory words in both of the aforesaid senses. - Cf. St. Alphonsus, nn. 220 and following.

Question 2. Is the word FOR in the form of consecration altogether necessary?

Resp. Certainly that word is not required for validity, but only for liceity by force of a precept, concerning the gravity of which theologians dispute; but the opinion denying that it is grave is probable, because that word is not found in the words uttered by Christ. - Cf. St. Alphonsus, n. 220.

Question 3. In the consecration, are those antecedent words required as essential: WHO ON THE DAY BEFORE HE SUFFERED, etc., IN LIKE MANNER, etc.?

Resp. Negatively, with the common opinion, which St. Alphonsus holds. The reason is that these words are uttered only historically, and do not seem to have any sacramental efficacy. Nevertheless, if at any time, on account of a doubtful consecration, the form must be repeated, one must begin altogether from the words: who on the day before and in like manner, not only because the Rubric so prescribes, but also on account of whatever probability there may be of the contrary opinion. Cf. St. Alphonsus, n. 222. - Ballerini, note (a), p. 189.[1]

[1] Cf. Addenda, p. 1127, n. 86.

Question 4. In the consecration of the chalice, are only these words: THIS IS THE CHALICE OF MY BLOOD ... of the essence of the form?

Resp. Affirmatively; and the reason is both because the words of the consecration of bread are these: This is My body, and therefore, by parity, the words of the consecration of wine are only these other words: This is My blood, or other equivalent words; and because those words alone by themselves express the presence of the Blood of Christ under the species of wine. But in practice the priest would sin gravely if he did not utter all the words which are contained in the consecration of the chalice, both on account of the precept, and perhaps on account of the not-to-be-despised probability of the opposite opinion. - Cf. St. Alphonsus, n. 223. - Ballerini, note (b), p. 189.

Question 5. Is the form valid if it is said: FOR THIS MY BODY, with IS understood, as often happens in the Latin language?

Resp. Negatively; for although in continuous speech the substantive verb can easily be understood, nevertheless in the present case this cannot be done: both because there is not continuous speech, and especially because, in the matter of which we are treating, the form has not only an assertive sense as in common speech, but also the force effecting transubstantiation. - Cf. St. Alphonsus, n. 223.

Chapter IV. On the Minister of the Eucharist

Article I. On the Power of the Minister of the Eucharist

I say. The power of offering the Sacrifice of the Mass belongs only to priests (Can. 802).

§1. The ordinary minister of holy communion is the priest alone.

§2. The extraordinary minister is the deacon, with the permission of the Ordinary of the place or of the pastor, to be granted for a grave cause, which in a case of necessity is legitimately presumed (Can. 845).

The reason of the first is that Christ, instituting this sacrament, said to all and only the Apostles reclining with Him, and therefore to all and only those who would be successors to them in the priesthood: "Do this in remembrance of Me." But the reason of the second is taken from the practice of the Church, for the Council of Trent says: "It has always been the custom in the Church of God that laymen should receive communion from priests, but celebrating priests should communicate themselves." Finally, the reason of the third is drawn from the custom which obtained in the first centuries of the Church, when Deacons everywhere, by commission of Bishops or Presbyters, whether general or particular, administered the Eucharist. - Cf. Council of Trent, sess. 22, can. 2; and sess. 13, chap. 8. - St. Alphonsus, n. 237.

You Will Resolve. 1st. §1. Any priest, within Mass and, if he celebrates privately, also immediately before and immediately after, can administer holy communion, with due regard for the prescription of can. 869.

§2. Even outside Mass, any priest possesses the same faculty by at least the presumed permission of the rector of the church, if he is a stranger (Can. 846).

2nd. Holy communion is to be brought publicly to the sick, unless a just and reasonable cause advises otherwise (Can. 847).[1]

§1. The right and duty of bringing holy communion publicly to the sick, even non-parishioners, outside the church, pertains to the pastor within his territory.

§2. Other priests may do this only in a case of necessity or with at least the presumed permission of the same pastor or Ordinary (Can. 848).

3rd. To bring holy communion to the sick by way of Viaticum, whether publicly or privately, pertains to the pastor according to the norm of can. 848, with due regard for the prescription of can. 397, n. 3 and can. 514, §§1-3 (Can. 850).

4th. §1. Any priest can bring communion privately to the sick, with at least the presumed permission of the priest to whom the custody of the Most Holy Sacrament has been entrusted (Can. 849).

5th. According to St. Alphonsus, devotion alone and the lack of another priest suffice for some priest to be able to administer the Eucharist to himself. Indeed, the opinion which permits even a layman to administer it both to himself and to another dying person, provided true necessity is present, seems not to be altogether improbable. - Cf. St. Alphonsus, n. 237. - Lehmkuhl, n. 136.

6th. After the decree *Sacra Tridentina Synodus*, the law by which it is prohibited that on Easter Day, in non-parochial churches, especially regular churches, the sacrament of the Most Holy Eucharist be

administered to the faithful even for a cause of devotion, is no longer to be observed. - Sacred Congregation of the Council, 28 Nov. 1912.

[1] Cf. Addenda, p. 1148, n. 121.

Article II. On the Obligation of Dispensing the Eucharist

I say. Any Pastor, or priest having care of souls, is held by justice to administer the Eucharist to his subjects not only at Easter and in death, but also as often as they reasonably ask, with the cause of a legitimate impediment, however, excluded. But other priests are held only in a case of necessity or of death, and when the Pastor is lacking. The reason of the first is that it belongs to the Pastor by quasi-contract to provide not only that the faithful fulfill the precepts, but also that they not lack the supports which greatly benefit spiritual progress. But the reason of the second is that other priests are held only from charity. - Cf. St. Alphonsus, *Hom. Ap.*, n. 8.[1]

[1] Cf. Addenda, p. 1088, n. 10.

You Will Resolve. 1st. The Pastor sins as often as he denies administering the Eucharist, whether by himself or through another, to those reasonably asking for it; but the sin does not exceed venial if this is done rarely and there is not grave scandal or grave sorrow of the one asking. The reason is that then neither grave injury nor grave damage is inflicted, and if damage is present, it can easily be repaired.

2nd. A Pastor is not held to administer the Eucharist to the dying with danger to his life, for example, in time of plague, because it is not an absolutely necessary sacrament. A fortiori other priests not having care of souls are not held to this. - Cf. St. Alphonsus, n. 233.

Article III. On the Things Required for the Licit Dispensation of the Eucharist

I say. Besides the state of grace and jurisdiction, in the sense explained above, for the licit dispensation of the Eucharist it is required that the Minister be free from every censure; otherwise he would sin gravely and would contract irregularity.

The Most Holy Eucharist is to be given under the species of bread alone (Can. 852).

§1. The priest is to distribute holy communion with unleavened or leavened bread, according to his own rite.

§2. But where necessity urges and no priest of a different rite is present, it is lawful for an Eastern priest who uses leavened bread to administer the Eucharist in unleavened bread, and conversely for a Latin or an Eastern priest who uses unleavened bread to administer in leavened bread; but each must preserve his own rite of administering (Can. 851).

§1. To all the faithful of whatever rite the faculty is given that, for a cause of piety, they may receive the Eucharistic sacrament confected in any rite.

§2. Nevertheless, it is to be advised that each of the faithful satisfy the precept of paschal communion in his own rite.

§3. Holy Viaticum is to be received by the dying in their own rite; but, when necessity urges, it is lawful to receive it in any rite (Can. 866).

Questions

Question 1. Whether and what sin it is to administer the Eucharist without sacred vestments?

Resp. To administer the Eucharist without any sacred vestment, outside a case of necessity, according to the common opinion is a mortal sin, because this is very indecent and against a grave precept of the Church. Yet if only the stole is omitted, or only the surplice, it is reputed venial. Likewise it is venial to administer the Eucharist without a light or without the customary preceding confession, *Confiteor*, etc. Similarly, it is held to be only venial to transfer the Eucharist from place to place, for example, from one altar to another, without sacred vestments. - Cf. St. Alphonsus, n. 241. - Reuter, n. 168.

Question 2. What is to be said about that manner of acting, quite common among us, namely of administering the Eucharist to the sick with a stole, but without a surplice and cassock?

Resp. Certainly it cannot be praised, both because it contradicts the Roman Ritual and because it savors of a certain irreverence. Nevertheless, it seems that it can be tolerated, at least so long as the Bishops are silent or do not prohibit it in their diocesan statutes, and provided from another source that priests strive to reconcile reverence with the sacred rite. The reason is taken from the moral impossibility of acting otherwise, at least everywhere and in every case. But now, throughout the whole world, Ordinaries can permit, for a just and reasonable cause, that to those affected by poor health, who cannot leave home and who seek holy communion out of devotion, especially when in some parish several ask for it or someone asks frequently, the Holy Eucharist be carried privately, or with the prescriptions of the Ritual not observed, from the church to the home, with at least the rite proposed by Benedict XIV in the Decree *Inter omnigenas*, 2 Feb. 1744, par. 23, being observed, namely: "The priest should always have the stole covered by his own garments; in a little sack or burse he should place the pyx, which, suspended from the neck by cords, he should place in his bosom; and he should never proceed alone, but should be accompanied by at least one of the faithful in the absence of a cleric." - S. C. de disc. Sacr. 23 Dec. 1912.

Question 3. What stole is to be used in administering the Eucharist outside Mass?

Resp. "A stole always of white color, or of the color suitable to the office of that day (the black color, however, being changed into violet on the day of the Commemoration of All the Faithful Departed)." - Cf. Rit. Rom. Tit. IV, c. 2, n. 1. On Feria VI of Greater Week the distribution of the Eucharist is altogether prohibited unless it is by way of Viaticum, which must always be given with a stole of white color.

Question 4. Can communion be given with black vestments, whether before, after, or within Mass, both from particles consecrated in that Mass itself and from preconsecrated ones?

Resp. Affirmatively, in all cases, as is established from the Decree of the S. R. C., confirmed by Our Most Holy Lord Pius IX, 23 Jul. 1868. - Note, however, 1st. that in the aforesaid case the blessing is not to be given. Note 2nd. that, according to the mind of the Sacred Congregation, in order that the Most Holy Eucharist can be distributed before Mass, a reasonable cause is required; but this can scarcely be lacking if there are any who then ask for communion. - Cf. Ballerini, note (c), p. 197.

Question 5. Could a priest at will and always give communion outside Mass?

Resp. If there is question of a priest who is not celebrating, certainly he can always dispense it, as often as there are those who reasonably ask; for no precept can be assigned by force of which communion must be distributed only within Mass. Nevertheless, care must be taken that the tabernacle not be opened at almost every moment in order to satisfy one or another person approaching inopportunely, for this would savor of a certain levity and would not be without irreverence. But if there is question of a priest who is celebrating, according to the Roman Ritual and generally speaking, communion should be distributed by him within Mass after the consumption of the chalice. But from Canon 846, §1, if the priest celebrates privately, with due regard for the prescription of Can. 869, communion can also be given before or after Mass. Indeed, where there is a great influx of communicants, it is expedient to defer communion to the end, lest those who assist at Mass be detained in church longer than is fitting. - Note also here the response given by the S. R. C. on 12 March 1836, according to which, if necessity is present, the custom can be tolerated that "a priest who approaches some altar to celebrate, or withdraws from it, thus vested in the sacred vestments of the sacrifice and holding the chalice before his hands, may in passing ascend to the altar in which the Most Holy Eucharist is present, so that there he may distribute holy communion to the faithful." - Cf. St. Alphonsus, n. 249. Gardellini, n. 4777. Communion cannot be administered, even with a reasonable cause being given, by a priest vested in the sacred vestments of the sacrifice before or after a solemn or sung or even conventual Mass, as is permitted before or after a private Mass. S. C. R. 19 Jan. 1906.

Question 6. At what hour can communion be dispensed?

Resp. §4. Holy communion is to be distributed only at those hours at which the Sacrifice of the Mass can be offered, unless another reasonable cause advises otherwise.

§5. Nevertheless, Holy Viaticum can be administered at any hour of the day or night (Can. 867).

On a day of great concourse for a plenary Indulgence or Jubilee, communion can be administered from the time to the time when Masses are celebrated in that church, either according to the form of the Rubric or according to the form of the Indult granted to the same church. - S. C. R. 11 Jun. 1904; 7 Sept. 1860.

Indeed, we think that very rare cases can occur in which it would be lawful to distribute communion toward sunset. By force of canon 867 §4, and without an Apostolic indult, Communion can be distributed in the Mass which is celebrated on the night of the Nativity of the Lord in parochial and conventual churches, whenever, at least in the judgment of the Ordinary, a reasonable cause for doing this is present.

Question 7. What must be done if a minister is lacking for the priest: can a man about to communicate or a woman supply?

Resp. Certainly any communicant, if he is a man, can serve the priest; or even the priest himself can supply, by saying the *Confiteor* and responding *Amen*. A woman, however, cannot supply, unless she is a Nun, who according to received custom responds within the cloister; then, therefore, the priest himself must perform all things. - Nor should you say that in necessity a woman can make the responses at Mass, provided she stands at a distance; for in Mass the priest alone could not easily respond to all things. - Cf. Bouvier, *de Eucharistia*, chap. 4, art. 2. - Gousset, n. 212.

Question 8. Can several particles be given to one communicant, or one larger one, for the sake of devotion, etc.?

Resp. Negatively, because this was expressly prohibited by a decree of the Sacred Congregation of the Council approved by Innocent XI on 12 February 1679. But the words of the decree (in Benedict XIV) are these: "Let Bishops, Pastors, or confessors admonish that several Eucharistic forms or particles are to be handed to no one, nor larger ones, but the customary ones."

Question 9. Can particles be broken if they are lacking?

Resp. Affirmatively, from the common opinion of theologians and the general practice, provided a just cause is present, for example, if another Mass is lacking or the faithful cannot wait. Nevertheless, the priest then must divide the Hosts only into two, or at most three, parts, because otherwise communion could scarcely be given with due reverence. - Cf. Lacroix, n. 508.

Question 10. For communicating the faithful, if smaller Hosts are lacking, can the priest take away a part of the larger one to be consumed by himself?

Resp. Affirmatively, in the case of Viaticum to be brought to a dying person, by reason of urgent necessity. It must also be answered affirmatively outside the case of Viaticum, if only one or another of the faithful were about to receive communion and could not wait without inconvenience. - Note besides that the large Host which has been used for the exposition of the Most Holy Sacrament must not, always excluding the case of great necessity, be divided into several parts in order to satisfy those about to communicate. - Cf. St. Alphonsus, n. 217. - *Instruct. Clem.*, § xxxi, n. 24.

Question 11. What must be done if (a) the Host falls to the ground, or (b) upon the face, beard, or garments of the communicant, or (c) into the bosom of a woman?

Resp. In the first case, the place into which the holy Host has fallen is immediately to be covered with some clean thing and afterward washed. If it falls onto the cloth or linen cloth by which the hands of the communicant are covered, the place is to be marked and afterward washed in the same way. Thus the Rubric, which nevertheless, according to the common opinion, does not oblige under grave sin; nevertheless, it would oblige gravely to wash the place into which the sacred species of wine had fallen, since it can easily be imbued with them; yet there is no need that that upon which they have fallen be burned. - But in the second case, purification is to be omitted; because it is better to avoid the wonder, disturbance, or offense of the people than to observe the Rubric, which obliges only under light sin. - Finally, in the third case, the woman herself must draw out the Host and place it back in the ciborium or hand it to the priest, from whom afterward she may receive it into her mouth. But the woman's fingers are to be washed, and the ablution is to be poured into the piscina. If the woman cannot easily draw out the Host there, let her withdraw apart, for example, into some chapel or into the sacristy, etc. - Cf. St. Alphonsus, n. 250. - Benedict XIV, *de Sacrif. Missae*, n. 1, sect. 2. - O'Kane, nn. 653 and following.

Question 12. When on Holy Saturday can holy Communion be distributed to the faithful?

Resp. §3. On Holy Saturday, holy communion cannot be administered to the faithful except during the solemnities of Masses or continuously and immediately after they have been completed (Can. 867).

Question 13. To whom must holy Communion be administered first?

Resp. Communion must be administered to the minister of the sacrifice before others, even if more worthy, not by reason of preeminence but of ministry, Dec. Auth. n. 1074; and it can be administered within the presbytery and on the edge of the footpace of the Altar to a layman serving Mass, even if he is not clothed in clerical habit. (Ibid. n. 4271).

"By the name of minister of the altar or of the sacrifice of the Mass comes any cleric or layman serving Mass at the altar, who is to be preferred to the others in the distribution of the sacred Synaxis; with caution, however, that clerics be preferred to a serving layman, and to clerics of a minor order others constituted in a higher order, or persons who possess a superior liturgical dignity to be considered per se (as kings) or per accidens (as spouses in the Mass for blessing nuptials)." Thus S. R. C. 30 Jan. 1915.

Question 14. On what days is it lawful to distribute the Most Holy Eucharist?

Resp. §1. On all days it is lawful to distribute the Most Holy Eucharist.

§2. On Feria VI of Greater Week, however, it is lawful only to bring sacred Viaticum to the sick (Can. 867).

Question 15. What is expedient to be done with relation to communion on Feria V of Greater Week?

Resp. It is expedient that on Feria V of Greater Week all clerics, even priests who on that day abstain from offering the Sacrifice, be refreshed by the Most Holy Body of Christ in the solemn or conventual Mass (Can. 862).

Question 16. In what place can Holy Communion be distributed?

Resp. Holy communion can be distributed wherever it is lawful to celebrate Mass, even in a private oratory, unless the local Ordinary, for just causes, has prohibited this in particular cases (Can. 869).[1]

It is not lawful for a celebrating priest to distribute the Eucharist within Mass to faithful persons so distant that he himself loses the altar from view (Can. 868).

[1] Cf. Addenda, p. 1148, n. 122.

Article IV. On the Manner of Administering the Eucharist to the Sick

This manner is described exactly in the Roman Ritual where it treats of the Communion of the Sick, and it certainly would have to be observed if the circumstances of time and places permitted. - Cf. O'Kane, nn. 764 and following.

Questions

Question 1. Whether and how, in this region, the dispositions of common law concerning the external pomp with which the Eucharist must be carried to the sick are to be observed?

Resp. Although we must take pains that in this matter we approach as much as possible the common discipline of the Church, nevertheless at present it is not possible, on account of the heretics and infidels among whom we live, to execute entirely the dispositions of common law.

§2. When holy communion is administered privately to the sick, reverence and decency owed to so great a sacrament are to be sedulously provided for, with the norms prescribed by the Apostolic See being observed (Can. 849).

Those things also are to be kept before the eyes which are read in the Encyclical Letter of the S. C. de Prop. Fide, given to the Archbishop of Baltimore on 25 Feb. 1859: "The Sacred Congregation willed that the individual Prelates should be stirred up, as by the tenor of the present letters they are stirred up, to guard the common discipline of the Church in this matter, so far as the circumstances of times and places, and also the account of introduced customs, may allow." But three things especially are to be attended to by priests, as is established from the cited documents: 1st. that, while they carry the Most Holy Sacrament, they avoid vain and useless conversations; 2nd. that they carry the holy Host upon the breast; 3rd. that this carrying be done only for the actual exercise of priestly ministry. - Cf. Second Plenary Council, n. 264; and Appendix n. 9. 297.[1]

[1] Cf. Addenda, p. 1142, n. 107.

Question 2. Can a priest who is about to celebrate on Sundays in some house or station far from the church bring with him several particles, so that those who from the family and neighboring places are somewhat sick and weak may receive communion very early in the morning before Mass?

Resp. Affirmatively, as it seems can be gathered with sufficient probability from the cited faculty communicated almost everywhere by our Bishops; for there is no reason why that word "to the sick" must be restricted to those who are gravely lying ill. The same seems possible to be done in paschal time, for those who are not properly sick, but nevertheless cannot go to church because of weakness. Note also that according to the tenor of the cited faculty, the priest can retain the Most Holy Eucharist with him through the night in the same room, without it being necessary to light a lamp before it; but then he must conduct himself with great reverence. Say the same if a priest, called to administer Viaticum to a sick person, finds him dead, and nevertheless is obliged to remain through the night at some private house.

Question 3. Can or must a priest who dwells among us in an exclusively or almost exclusively Catholic place carry the Most Holy Eucharist to the sick with that pomp which is prescribed in the Roman Ritual?

Resp. Negatively, as it seems to us; for some danger of irreverence, at least in the future, would always have to be feared.

Question 4. Is it lawful in time of plague to offer the Eucharist by means of some instrument?

Resp. Affirmatively, probably according to St. Alphonsus, because so great a necessity seems to excuse from the customary rite of the Church. - Cf. St. Alphonsus, n. 244.

Question 5. What must be done by the Priest immediately after the sick person has received communion?

Resp. In the old edition of the Ritual there were the words: "Afterward let the Priest wash his fingers, saying nothing, and let the ablution be given to the sick person." Rit. Rom. Tit. IV, c. 4, n. 19. But now it is thus prescribed: "Afterward the Priest washes his fingers in a vessel prepared with water, saying nothing, and wipes them with the purificator: but the water of ablution is sent in due time into the sacrarium, or, if this is lacking, into the fire." - Cf. Rit. Rom. Tit. IV, c. 4, n. 22.

Question 6. Can the Eucharist be carried several times to sick persons who are not fasting, or by way of Viaticum?

Resp. Affirmatively. §3. While the danger of death endures, holy Viaticum, according to the prudent counsel of the confessor, may lawfully and fittingly be administered several times, on distinct days (Can. 864); indeed, even daily. Nor does it matter that they are not fasting, because in danger of death they are not held by the law of fasting. - Cf. Can. 858, §1.

Question 7. Must or can the Eucharist be given for Viaticum through a tube inserted into the esophagus or stomach of a sick person who cannot otherwise receive foods?

Resp. 1st. There is no obligation, since the manner is unusual and the effect doubtful.

Resp. 2nd. It seems to be lawful to administer thus. Such a communicant truly receives the sacred species by way of food, although he does not strictly eat; and the effect of the Sacrament is at least probable. Moreover, according to some, the essence of eating is had, which consists in the mere conveyance of food into the stomach. But here the Sacred Host is conveyed into the stomach. And there does not seem to be greater irreverence present in this manner of administering than where the Sacred Host is administered by means of a spoon. Cf. Lugo, *De Eucharistia*, disp. 1, nn. 114 and 115; disp. 12, n. 29. - Lehmkuhl, n. 143, note 1. - Genicot, n. 204. - Gury-Ferreres, n. 323.

Question 8. Must Viaticum be administered to children after the use of reason?

Resp. Affirmatively. It is a detestable abuse not to administer Viaticum to children after the use of reason, as Pius X declared in the Decree *Quam singulari*.

§2. In danger of death, in order that the Most Holy Eucharist can and must be administered to children, it is enough that they know how to discern the Body of Christ from common food and reverently adore it (Can. 854).

Question 9. Must Viaticum be administered to a dying neophyte?

Resp. Affirmatively, if he discerns spiritual food from bodily food, by knowing and believing the presence of Christ the Lord in the Sacred Host; otherwise negatively.

Question 10. Can soldiers called to battle (*i soldati sul fronte*) be admitted, with the things to be observed being observed, to the Eucharistic table by way of Viaticum?

Resp. Affirmatively, in view of the extraordinary circumstances of the present war (1914-15). - S. C. de Disp. Sacr. 11 Feb. 1915.

Article V. On the Manner of Reserving the Eucharist

I say. §1. The Most Holy Eucharist, provided there is someone who has care of it and a priest regularly celebrates Mass at least once a week in the sacred place:

1st. Must be kept in a cathedral church, in the principal church of an Abbey or Prelature *nullius*, of an Apostolic Vicariate and Prefecture, in any parochial or quasi-parochial church, and in a church annexed to the house of exempt religious, whether of men or of women;

2nd. Can be kept, with the permission of the Ordinary of the place, in a collegiate church and in the principal oratory, whether public or semi-public, both of a pious or religious house and of an ecclesiastical college which is governed by secular clerics or by religious.

§2. In order that it can be kept in other churches or oratories, an apostolic indult is necessary; the local Ordinary can grant this permission only to a church or public oratory, from a just cause and by way of act.

§3. It is lawful for no one to retain the Most Holy Eucharist with himself or to carry it with himself on a journey (Can. 1265).

§1. The Most Holy Eucharist must be preserved in an immovable tabernacle placed in the middle part of the altar.

§2. Let the tabernacle be skillfully constructed, solidly closed on every side, decently adorned according to the norm of liturgical laws, empty of every other thing, and so sedulously guarded that the danger of any sacrilegious profanation may be warded off.

§3. With some grave cause advising it, approved by the Ordinary of the place, it is not forbidden for the Most Holy Eucharist to be reserved at night-time outside the altar, yet upon a corporal, in a safer and decent place, with the prescription of can. 1271 being observed.

§4. The key of the tabernacle in which the Most Holy Sacrament is reserved must be guarded most diligently, with the conscience of the priest who has care of the church or oratory being gravely burdened (Can. 1269).[1]

[1] Cf. Addenda, p. 1141, n. 104.

Questions

Question 1. Must the ciborium be silver and consecrated?

Resp. By common law indeed it is not established that it must be silver; nevertheless it would seem to be equated with the chalice and paten, which must be of gold or silver or at least of tin, if the church is very poor. But it cannot be of bronze, nor of wood or glass, etc. Besides, if sacred vessels are not of gold, they must always be gilded within. But as regards consecration, this certainly is not required for the ciborium; rather, blessing suffices, for in the Roman Ritual the blessing of the pyx is noted among those things which do not need an anointing of chrism. - Cf. St. Alphonsus, nn. 370 and 383.

Question 2. Does one sin gravely who neglects to keep a light before the Most Holy Sacrament?

Resp. Affirmatively, if the time is notable.

Before the tabernacle in which the Most Holy Sacrament is reserved, at least one lamp is to shine continually day and night (Can. 1271).

The law itself is indeed grave, and violated in a notable space of time it induces liability of grave fault; but an entire day is reputed by many authors to be a notable time.

Question 3. Is olive oil required for nourishing the lamp of the church?

Resp. The lamp, according to canon 1271, is to be nourished with olive oil or beeswax; but where olive oil cannot be had, it is permitted to the prudence of the local Ordinary that it be changed to other oils, vegetable ones as far as can be done.

"As regards electric light, the summary of the Decrees is this: Electric light is forbidden, not only together with candles of wax upon altars (4097), but also in place of candles or lamps which are prescribed before the Most Holy Sacrament or the Relics of the Saints. For other places of the church and other cases, electric illumination is permitted according to the prudent judgment of the Ordinary, provided that in all things the gravity which the sanctity of the place and the dignity of the Sacred Liturgy demand is preserved. (3859, 4206, and 4210 ad 1.) Nor is it lawful, at the time of private or public exposition, to illuminate the interior part of the ciborium with electric lamps placed in that interior part itself, so that the Most Holy Eucharist may be better seen by the faithful." - S. C. R. 24 Jun. 1914.

Note here that this lamp, according to most authors, with whom the practice of many churches accords, must not be placed in a lateral part, but in the middle before the altar at which the Eucharist is reserved. This same thing seems to be required by the Rubric of the Roman Ritual and by some decrees of the S. R. C., without, however, their being able by force of the words to induce absolute certainty in this matter. - Cf. Second Plenary Council of Baltimore, n. 267. - Gardellini, n. 3525. - *Acta S. Sedis*, vol. I, p. 38. - De Herdt, vol. 3, n. 182.

Question 4. What is to be said about the obligation of using the conopaeum?

Resp. It is certain 1st. that it is prescribed by the Roman Ritual, and that this prescription is to be observed; for when the doubt was proposed: "Whether the Tabernacle must be covered with a conopaeum, as the Ritual bears," the S. R. C. of 21 July 1855 responded: "Affirmatively." - It is certain 2nd. that a contrary custom already existing in the Diocese of Santiago of Chile was reproved by the same S. R. C. on 28 Apr. 1866, which responded similarly on 1 Jul. 1904. - Nevertheless, they who among us do not use the conopaeum do not seem to be condemned of sin, so long as the Bishops are silent and the contrary practice is so universal. - Note, however, that the conopaeum can be woven of silk, wool, cotton, or hemp, and although it is more praiseworthy that its color be varied for the various offices and feasts, nevertheless the white color can always be retained. Cf. De Herdt, vol. 3, n. 180. - O'Kane, n. 160. - Lehmkuhl, n. 132, III, note 7.

Question 5. What must be done with fragments of hosts, if any are found?

Resp. 1st. If a priest finds fragments of his present sacrifice, he must consume them, even after the ablutions, whether they are small or large, because they belong to the same sacrifice. But this must be observed not only immediately after Mass, but also if the priest is in the sacristy, still, however, clothed in the sacred vestments. But if the priest has already put off the sacred vestments, he must place the fragments back in the tabernacle, if one is present, or reserve them for another priest who will celebrate the same morning. If neither can be done, let him consume them himself. But if the remains were consecrated in another Mass, they are not to be consumed after the ablutions, but must be placed back in a decent place. The reason is that the Rubric of the Missal permits a priest who is not fasting to consume only those remains which belong to the same sacrifice. Yet if this cannot be done and a grave danger of irreverence is present, then let the priest consume them. Cf. St. Alphonsus, n. 251. - Benedict XIV, *de Sacrif. Missae*. Rubric of the Missal, tit. 7, n. 2.

Resp. 2nd. But if a layman finds fragments, let him admonish a priest as soon as possible if any is nearby, or call him if he can be found. But the priest, reverently collecting the fragment, is to place it back in the ciborium or in a decent and safe place, if the tabernacle is lacking, so that it can be

consumed in the next Mass. But if a priest cannot be had, let the fragment be collected reverently by the layman himself in clean paper or a clean linen cloth, by means of a little needle, and be placed within a corporal or in a decent vessel until the priest comes.

Question 6. What must be done if a host certainly or doubtfully consecrated is found on the altar or elsewhere?

Resp. If the host is believed to be certainly consecrated and otherwise seems clean and recently consecrated, it is to be placed back with the others in the ciborium. It can also be consumed by the celebrant before the ablutions. But if it is not clean, or if it has been drawn from a place not clean, or is not recently consecrated, it is not to be mixed with the others; but the celebrant will be able to consume it before the ablution. But if he experiences too great repugnance, let him place the host apart in the tabernacle in a clean vessel until it is corrupted, and, once corrupted, let it be cast into the sacrarium. But if it is doubtfully consecrated, it is to be consumed by the priest in Mass after the ablution and before the purification; but if it provokes too great nausea for him, it is to be placed back in the tabernacle, apart, until it has been corrupted, as has just been said. - Cf. the Rubric of the Missal, tit. 7, *de defectibus*.

Question 7. What must be done if a sick person has rejected the sacred species?

Resp. If they appear, they must be diligently collected in a clean vessel, carried to the church, and preserved in a safe and well-closed place until they are altogether corrupted, so that they can be thrown into the sacrarium without irreverence. But if they cannot be discerned, as being altogether mixed with filth, the mouth of the sick person must indeed be wiped; but whatever has been rejected is to be collected with tow; then, after the tow has been burned, the ashes are to be thrown into the sacrarium. - Cf. Reuter, n. 169. - Gousset, n. 232.

Question 8. Whether and how often must the consecrated particles be renewed?

Resp. Let consecrated Hosts ... both be fresh and be renewed frequently, so that there may be no danger of corruption, with the instructions of the Ordinary being observed. Cf. Can. 1272. This renewal is to be done at least once a week according to the Ceremonial of Bishops. "This rule," say the Baltimore Fathers, "which the Sacred Congregation of Rites has not only confirmed more often, but truly has declared to oblige strictly and rigorously, we seriously inculcate to all priests as to be observed faithfully." Moreover, they add after the Roman Ritual: "Where a priest has consecrated new hosts, let him distribute or consume the old ones first, and by no means keep them in the tabernacle. Let him take care besides that the particles to be consecrated are fresh." - Cf. Second Plenary Council of Baltimore, n. 268. - O'Kane, nn. 620 and 621.[1]

[1] Cf. Addenda, p. 1088, n. 11.

Question 9. How must the ciborium be purified in renewing the particles?

Resp. The renewal of the ciborium is to be done in the Mass itself, in the following manner: the celebrant, after consuming the Most Precious Blood, will consume the old hosts, even if they are many; but he can consume 20 or 30 hosts thus. Rarely, however, will it happen that there are more, because there should not be consecrated except as much as seems sufficient. But if at some time a much greater quantity of hosts would have to be consumed, the priest can consume them separately in several Masses, or even several priests celebrating successively can consume them. But the smaller

particles found in the ciborium he will cast into the chalice, and, with wine poured over them, will consume them, and he will deposit the new hosts in a wholly empty ciborium. He can also pour wine into the ciborium in order to collect the smallest particles. The wine, however, must not be drunk from the ciborium, but poured back into the chalice. Cf. Lacroix, nn. 501 and following. - O'Kane, n. 622.

If the priest through inadvertence had first consumed the ablution, he could still purify the ciborium and consume the remains, because for the consumption it is morally reputed one. Cf. Lacroix, n. 502. - Elbel, n. 77. - Tamburini, *de Communione*, chap. 2, n. 34.

On account of the danger of contagion which in hospitals of lepers comes from consuming the purification of the sacred pyx, the S. C. R. on 19 Feb. 1909 granted a special manner for these places. "Let there be prepared upon the altar a small vessel with water and tow or cotton, into which small vessel the purification of the pyx, to be performed in the usual manner, is to be put, and that, as soon as it can be done, is to be cast into the sacrarium." Thus the Sacred Congregation responded to the Superior General of the C. SS. Redemptoris.

Chapter V. On the Subject of the Eucharist

Article I. On the Obligation of Receiving the Eucharist

I say. The real reception of the Eucharist is necessary for no one by necessity of means unto salvation; but for adult faithful it is necessary by necessity of precept, both divine and ecclesiastical, although not under both species, except for priests alone in the act of celebrating Mass. The reason of the first is taken from the universal practice of the Church, according to which communion is given neither to little children nor to adults hindered by infirmity, for example, to those prone to vomiting, the frenzied, etc. The reason of the second is drawn from the words of Christ, John vi, 54: "Unless you eat the Flesh of the Son of man, and drink His Blood, you shall not have life in you." But the reason of the third and fourth is had from the Council of Trent, where indeed the precept is imposed of receiving the sacrament of the Eucharist at least at Easter, but at the same time anathema is pronounced upon those who assert that it is necessary for all and each of the Christian faithful to receive it under both species. - Cf. Council of Trent, sess. 13, can. 9; and sess. 21, can. 1 and following. - St. Alphonsus, n. 295. - De Augustinis, part. 2, art. 6.

Any baptized person who is not prohibited by law can and must be admitted to holy communion (Can. 853).

It is lawful for no one to receive the Most Holy Eucharist who has already received it on the same day, except in the cases concerning which in can. 858, §1 (Can. 857).

Questions

Question 1. At what time does the divine precept of communicating urge?

Resp. Of itself, it obliges both often in life and in the article, or proximate danger, of death. The reason is that the Eucharist was instituted not only by way of spiritual food, by which the soul may be nourished and strengthened; but food must be taken often; and also as Viaticum strengthening against the enemies of salvation.

§1. In danger of death, from whatever cause it proceeds, the faithful are held by the precept of receiving holy communion (Can. 864).

Let Holy Viaticum not be delayed too much for the sick; and let those who exercise care of souls watch diligently that the sick, while fully masters of themselves, are refreshed by it (Can. 865).

The precept of receiving communion is not satisfied by sacrilegious communion (Can. 861).

Christ Himself, however, did not determine how often in life one must approach this sacrament, but left it to the Church to determine. - I said of itself; for accidentally it can oblige even more often in a year, if the Eucharist is necessary for overcoming some grave temptation. - Cf. St. Alphonsus, n. 295.

Question 2. When can or must children communicate?

Resp. §1. The Eucharist is not to be administered to children who, on account of the weakness of age, do not yet have knowledge and taste of this sacrament.

§3. Outside danger of death, fuller knowledge of Christian doctrine and more accurate preparation are deservedly required, namely that by which they may perceive, according to their capacity, at least the mysteries of faith necessary by necessity of means unto salvation, and may devoutly approach the Most Holy Eucharist, according to the measure of their age (Can. 854). - Cf. S. C. de Sacramentis, decree 8 Aug. 1910, nn. II, III, VIII. - Above 691, Q. 8.

Question 3. To whom does it pertain to admit children to first communion?

Resp. §4. Let the judgment concerning the sufficient disposition of children for first communion belong to the priest from confessions, and to their parents or to those who are in the place of parents.[1]

§5. But it is the office of the Pastor to watch, even by examination, if he shall prudently judge it opportune, lest children approach the sacred Synaxis before having attained the use of reason or without sufficient disposition; and likewise to take care that those who have attained the use of reason and are sufficiently disposed be refreshed as soon as possible with this divine food (Can. 854).

The obligation of the precept of receiving communion, which burdens the impubes, also and chiefly falls back upon those who must have care of them, that is, upon parents, guardians, the confessor, teachers, and the Pastor (Can. 860).

Parents gravely err who affirm that boys and little girls of seven years, with that knowledge which Canon 854 commemorates, cannot communicate well, but that they must wait until they have reached a greater age. These parents are strictly obliged humbly to subject themselves to the supreme authority of the Church, and to oppose no impediment to priests who, according to that authority, desire to lead children to the Sacred Eucharist. - Cf. Instruction of the Eminent Cardinal Vicar in the City, 15 Oct. 1910.

[1] Cf. Addenda, p. 1105, n. 46.

Question 4. Is someone held to receive sacred Viaticum, when the danger of death is pressing, if a few days before he communicated from devotion?

Resp. Affirmatively, as it seems; for this precept, from the interpretation of the Church, urges in danger of death for battling spiritual enemies; therefore it is not fulfilled by communion made before

the illness. Nevertheless, many deny this, because the precept of communion has already been fulfilled substantially. St. Alphonsus says this opinion is sufficiently probable, at least if the danger of death happens naturally, because through that brief preceding time it already morally began to be imminent, although it was unknown. Cf. St. Alphonsus, n. 285. - Lugo, disp. 16, n. 49.

Question 5. Is one who communicated in the morning from devotion held, or can he, when danger of death urges, receive Viaticum?

Resp. §2. Even if they have been refreshed by holy communion on the same day, nevertheless it is greatly to be advised that, when they have been brought into danger of life, they communicate again (Can. 864).

Question 6. Can the Eucharist be given to a sick person who suffers from a cough?

Resp. Affirmatively, because the danger that the sacred species may be rejected together with phlegm is generally absent; and the reason is that the way through which spit is expelled by coughing is not the esophagus, that is, the way through which food and drink are conveyed into the stomach, but is the windpipe, through which respiration extends even to the lungs. Yet if the cough is so constant that it prevents the host from being able to be transmitted into the stomach, then communion will have to be abstained from. Thus the Roman Ritual. - Cf. St. Alphonsus, n. 292.

Question 7. Can the Eucharist be given to a sick person who suffers from continual vomiting?

Resp. Certainly it cannot be given in doubt whether the sick person is about to vomit the sacred particle, because then the sacrament would be exposed to the danger of irreverence. Therefore the whole question is practical and is reduced to assigning the best rule for knowing whether a danger of this kind is present. Now the first rule is to ask the physician, if one is present; the second is to test whether the sick person can retain the particle, by giving him some food or drink, and especially some unconsecrated particle; the third is to see whether the sick person has been free from vomiting for six hours. But this last rule must be applied with discretion, and it must be examined whether the cause of vomiting is some irregular irritation of the stomach or rather regular and periodic. If the first, six hours suffice, indeed even four or three, so that it can prudently be judged that the stomach is settled; if the other, they do not suffice, and it must be investigated how often that periodic vomiting recurs. - Cf. St. Alphonsus, n. 291. - Capellmann, *Pastoral Medicine*, pp. 157 and following.

Question 8. In danger of death, can or must communion be given to the insane, the half-witted, the delirious, those deprived of the senses, the obsessed, and finally epileptics?

Resp. As regards the insane. - If they have been perpetually insane, according to the Roman Ritual communion must never be given to them. But if they often have lucid intervals and have manifested a desire of communicating, communion can be given to them, indeed must be given, with the danger of irreverence excluded. - Cf. St. Thomas, 3, q. 80, art. 9. - St. Alphonsus, n. 302.

As regards the half-witted. - Communion is to be given to them when they have sufficient discretion to distinguish this heavenly food from others; nevertheless it can be given to them more rarely or more frequently according as the prudent confessor shall have judged. - Cf. St. Alphonsus, n. 303. - Ballerini, note (a), p. 218.

As regards the delirious. - Communion can be given to them if they are able to communicate, with danger of irreverence excluded; some think it is a good practice if an unconsecrated particle is first

given to the sick person, and thus it appears whether he can communicate decently. - Cf. St. Alphonsus, n. 292.

As regards those deprived of the senses. - They indeed are dispensed from the precept, since they are capable of observing no law. But the Pastor is not thereby dispensed from the obligation of administering the Eucharist to them, if he has known that they were disposed before the loss of reason. For the sacraments operate *ex opere operato* in those who desired to receive them before they lost the use of reason. Except, however, if there is danger of irreverence or if it is feared that they cannot swallow the host. - Cf. Gousset, n. 232.

As regards the obsessed. - A distinction must be made: communion is to be denied to them when they are not masters of themselves; otherwise it is to be conceded. Indeed, it is expedient that such persons communicate rather often according to the prudence of the confessor, since the Eucharist is a special remedy for driving away demons.

As regards epileptics. - Communion cannot be given to them when they are in an actual paroxysm, on account of proximate danger of irreverence; but at other times it is not to be denied. - Cf. St. Alphonsus, n. 303.

Question 9. Can communion be given to those condemned capitally?

Resp. Affirmatively. Not only can it be given, but it must be given, as is clear from canon 864, §1. In danger of death, from whatever cause it proceeds, the faithful are held by the precept of receiving holy communion. St. Alphonsus adds that then the precept of fasting does not oblige, nor is it necessary to communicate on the same day of death, although this is laudably done; provided, however, that communion precedes the execution by an hour, so that danger of irreverence is absent. Cf. St. Alphonsus, *de quinto praec. Decal.*, n. 379. - Benedict XIV, *de Synod. diaec.*, lib. 7, cap. 11. - Gousset, n. 230.

Article II. On the Dispositions Required in the Subject of the Eucharist

§ I. On the Dispositions of the Soul

I say. For receiving the sacrament of the Eucharist, not only is the state of grace required, but also that this state be obtained by the faithful through the sacrament of Penance, except, however, in a case of necessity: namely, when on the one hand supply of a confessor is lacking and on the other communion cannot be omitted without grave disgrace or suspicion, or when a priest must celebrate so that the faithful may assist at Mass on a feast day; for then perfect contrition suffices. The reason of the first is that the Eucharist is a sacrament of the living, and therefore, according to the Apostle, he who receives it unworthily eats and drinks judgment to himself. But the reason of the second is taken from a positive precept, which rests upon the excellent dignity of this sacrament. - Cf. Council of Trent, sess. 13, chap. 7. - St. Alphonsus, nn. 256 and following.

Let no one whom consciousness of mortal sin burdens, however much he may think himself contrite, approach holy communion without previous sacramental confession; but if necessity urges and supply of a confessor is lacking to him, let him first elicit an act of perfect contrition (Can. 856).

But concerning a priest, Canon 807 establishes thus:

Let a priest conscious to himself of mortal sin, however much he may think himself contrite, not dare to celebrate Mass without previous sacramental confession; but if, with supply of a confessor lacking and necessity urging, yet with an act of perfect contrition elicited, he shall have celebrated, let him confess as soon as possible.

Questions

Question 1. When is supply of a confessor judged to be lacking?

Resp. It is judged to be lacking 1st. if no confessor is present and, considering the circumstances of weakness, age, business, distance, weather, shortness of time, etc., an absent one cannot be approached without grave difficulty; 2nd. if no other confessor is present except one ignorant of the language, or lacking jurisdiction, or to whom you cannot confess without grave damage to yourself or to another. But supply of a confessor is not judged to be lacking if he to whom you are accustomed to confess is absent; rather, every approved confessor must be lacking. - Cf. St. Alphonsus, n. 264.

Question 2. Is one who remembers a mortal sin which, from inculpable forgetfulness, he did not declare in confession, held to confess it before communion?

Resp. Negatively; and the reason is that a sin involuntarily omitted has certainly been remitted, although only indirectly, and therefore it in no way stands in the way of communion to be received. Nor should you say that the Tridentine precept of confessing before communion urges; for the penitent, since he has already been duly confessed and justified through the sacrament of Penance, is sufficiently proved even according to the mind of the Council of Trent. Nevertheless, in practice not only must a penitent of this kind be received kindly if he returns, and be absolved again, but it is also to be advised that he confess that sin at once, if he conveniently can. - Cf. St. Alphonsus, n. 257; and *Hom. Ap.*, n. 23. - Gousset, n. 249.

Question 3. Is a priest who has celebrated on account of urgent necessity, or a layman who has communicated conscious of mortal sin, with an act of contrition indeed having been premised, but without previous confession, held to confess as soon as possible?

Resp. Affirmatively as regards the priest, from the precept of Trent, sess. 13, chap. 7, where it is read: "But if, necessity urging, a priest shall have celebrated without previous confession, let him confess as soon as possible." - Cf. Can. 807. - Nor can the word let him confess be understood as if it were counsel, because prop. 38 was condemned by Alexander VII, which sounds thus: "The mandate of Trent, made to a priest sacrificing from necessity with mortal sin, of confessing as soon as possible, is counsel, not precept." - But as regards the layman one must respond negatively, because the Council speaks only of priests. - Cf. St. Alphonsus, n. 262.

Question 4. How is that precept imposed upon priests of confessing as soon as possible to be understood?

Resp. More probably it suffices if the priest confesses within three days; because since this precept is only ecclesiastical, the word as soon as possible can be understood morally, as it is understood in other human laws, where that word or another similar one, by common interpretation, is extended to the space of three days. Nevertheless, the priest cannot celebrate again before he has confessed, because he was excused from confession only on account of pressing necessity. Hence if the same necessity of celebrating urges on the following day and he can confess, he cannot remit confession to

another day. But if the same necessity of celebrating urges on the following day, indeed also on the third day or even the fourth, etc., and through those days themselves supply of a confessor is not present, the priest will be able to celebrate no otherwise than before. - Cf. St. Alphonsus, n. 266. - Ballerini, note (a), p. 222.

Question 5. Is a priest celebrating after confession, in which he has inculpably forgotten some mortal sin, held to confess as soon as possible?

Resp. Negatively, whether he remembers the sin after celebration or before celebration, because in neither case can he properly be said to celebrate with consciousness of mortal sin. - Cf. St. Alphonsus, n. 267.

Question 6. Is a priest celebrating sacrilegiously, when necessity is not urging, or if this urges, when supply of a confessor is not lacking, held to confess as soon as possible?

Resp. Negatively; and the reason is that the precept of the Council of Trent is ordered only to striking fear into those who, under pretext of necessity, defer confession, but not to those celebrating sacrilegiously, to whom a precept of this kind would very rarely be of use; for those who, with contempt of the divine precept, dare to celebrate sacrilegiously, would certainly more easily contemn the precept of the Church. - Cf. St. Alphonsus, n. 266.

§ II. On the Dispositions of the Body or on Fasting

I say. By precept of the Church, natural fasting is required for communion, or total abstinence after midnight from any thing whatsoever, however very small, which is taken by way of food and drink, with certain cases, however, excepted.

§1. He who from midnight has not observed the natural fast cannot be admitted to the Most Holy Eucharist, unless danger of death urges, or the necessity of preventing irreverence toward the sacrament (Can. 858).

And concerning a priest let canon 808 be heard: - It is not lawful for a priest to celebrate unless the natural fast from midnight has been observed.

This is established both from the universal custom of the Church and unanimous tradition; both from all Catechisms and Rituals approved by the Church; and also from Councils, and especially from the Council of Constance, sess. 13. But in order that that fast be broken, according to the common opinion, three conditions are required, namely 1st. that what is taken have the nature of food or drink; 2nd. that it be taken from outside and conveyed into the stomach; 3rd. that it be taken by way of eating or drinking. The reason is that if one of these conditions is lacking, eating is not properly had, according to the common sense and estimation of men. Hence iron, glass, wood, etc., or blood flowing from the mouth, tongue, gums, etc., or a fly, snow, water, etc., taken by way of respiration or of saliva, do not break the fast. Thus commonly with St. Thomas, 3, q. 80, art. 8; and St. Alphonsus, n. 281.[1]

[1] Cf. Addenda, p. 1108, n. 51.

You Will Resolve. 1st. The conveyance of remnants of food which adhere between the teeth, whether involuntary or voluntary, does not break the fast, because it is not done from outside. This is

also established from the Rubric of the Missal, tit. 9, n. 3. - Cf. St. Thomas, in 4, dist. 8, q. 1, art. 4, q. 2, ad 3. - St. Alphonsus, n. 279. - Ballerini, note (a), p. 225.

2nd. Little drops of water which, while the teeth are washed, are mixed with saliva and swallowed beside the intention, do not break the fast, because they are not taken by way of nutrition. - I said beside the intention; for if they are conveyed by deliberate purpose, nothing is lacking for them to have the nature of food or drink. - Cf. Rubr. Miss., *de defectibus*, n. 3. - St. Alphonsus, n. 279.

3rd. Neither powder of tobacco taken through the nostrils nor its smoke, or that of another similar thing, breathed in, dissolve the fast, because they do not have the nature of food, or at least are not taken by way of food or drink. - Cf. St. Alphonsus, n. 280.

4th. Indeed, at least probably, he sufficiently preserves the fast who takes a tobacco leaf or aromatic substance in order to grind it with his teeth and spit out the phlegm, even if, beside his intention, he swallows some juice inseparably mixed with saliva. The reason is that chewing of this kind of itself tends to eject humors, and if by chance something is swallowed, this is done by way of saliva. - Yet all agree that this chewing before communion is indecent, whence it does not seem excused from venial fault unless some just cause intervenes. - All likewise must agree that the fast is certainly broken if this chewing is done in such a way that the juice of the leaves is extracted and swallowed deliberately. - Cf. St. Alphonsus, n. 280.

5th. "With salt tasted beforehand by catechumens in the conferral of Baptism, although the fast seems to be broken, nevertheless there is still no doubt that, after receiving Baptism, they can, indeed truly must, be admitted to holy communion." S. C. de Prop. Fide, 16 Feb. 1806. - Cf. *Acta S. Sedis*, vol. 25, p. 437.

6th. He remains fasting who is nourished by an enema, as sometimes happens today to the sick, and probably also he who, for washing the stomach, by the aid of some tube, draws in water and again rejects it. Nevertheless, it is agreed among all that it is illicit to insert into the esophagus a tube smeared with oil or glycerin.

7th. Neither gargling nor spraying breaks the fast. One using them should carefully spit out lest he swallow anything. Besides, it is taken by way of saliva. Tasting foods, customarily done by cooks, likewise does not violate the fast. Cf. Many, *De Missa*, p. 335.

8th. A priest who is about to celebrate immediately after midnight does not violate the law if a little before that hour he takes some food or drink. It is to be advised that for several hours, on account of reverence, he abstain from food and drink. Leo XIII, granting the faculty to the Church of Lourdes that Mass be said immediately after midnight, placed the condition that the celebrant abstain from food and drink for four hours before Mass. 26 Feb. 1885. The same can, not without praise, be advised also to the people about to communicate in the Mass to be celebrated at midnight. - Cf. Bulot, n. 357.

9th. Among diverse disagreeing clocks, it is lawful to follow the latest, which, however, does not habitually err.[1]

[1] Cf. Addenda, p. 1149, n. 123.

Questions

Question 1. Must someone stand by the recent manner of computing time among us, so that he may be said to preserve the natural fast?

Resp. §1. In calculating the hours of the day, one must stand by the common usage of the place; but in the private celebration of Mass, in the private recitation of the canonical hours, in receiving holy communion, and in observing the law of fast or abstinence, although another reckoning may be the usual reckoning of the place, someone can follow the time of the place, or local time, whether true or mean, or legal time, whether regional or another extraordinary time (Can. 33).

Question 2. Can one communicate who positively doubts whether after midnight he has taken food or drink, or on that very day has swallowed something?

Resp. Affirmatively, more probably; and the reason is that in the case it is not established that the fast has been violated, and therefore it is not established that communion is forbidden; for the fact of the violated fast would have to be proved before the law prohibiting the Eucharist to one not fasting is invoked. - Cf. St. Alphonsus, n. 282; and *de conscientia dubia*, n. 39. - Ballerini, note (a), p. 226.

Question 3. Is it lawful to eat and drink immediately after communion?

Resp. Formerly indeed after communion a fast was prescribed until Sext. But this precept has already long since been abrogated. - Nevertheless, from decency, some delay must be observed between the reception of this sacrament and other foods, at least so long as the consecrated species, not yet plainly corrupted, persevere in the stomach, unless, however, some reasonable cause is present for taking some food immediately; otherwise such eating, on account of irreverence, is not excused from venial fault. - Cf. St. Alphonsus, n. 283.

Question 4. Is it illicit to spit after communion?

Resp. Negatively, of itself, provided no fragment of the host has remained in the mouth. For there is no danger of irreverence toward the sacred species, since the way through which spit flows into the mouth is not the esophagus, or the way of food and drink, but is the way of respiration. Nevertheless, all agree that it is fitting that communicants abstain from spitting for some interval of time. - Cf. St. Alphonsus, n. 283.

Question 5. When is it lawful for someone not fasting to communicate?

Resp. One not fasting communicates licitly 1st. in danger of death, from whatever cause it may come; 2nd. in danger lest the Eucharist perish or be treated badly, for example, by heretics or impious persons; 3rd. in proximate danger of grave scandal from omission of the sacrifice or communion; 4th. in the necessity of completing the sacrifice or communion, for example, if instead of the species of wine the priest has taken water, etc. - Cf. St. Alphonsus, nn. 284 and following.

Question 6. Is moral certitude of the danger of death required in order that Viaticum can be administered to one not fasting?

Resp. Negatively; rather, a prudent doubt or probability of danger suffices, especially when it must be feared lest the sick person be seized by sudden death. Indeed, Pastors and parents or relatives of the sick who, from negligence or vain fear, so prolong the administration of sacred Viaticum that the sick are in danger of departing without the Eucharist, must be gravely rebuked. Indeed St. Alphonsus says

that in this matter one must not proceed scrupulously, since in the Council of Constance, sess. 13, simply the sick are excepted from the law of fasting. - Cf. St. Alphonsus, *Hom. Ap.*, n. 46; and lib. 6, n. 285, dub. 3. - Ballerini, note (a), p. 227.

Question 7. Is it lawful to give communion to a sick person laboring under a long-lasting illness, and who can neither observe the fast nor lies dangerously ill?

Resp. Affirmatively. §2. The sick, however, who have already been lying ill for a month without certain hope that they will quickly recover, by the prudent counsel of the confessor, can receive the Most Holy Eucharist once or twice in a week, even if they have previously taken some medicine or something by way of drink (Can. 858).

Now from the interpretation of the S. R. and U. Inq. on 7 Sept. 1897, when it is said by way of drink, it is also signified that it is permitted to take broth, coffee, and other liquid foods with which some substance is mixed, as for example flour, grated bread, etc., provided the mixture does not lose the nature of liquid food. In interpreting this canon we must be cautious so that we avoid the double rock of excessive severity or excessive benignity. There are those who say that eggs are not to be numbered among those things which are permitted; but if it is sucked, or if an egg is lightly cooked and runs, it is not established why it could not be permitted. In the canon there is no question of celebrating the Sacrifice of the Mass, but of receiving communion. Indeed, a nun who on other days would remain fasting, but only with grave inconvenience, which certainly is not very dangerous, would not have to be barred from the privilege; but she can communicate on those two days by force of the privilege, and on the others because she has taken no food.[1]

[1] Cf. Addenda, p. 1114, n. 62.

Question 8. Is it lawful for a priest not fasting, say one who has already celebrated before, to say Mass for communicating a sick person who otherwise would be deprived of Viaticum?

Resp. It is controverted; but the affirmative is altogether probable and safe, because the divine precept of Viaticum prevails over the ecclesiastical precept concerning fasting; indeed, some distinguished supporters of the negative opinion admit the probability of this opinion. - Cf. St. Alphonsus, n. 286. - Ballerini-Palmieri, n. 170.

On Frequent Or Daily Communion

Let the faithful be stirred up so that frequently, even daily, they may be refreshed by the Eucharistic bread according to the norms handed down in the decrees of the Apostolic See; and so that those assisting at Mass, not only by spiritual affection, but also by sacramental reception of the Most Holy Eucharist, being duly disposed, may communicate (Can. 863).

S. C. de Sacramentis, 8 Aug. 1910, nn. V, VI. But what those norms and dispositions are is nowhere more clearly declared than in the decree of the S. C. of the Council, 20 Dec. 1905, which it is useful to place here; the notes of the Code appeal to it often.

"1st. Frequent and daily Communion, as being most greatly desired by Christ the Lord and by the Catholic Church, is open to all the Christian faithful of whatever order or condition; so that no one who is in the state of grace and approaches the Sacred Table with a right and pious mind can be prohibited from it.

2nd. But a right mind consists in this: that he who approaches the Sacred Table does not indulge custom, or vanity, or human reasons, but wishes to satisfy the good pleasure of God, to be joined more closely to Him by charity, and to meet his infirmities and defects by that divine medicine.

3rd. Although it is most greatly expedient that those using frequent and daily Communion be free from venial sins, at least fully deliberate ones, and from affection for 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 do not by degrees disentangle themselves from sins even venial, and from affection for them.

4th. But since the Sacraments of the New Law, although they obtain their effect *ex opere operato*, nevertheless produce a greater effect in proportion as greater dispositions are employed in receiving them, therefore care must be taken that diligent preparation precede holy Communion, and suitable thanksgiving follow afterward, according to the strength, condition, and duties of each one.

5th. In order that frequent and daily Communion may be made with greater prudence and increased with richer merit, it is fitting that the counsel of the Confessor intervene. Let Confessors take care, however, that they not turn anyone away from frequent or daily Communion who is found in the state of grace and approaches with a right mind.

6th. But since it is clear that from frequent or daily reception of the Holy Eucharist union with Christ is increased, the spiritual life is nourished more richly, the soul is more abundantly furnished with virtues, and a pledge of eternal felicity is given more firmly to the one receiving, therefore Pastors, confessors, and preachers, according to the approved doctrine of the Roman Catechism (Part II, chap. 4, n. 60), should exhort the Christian people to this so pious and so salutary use by frequent admonitions and with much zeal.

7th. Frequent and daily Communion is to be promoted especially in religious Institutes of every kind; for which, however, the decree *Quemadmodum* of the day 17 of the month of December 1890, issued by the S. Congr. of Bishops and Regulars, is to remain firm. It is also to be promoted as much as possible in clerical Seminaries, whose students long for the service of the altar; likewise in other Christian youth institutions of every kind.

8th. If there are any Institutes, whether of solemn or simple vows, in whose rules or constitutions, or even calendars, Communions are found fixed and commanded on certain days, these norms are to be considered merely directive, not preceptive. But the prescribed number of Communions must be held as a certain minimum for the piety of Religious. Therefore more frequent or daily access to the Eucharistic table must always be freely open to them, according to the norms handed down above in this decree. But so that all Religious of either sex may be able duly to know the dispositions of this decree, the superiors of individual houses will take care that it be read in common every year in the vernacular language within the Octave of the feast of the Body of Christ.

9th. Finally, after this Decree has been promulgated, let all ecclesiastical writers abstain from any contentious disputation concerning the dispositions for frequent and daily communion.

But when all these things had been reported to the Most Holy Our Lord Pope Pius X by the undersigned Secretary of the Sacred Congregation in the audience of the day 17 of the month of December 1905, His Holiness held this decree of the Eminent Fathers ratified, confirmed it, and

ordered it to be published, notwithstanding anything whatever to the contrary. He commanded besides that it be sent to all local Ordinaries and Regular Prelates, so that they may respectively communicate it with their Seminaries, Pastors, religious Institutes, and priests, and may inform the Holy See concerning the execution of those things which are established in it, in their reports on the state of the diocese or institute. Given at Rome, on the day 20 December 1905."

The Sacred Congregation of the Council on 15 Sept. 1906 established: "That the frequency of Holy Communion is to be commended according to the first article of the decree (*Sacra Tridentina Synodus*) also to children who, once admitted to the sacred table according to the norms in the Roman Catechism, chap. 4, n. 63, must not be prohibited from its frequent participation, but rather they are to be exhorted to it, with the contrary practice in force somewhere being reproved." "It must be cared for with all zeal by those having care of children that after first communion those same children approach the sacred table often, and, if it can be done, even daily, according as Christ Jesus and Mother Church desire." S. Cong. de Disc. Sacr. 8 Aug. 1910. The same Supreme Pontiff granted to those who are accustomed in the state of grace and with a right and pious mind daily to receive the Holy Things from the altar, although once or again in the week they abstain from Communion, that they may obtain all and each of the Indulgences without the obligation of that weekly confession which otherwise would exist as necessary for acquiring the Indulgences occurring at that time.

From these Decrees it is clear that the mind and desire of Christ and of the Church is that daily Communion be also the daily banquet of all the Christian faithful, indeed also of children immediately after first communion has been received. Two conditions are required: the state of grace and a right mind. It would indeed be best if someone approached entangled in no affection for venial sins, but this is not required.

Nor are those asserting the contrary to be heard. For those who demand absence from venial sins and from affection for them as a requisite clearly contradict the Decree: "It suffices that they be free from mortal faults"; but if the other opinion were true, it would not suffice that they be free from mortal faults, but it would be required that they be free from venial faults. If that absence were a certain prerequisite, it would not be said to be an effect, as it were, normal: "it cannot happen that those communicating daily do not by degrees disentangle themselves from sins even venial, and from affection for them." If anyone, in order to preserve himself in the state of grace, communicates daily, he certainly does an excellent work by retaining himself in this way in the friendship of God. We judge that those who are in the state of grace, but are led by a mind not right, can easily be instructed, so that it may also be lawful for them to communicate daily. We confessors do not have the right of demanding conditions more perfect than those which the Church demands. Certainly care must be taken that diligent preparation precede and suitable thanksgiving follow. But it must be noted that these are to be furnished, as the Decree says, "according to the strength, condition, and duties" of each one, and indeed in order "for greater" fruit according to greater dispositions. Suppose some worker who can devote no time to communion except the time of Mass; for him this will be sufficient, for he acts according to his strength. The counsel of the confessor is not the same as permission; it is required, not absolutely, but if someone wishes "to receive with greater prudence and richer merit." It is clear that a grave obligation is imposed upon pastors, confessors, preachers, and superiors of religious institutes, seminaries, and youth institutions of promoting this most salutary use. Pastors obedient to the Supreme Pastor, attending solely to the will of Christ and of the

Church, will often, indeed daily, lead their flock to these pastures, the banquet of the Eucharist, and will be blessed.

Question. What can and must Superiors of religious furnish concerning communion?

Resp. §1. Let Superiors take care that all religious:

1st. Each year devote themselves to spiritual exercises;

2nd. If not legitimately impeded, daily be present at the Sacrifice, devote themselves to mental prayer, and diligently apply themselves to other offices of piety which are prescribed by the rules and constitutions;

3rd. Approach the sacrament of penance at least once a week.

§2. Let Superiors promote among their subjects frequent, even daily, reception of the Most Holy Body of Christ; and let frequent, indeed even daily, access to the Most Holy Eucharist be freely open to religious duly disposed.

§3. But if after the last sacramental confession a religious shall have been a grave scandal to the community or committed a grave and external fault, until he has again approached the sacrament of penance, the Superior can prohibit him from approaching holy communion.

§4. If there are any religions, whether of solemn or simple vows, in whose rules or constitutions, or even calendars, communions are found fixed or commanded on certain days, these norms have only directive force (Can. 595).

Part II. On the Eucharist as Sacrifice

Chapter I. On the Nature and Virtue of the Sacrifice of the Mass

I say. The Mass is not only a true and properly so-called sacrifice of the new law, but also perfectly contains the diverse aspects of the sacrifices of the old law. The first is established from the Council of Trent, sess. 22, can. 1, where these things are had: "If anyone shall have said that in the Mass there is not offered to God a true and proper sacrifice, or that to be offered is nothing other than that Christ is given to us to be eaten, let him be anathema." But the other is established from can. 3 of the same session; and therefore the Sacrifice of the Mass is latreutic, insofar as it is specially offered to God in acknowledgment of His supreme dominion; it is eucharistic, insofar as it is offered in thanksgiving for benefits conferred by God; it is propitiatory and satisfactory, insofar as through it we obtain both pardon of sins and remission of the punishment owed to them; finally, it is impetratory, insofar as it is offered to God for benefits to be obtained from Him through the merits of Christ. - Cf. De Augustinis, part. 3, Thesis 17, p. 316. - Lehmkuhl, n. 164.

Questions

Question 1. Whether and how does the Sacrifice of the Mass differ from the Sacrifice of the Cross?

Resp. It does indeed differ, but only accidentally; for since the victim is the same, the formal nature of the sacrifice is the same, and the principal offerer or priest is the same, there certainly cannot be an essential difference. But several accidental differences are assigned; the principal ones are, on the one

hand, from the part of the victim, which in the Mass is immortal and on the altar of the Cross was mortal; and, on the other hand, from the part of the offerer, because on the Cross Christ offered the sacrifice through Himself, but in the Mass He offers it through the hands of ministers. - Cf. De Augustinis, part. 3, Thesis 15, Scholion, p. 293.

Question 2. In what properly does the essence of the Sacrifice of the Mass consist?

Resp. Theologians dispute much about this matter, but more probably it must be said to consist in the consecration alone, because only in the consecration is the mystical slaying of the victim properly found; although this is explained in a diverse way by the patrons of this opinion, especially by Suarez and Cardinal de Lugo. - But St. Alphonsus held as more probable the opinion which places the essence of the Sacrifice of the Mass also in communion. - Cf. St. Alphonsus, n. 305. - De Augustinis, part. 3, Thesis 16, p. 298. - Lehmkuhl, n. 165.

It is unlawful, even when extreme necessity urges, to consecrate the one matter without the other, or even both, outside the celebration of Mass (Can. 817).

Question 3. Can the Sacrifice of the Mass be offered for all indiscriminately?

Resp. It is permitted to apply Mass for any persons whatsoever, both living and also the dead expiating their offenses by the fire of purgatory, with due regard for the prescription of Can. 2262, §2, n. 2. (Can. 809). This prescription has itself thus: "Nevertheless Priests are not prohibited from applying Mass privately and with scandal removed for him (i.e. an excommunicated person); but, if he is one to be avoided, only for his conversion." This power is indeed most ample, for any persons whatsoever, living as well as dead, expiating their offenses by the fire of purgatory; and although an excommunicated person does not become a participant of indulgences, suffrages, and the public prayers of the Church, priests are not prohibited from applying Mass privately and with scandal removed for him; but if he is one to be avoided, only for his conversion; therefore for any living excommunicated persons it is lawful so to apply it, indeed for one to be avoided, provided it is only for his conversion; for all souls of the dead, provided they are purging. We see, therefore, the opinion of Cardinal Bellarmine confirmed, which Benedict XIV explains in the Constitution *Ex quo primum*: "Now heretics and schismatics are subject to the censure of major excommunication. But the sacred Canons of the Church forbid public prayer for excommunicated persons. For this reason the Venerable Cardinal Bellarmine writes most excellently to our matter: 'Someone asks whether at this time it is lawful to offer the Sacrifice for the conversion of Heretics or of some Infidels. The reason for doubting is that the whole Liturgy of the Latin Church, which is now in use, is referred to the faithful, as is clear from the prayers of oblation both outside and within the Canon. I answer. I judge that this is lawful, provided nothing is added to the Mass, but the Sacrifice is applied only through the intention of the priest to the conversion of infidels or heretics: for pious and learned men do this, whom we cannot reprehend, nor does there exist an express prohibition of the Church.'" But Cardinal Bellarmine here speaks of the application of Mass in the ordinary sense. Therefore, the Supreme Pontiff makes this doctrine of Bellarmine his own. And what pious and learned men did at that time, many pious priests do even today, that is, secretly apply the special fruit in diverse cases, without public announcement and without a special liturgical prayer. Nor do various recent responses demonstrate that this is illicit. The following cases are resolved thus.

For tolerated excommunicated persons, a secret celebration can be made, both for their conversion and, according to others and not improbably, for any other honest end; nor is secret application forbidden for those same persons when dead, if their good faith and repentance are probable. Cf. Wernz, v. 3, n. 542. Gasparri, n. 483. Concerning heretics and schismatics, living and dead, the same must be said: secret celebration is permitted for the conversion of the living or for other honest ends, and for the rest of the dead if their good faith is probable. Concerning living infidels, these things certainly seem able to be rightly established: for their conversion and any other honest intention, secret celebration is licit; for those same persons dead in infidelity, secret celebration is licit provided before death they gave probable signs of repentance. But in all these cases scandal must be avoided, communication with one to be avoided must be avoided, the stipend from him must be avoided, etc., lest men judge that the Church esteems faithful and pious sons and heretics, excommunicated persons, or other outcasts by one and the same valuation; furthermore, if there is any other special law in this matter, it must be diligently observed.

And therefore it is not lawful to say Mass and to accept alms from a heretic or schismatic for their intention, unless it is established that the alms are offered by them for obtaining conversion. - Cf. Response of the Holy Office, 19 April 1837. On the other hand, we can celebrate Mass for the intention of infidels and accept alms from them, provided there is no scandal and nothing is added in the Mass, and as regards the intention it is established that nothing evil or erroneous or superstitious underlies it in the infidels offering the alms. Holy Office, 12 Jul. 1865. Therefore stipends are licitly accepted from infidels, and Mass is applied for their liberation from illness, etc. S. C. de Prop. Fide, 11 March 1848. But it is not lawful to accept stipends for infidels or heretics or schismatics or excommunicated persons dead in manifest infidelity, heresy, schism, or contumacy: this prohibition is valid not only when an application of this kind would be known to many, but also when it would be known only to the priest and to him who gives the alms. Holy Office, 7 April 1875. Marc, n. 1601. A priest to whom a stipend is offered for some heretic in particular will be able to respond that he can apply Mass for all the faithful departed, with the intention also of helping that soul, if it is acceptable before God. It is not illicit sometimes to pray publicly and say Mass for living infidel, heretical, or schismatic kings as governing the state; but to do the same for those same persons when dead is forbidden by the old and new discipline of the Church. Gregory XVI to the Bishops of Augsburg, 16 Feb. 1842. - Cf. Gasparri, nn. 478 and following. "*Il Monitore Eccles*." v. 13, p. 132. - Wernz, v. 3, n. 542. - Genicot, n. 221. - Bulot, nn. 375 and following. - Sebastiani, n. 453.

Question 4. How manifold is the fruit of the Sacrifice of the Mass?

Resp. The fruit of the Mass is distinguished under a twofold heading, namely from the part of the offerer and from the part of the victim.

I. From the part of the offerer. - Since the offerer is twofold, namely Christ and the priest, hence from the part of the offerer the fruit of the Mass is of a twofold kind. The first proceeds from Christ offering and is called *ex opere operato*, because it is received in view of the merits of Christ and His promise. The other proceeds from the priest offering, insofar as it is received in view of the merit and devotion of the celebrating priest, and is called fruit *ex opere operantis*. Hence it happens that the sacrifice offered by a holy priest, insofar as it is considered *ex opere operato*, is of no more benefit than if it were offered by an unworthy Minister; because the sacrifice, considered thus, is the work of Christ and the fruit flows only from the merits of Christ. Wherefore in this sense it can rightly be

said that the Mass of a bad priest is worth as much as the Mass of a good priest. But it must be said otherwise if the merit *ex opere operantis* is attended to; for the more worthy the priest is and the more endowed with devotion, so much the greater does the fruit of the Mass become.

II. From the part of the victim. - Under this heading a threefold fruit of the sacrifice is distinguished, namely general, special, most special.

1st. The general fruit is that which corresponds to the sacrifice insofar as it is a work placed by the priest, as he operates in the name of the whole Church. And indeed all the faithful, although the priest does not think of them, perceive this fruit; but it is attributed to them only by way of impetration, not indeed, as it seems, by way of satisfaction, because from the thousands of sacrifices which are offered daily, any just man, even unknowingly, would obtain remission of an immense punishment, which appears incredible. Those standing by at the sacrifice, and a fortiori those cooperating with it, for example, those serving the priest, etc., participate in this general fruit in a more abundant or more special way. But this fruit, as being *ex opere operantis*, is the richer in proportion as the devotion and holiness of those assisting and cooperating is greater. Hence, although several hear Mass or minister at it, each one will perceive the whole fruit proportioned to his devotion, not otherwise than if he alone were hearing or ministering.

2nd. The special fruit is that which comes to him or to those to whom the priest specially applies the sacrifice. These participate *ex opere operato* in the sacrifice, as it is impetratory and propitiatory; indeed also, provided nothing stands in the way, as it is satisfactory.

3rd. The most special fruit is that which comes to the priest offering, insofar as he is a private person offering. For if any cooperators perceive from the sacrifice their own altogether special fruit, much more must the priest who sacrifices perceive this. But whether the priest can apply this fruit to others is uncertain, although it is certain that the priest cannot receive a stipend in order to apply this most special fruit to another. - Cf. St. Alphonsus, n. 312. - Ballerini, note (b), p. 241.

Question 5. Is the value of the Sacrifice of the Mass infinite?

Resp. It is certainly infinite if it is considered in itself, or in the thing offered and in the excellence of the dignity of Christ offering. For Christ Himself in this sacrifice is at once victim and principal offerer. Wherefore the Mass is the oblation of a victim of infinite price, made by Christ the primary offerer, who has infinite merit. Nevertheless it is not, nor can it be, infinite as to the application made to individual men, or as to the effect or fruit, because creatures are not capable of perceiving infinite fruit; but the application can be greater or lesser according as the disposition or capacity of him to whom it is applied has been greater or lesser.

Question 6. Is the application of the fruit of the sacrifice restricted to a certain degree, or is it made indefinitely according to the capacity of those for whom it is offered?

Resp. It is much controverted among theologians. For many contend that the application is made indefinitely according to the capacity of the faithful for whom it is offered, and St. Alphonsus says this opinion is most commonly received. The reason for it is that, on the one hand, since the value of the sacrifice is infinite in itself, it can be applied to innumerable men without being exhausted; but on the other hand, nowhere is found some restrictive law of this application, if from another source there is capacity for receiving. Wherefore, they say, if the sacrifice is offered for one only or for a

hundred, each of these will perceive as much fruit as that one. But several other theologians hold that the fruit of the Mass is restricted to a certain degree, because although the Mass in itself and as to sufficiency is of infinite value, nevertheless its effect is limited and restricted in a certain quantity from the will of Christ, who instituted this sacrifice so that *ex opere operato* it would produce a certain effect or a certain degree of satisfaction, independently of the disposition of men. Nevertheless, the patrons of this opinion concede that this degree of fruit can be increased *ex opere operantis*, that is, according to the greater devotion of the offering priest and of the person for whom it is offered; and that the fruit itself *ex opere operato* is not restricted extensively as regards those offering, that is, as regards the priest, ministers, and assistants, so that however great their number is, it is as great in each as it would be in one who alone offered. Besides, these theologians also concede that the diverse fruits of the sacrifice can validly be divided by the celebrant or applied to diverse persons. And they teach that this can indeed also licitly be done both in a free Mass and in a Mass which is owed from fidelity alone and was promised to diverse persons for diverse ends.

Since the second opinion is truly probable, at least extrinsically, seeing that most illustrious theologians hold it, such as Bellarmine, *de Sacrif. Missae*, lib. 2, cap. 4, prop. 4; Suarez, disp. 79, sect. 12, n. 7; Cardinal de Lugo and Cardinal Bona, who both call it the more common and truer opinion, St. Alphonsus rightly warns that it is not lawful for a priest who accepts a stipend from one person to apply the same Mass at the same time for him and for others, to whom he owes nothing by force of a stipend, unless at least under condition, namely provided that he from whom he accepted the stipend is not defrauded. Yet the placing of this condition, given the solid probability of the first opinion, cannot or ought in any way prevent a priest, through the application of the same sacrifice, from being able to satisfy some obligation to another person which he contracted otherwise than through an accepted stipend. Cf. St. Alphonsus, nn. 312 and following. - Lugo, disp. 19, n. 249. - Ballerini, note (a), p. 242; and note (a), p. 243.

Question 7. Does Mass benefit the dead from the infallible promise of Christ?

Resp. Affirmatively, for Mass is usefully offered for the dead, as is established from Trent, sess. 22, can. 3; but this cannot be done except from the promise of Christ, which is reported in Matt. xxvi, 28: "This is My Blood ... which will be poured out for many unto the remission of sins." This is also established from the words of the form in the conferral of Orders: "Receive the power to offer sacrifice to God, and to celebrate Masses both for the living and for the dead in the name of the Lord. Amen." - Nevertheless, temporal punishment is not remitted to the dead by a certain law, but it benefits them only by way of suffrage, according as it shall have pleased God to accept it. - Cf. Perrone, n. 282.

Question 8. Does a Mass of Requiem benefit the dead more than a Mass of the Saints?

Resp. Negatively, as to the substance or from the part of the sacrifice; but affirmatively as to accidentals or from the part of the prayers, the defect of which devotion can supply. - Note here that a Mass of Requiem and in black vestments can be applied for a living person, provided he who gives the alms has not expressly declared the opposite. - Cf. St. Alphonsus, n. 310, after St. Thomas, Suppl. q. 72, art. 3. - S. C. Rit., 29 Nov. 1856.

Chapter II. On the Application of the Sacrifice of the Mass

I say. A special application by the priest is not necessary in order that the most special fruit may come to him, and that part of the general fruit may be perceived by the faithful. Nevertheless, an application or intention is required by which the priest wills that the special or ministerial fruit should come to some person. The reason of the first is that that application is always implicitly contained in the general intention of celebrating according to the mind of the Church. But the reason of the second is that the priest is the only person who acts in the name of Christ as minister, and therefore he alone can dispose of such fruit, and consequently without his application there is no reason why fruit of this kind should be given to one rather than to another. But if in truth no special application is made, this fruit then goes to the general treasury of the Church, and therefore becomes less useful. - Cf. Billuart, dissertation 8, art. 4.

Questions

Question 1. Must the application of the fruit of the Mass be actual?

Resp. Negatively; rather, it suffices that it be habitual, namely that once made it is not retracted. The reason is that this application is made by way of donation, and therefore through the intention once had the priest has already given the fruit of his sacrifice, and therefore it is owed to him to whom he has given it, and when Mass is celebrated, it comes to the same person unless the donation is revoked. Nevertheless, it is expedient to make the application of the Mass before it is begun. But if the priest has not done this either before the consecration, or at least in the consecration of the second species, he cannot afterward specially apply the sacrifice to anyone. - Cf. St. Alphonsus, n. 335.

Question 2. If a priest, forgetful of a prior intention, elicits a new one while celebrating, which must be judged valid?

Resp. In general it cannot be defined, but one must inspect what intention was predominant in the mind of the priest. Besides, in practice it matters little; for since either one is certainly valid, it will suffice another time to apply the Sacrifice to him to whom it was not applied.

Question 3. Must the intention of the celebrant be explicitly determined?

Resp. Negatively, for it suffices that it be determined implicitly. Thus the application is valid if you say: I offer this sacrifice for him who gave the stipend - for whom the superior wills the Sacrifice to be made - for whom the foundation requires it - for the greatest sinner or the soul afflicted by the graver temptation - for the purging soul needing greater help or more pleasing to God - for all the souls of Purgatory - for him to whom I am bound to apply it - for the person or intention written or determined in mind at the beginning of the week, etc. On the contrary, this application is not valid: I offer that God may apply this Sacrifice, because no determination would be present.

Question 4. If a priest has accepted stipends from 10 persons, does he satisfy by celebrating with an altogether confused and indeterminate intention?

Resp. Negatively, because an intention determined at least implicitly to a certain person is required; otherwise there is no reason why the Mass would be applied to one rather than to another, and thus it would be applied to no one. - Nevertheless, if he intended to apply each Mass to those ten persons,

applying to each one a tenth part of each Mass, he would satisfy the obligation; because the fruit of the sacrifice is divisible, and there is attributed to each one what is owed to him; for each one, perceiving in each of ten Masses a tenth part of the fruit, when the tenth Sacrifice has been made, has already obtained the whole fruit owed to him. But a fortiori this is lawful according to the opinion of those who deny that the fruit of the Mass is perceived according to some limited measure established by Christ Himself. - Cf. St. Alphonsus, n. 335. - Ballerini, note (b), p. 245.

Question 5. How must the application be determined when stipends are given by many unknown persons?

Resp. The intention must be made for those who gave the earlier stipends. This easily succeeds when the same priest will satisfy all obligations; nor does it stand in the way that he perhaps distributes part of the Masses to be celebrated to other priests, because he can distribute them in the same order in which he received them, and thus the application seems sufficiently determined. A greater difficulty seems present if a sacristan or another has collected many stipends from diverse persons and distributes the confused money to several priests. For how then will the application of the Mass have to be made? I answer: Nothing else must be done, nor can anything else morally be done, than that the application be made according to the order of time in which the stipends were given by the faithful, according to the maxim which is sometimes used in a matter of justice: He who is prior in time is stronger in right. Indeed, it is not even necessary that the priest explicitly attend to this; since he is judged to wish to act thus, when natural equity demands it. In general, when priests receive Masses to be celebrated from the Ordinary, it suffices that they "celebrate according to the mind of the Ordinary, who nevertheless must form the intention for each one offering according to the rules handed down by approved authors of moral theology. Yet it is better if the prescribed intentions are disclosed to the priests." S. C. Conc. 27 Feb. 1905.

Question 6. Are you held to a new application if you celebrated for a living person whom you thought dead, if you had owed to celebrate only for him now dead?

Resp. Negatively, probably, both because he who gave the stipend is not reasonably supposed to wish to urge his right in such a way, and because the Mass already said was not useless to him while still living.

Question 7. What must be said about the divisibility of the fruits?

Resp. It often happens from the very nature of the thing that the fruits of the sacrifice are separated, that is, that one fruit comes to someone without another: for capacity is not found in the subject. Thus, when you offer sacrifice for a sinner who is not in the state of grace, the sacrifice benefits him, say, as to impetratory force but not as to satisfaction, because punishment owed for sins is not remitted unless the sins have first been dismissed. In a similar way, when you offer sacrifice in memory of the citizens of heaven, you obtain that their cult may be increased, etc., but they themselves are incapable of satisfaction. This separation can also be made by the will of the priest: he can apply this fruit, say the satisfactory fruit, to one, and the impetratory fruit to another. - Cf. Dicastillo, disp. 3, *de sacrif.*, n. 136. - Lugo, d. 19, n. 122, and others from Gobat, tract. III, sec. II, n. 140, who hands down these rules for practice: Rule I. As often as there does not fall upon you an obligation of offering your Sacrifice for some certain intention, so often you can separate all the fruits by reserving one or two for yourself, dividing the rest among two, three, four, etc. The reason is that

whatever is not expressly found prohibited is understood to be conceded. Rule II. When you have accepted a stipend for making the Sacrifice for some certain intention, you illicitly divide the fruits, etc.

Certainly it seems to us that here also injustice can easily intervene, namely if by the division the intention of the one giving the stipend would be frustrated. A Mass in these circumstances of a conferred stipend must always be said in such a way that the right of the giver remains unharmed. The same must be said when you say Mass from a stipend for the dead; you cannot divide the satisfactory fruit from the impetratory fruit. Rule III. When from obedience alone you are held to make the Sacrifice ... you can apply to another the fruits which do not tend directly to the prescribed end. ... The obligation of law and precept is not to be extended beyond the end of the law and precept. Finally, lastly, a liberal permission is to be interpreted so that it is as little burdensome as possible to the one promising ... especially when the promissory words indicate limitation. - Gobat, ibid.

Question 8. What is a second intention in Mass?

Resp. "From what has been said," says Lugo (concerning whether the Sacrifice of the Mass has infinite value), "there is inferred first what the second intention in Mass means, which is accustomed to be applied for others; for in truth to apply a second intention for someone is to apply conditionally, if he to whom the first is applied does not need it; or even to extend the impetration to that; which, as we have said, can be extended to several; or finally also to apply satisfaction primarily in the case in which the contrary opinion is true, according to which the priest can extend his application to many and prudently does so by extending it: let it be worth as much as it can be worth." Cf. Lugo, disp. 19, n. 257. A second intention, when Mass is said for a stipend, must be formed "with the right of the giver preserved." It is altogether to be advised, lest the fruit remain in the treasury of the Church, that as often as we celebrate Mass for someone, we always at the same time have another second intention of applying it to another, either in whole or in part conditioned, if he to whom the first intention is given is not capable of its fruit or does not need it. - Cf. Coninck in 3 part, q. 83, nn. 165-166.

Chapter III. On the Obligation of Celebrating

Article I. On the Obligation of Celebrating by Reason of the Priesthood

I say. All priests, by reason of the priesthood, by divine right are held under grave sin to celebrate at some time. This is proved from the words of Christ, Luke xxii, 19: "Do this in remembrance of Me." - By these words, according to the witness of the Council of Trent, Christ commanded the Apostles and their successors that they should offer the sacrifice. Besides, all priests in their ordination receive not only the power, but also the charge and office of sacrificing annexed to it. Hence the Apostle says, Heb. v, 1: "For every high priest taken from among men is appointed for men in those things which pertain to God, that he may offer gifts and sacrifices for sins." Now in a grave matter each one is held under grave sin to carry out the charge he has received. - Cf. St. Thomas, 3, q. 82, art. 10. - St. Alphonsus, n. 313.

The Code says: All priests are held by the obligation of offering the Sacrifice several times per year ... (Can. 805).

Question. How often in life or in a year is a priest held to celebrate?

Resp. Let the Bishop or religious Superior take care ... that the same priests operate in divine things at least on individual Sundays and other feasts of precept (Can. 805).

Article II. On the Obligation of Celebrating by Reason of Office

I say. All Pastors of souls are held by natural and divine right at some time to celebrate Mass so that they may apply it for their sheep. The reason is taken both from the fact that to feed someone spiritually necessarily implies procuring for him spiritual goods, which are obtained chiefly through the most excellent Sacrifice of the Mass, and from the Council of Trent, sess. 23, chap. 1, *de Reform.*, where it is said: "Since by divine precept it has been commanded to all to whom the care of souls has been committed, to know their sheep, to offer sacrifice for them," etc.[1]

[1] Cf. Addenda, p. 1088, n. 12.

Questions

Question 1. What does that particle "at some time" import?

Resp. The Church of God, interpreter of natural and divine right, has now determined its extension. Therefore Pastors of souls are held to celebrating for their sheep "on Sundays and other feast days which are still observed by precept and which have been removed from the number of feast days of precept." These are the very words of Pope Leo XIII in his Apostolic Letters *In Suprema*. But if you ask how many and which are those feast days, besides Sundays, whether actually observed or suppressed, it is answered that they are 35, and their catalogue is found above under n. 327. - Cf. *Acta S. Sedis*, vol. 14, pp. 529 and following.

Question 2. Who are the Pastors of souls who, whether by natural and divine right or ecclesiastical right, are held to celebrating for the people?

Resp. Bishops: §1. They also must, after having taken possession of the see, every excuse of scantiness of revenues or any other exception being removed, apply Mass for the people committed to them on all Sundays and other feast days of precept, even suppressed ones.

§2. On the feast of the Nativity of the Lord, and if any feast of precept falls on a Sunday, it is enough that they apply one Mass for the people.

§3. If a feast is so transferred that on the day to which it is transferred not only is the office with the Mass of the transferred feast done, but the obligations also of hearing Mass and abstaining from servile works are observed, Mass for the people is to be applied on the day to which; otherwise on the day from which.

§4. The Bishop himself must apply Mass for the people on the days indicated above by himself; if he is legitimately impeded from its celebration, on the stated days let him apply it through another; if he cannot furnish even this, let him apply it as soon as possible either by himself or through another on another day.

§5. Although a Bishop governs two or more dioceses united equally principally, or, besides his own diocese, has another or others in administration, nevertheless he satisfies the obligation through the celebration and application of one Mass for the whole people committed to him.

§6. A Bishop who has not satisfied the obligation concerning which in the preceding paragraphs should as quickly as possible apply for the people as many Masses as he omitted (Can. 339).

Apostolic Vicars and Prefects:

They must apply the Sacrifice of the Mass for the peoples committed to them at least on the solemnities of the Nativity of the Lord, Epiphany, Easter, Ascension, Pentecost, the Most Holy Body of Christ, the Immaculate Conception and Assumption of the Blessed Virgin Mary, Saint Joseph her spouse, the Holy Apostles Peter and Paul, and All Saints, with the prescription of can. 339, §§2 and following being observed (Can. 306).

Abbots *nullius* have the same obligations which belong to residential Bishops in their own diocese. - Cf. Can. 323, §1.

The Capitular Vicar is held by the obligation of applying Mass for the people according to the norm of Can. 339. - Cf. Can. 440.

§1. The pastor is held by the obligation of applying Mass for the people according to the norm of can. 339, the quasi-pastor according to the norm of can. 306 (Can. 466).[1]

It is fitting from charity that titular Bishops sometimes apply the Sacrifice of the Mass for their diocese, but short of obligation. - Cf. Can. 348.

With relation to the suppressed feasts concerning which in Can. 339, §1, 466, §1, on which namely Mass must be applied by Bishops and Pastors for the people committed to them, nothing in this matter has been changed by the Code of Canon Law from the discipline in force up to this time. Thus the Pontifical Commission for authentically interpreting the canons of the Code. - 17 Feb. 1918.

§2. A Pastor who perhaps governs several parishes equally principally united, or, besides his own parish, has another or others in administration, must apply only one Mass for the peoples committed to him on the prescribed days.[2]

§3. The local Ordinary, from a just cause, can permit that the pastor apply Mass for the people on another day than that on which he is bound by law.

§4. Let the pastor celebrate the Mass to be applied for the people in the parochial church, unless circumstances of things demand or advise that Mass be celebrated elsewhere (Can. 466).

If someone on the same day is urged by the burden of each Mass, both for the people and conventual, let him himself celebrate and apply this latter by himself, and the former through another or by himself on the following day. - Can. 419, §2.

[1] Cf. Addenda, p. 1106, n. 48.

[2] Cf. Addenda, p. 1150, n. 124.

Question 3. Are priests who among us have care of souls, by whatever name they are called, held by the aforesaid burden?

Resp. They are held, because they are pastors or quasi-pastors. - Cf. Second Plenary Council of Baltimore, n. 367. - Can. 216, 451. This latter canon has itself thus: A Pastor is a priest or moral person to whom a parish has been conferred as title, with care of souls to be exercised under the

authority of the local Ordinary. Quasi-pastors are those who govern quasi-parishes. But Canon 216 is read thus:

§1. The territory of any diocese is to be divided into distinct territorial parts; and to each part its own particular church with a determined people is to be assigned, and its own particular rector, as the proper pastor of the same, is to be placed over it for the necessary care of souls.

§2. In like manner an apostolic vicariate and apostolic prefecture, where this can conveniently be done, are to be divided.

§3. The parts of a diocese concerning which in §1 are parishes; the parts of an apostolic vicariate and apostolic prefecture, if a particular rector has been assigned to them, are called quasi-parishes (Can. 216).[1]

[1] Cf. Addenda, pp. 1103, 1104, nn. 44, 45.

Article III. On the Obligation of Celebrating by Reason of a Stipend

I say 1st. §1. According to the received and approved custom and institution of the Church, it is lawful for any priest celebrating and applying Mass to receive an alms or stipend (Can. 824); but once the stipend has been accepted, there arises an obligation of justice, which indeed is not satisfied by one single Mass if several stipends have been accepted, however infinite the value of the Mass may be; rather, for each stipend a distinct sacrifice must be offered. The reason of the first is both because the stipend is not given as the price of the Mass, and therefore no comparison is made between a sacred thing and money, and because it is just that those who work in the sanctuary should live from the sanctuary. But the reason of the second is that, once a stipend has been accepted, a burdensome pact intervenes, which by title of justice, not otherwise than in any other contract, must be observed. Finally, the reason of the third is taken both from prop. 8 condemned by Alexander VII, which has itself thus: "A doubled stipend can be accepted by a priest for the same Mass, by applying to the one asking even the part of the most special fruit corresponding to the celebrant himself"; and especially from the first part of prop. 10 condemned by the same Alexander VII, which lies thus: "It is not against justice to accept a stipend for several sacrifices and to offer one sacrifice." Wherefore he who celebrates one Mass, when he has accepted several stipends, is held no less to restitution than he who, having accepted only one stipend, says no Mass. - Cf. Viva, on the cited proposition. - Second Plenary Council of Baltimore, n. 369.

I say 2nd. Every species of negotiation or commerce must be altogether warded off from the alms of Masses (Can. 827).

Questions

Question 1. With relation to the acceptance of a stipend and the application of the Mass, what is not lawful?

Resp. It is never lawful:

1st. To apply Mass to the intention of him who, with the alms offered, is about to ask for the application, but has not yet asked, and afterward to retain the alms given for the Mass previously applied;

2nd. To receive alms for a Mass which is owed and applied by another title;

3rd. To accept a double alms for the application of the same Mass;

4th. To receive one alms for the celebration alone, another for the application of the same Mass, unless it is certainly established that one stipend was offered for celebration without application (Can. 825).

Question 2. Which stipends are called manual, which after the manner of manual, and which founded?

Resp. §1. Stipends which are offered by the faithful for Masses, whether from their own devotion, as if to the hand, or from an obligation, even perpetual, made by a testator upon his own heirs, are called manual.

§2. Stipends of founded Masses are called after the manner of manual when they cannot be applied in their own place, or by those who ought to apply them according to the tables of the foundation, and therefore by law or by indult of the Holy See they must be handed over to other priests so that satisfaction may be made for them.

§3. Other stipends which are received from the revenues of foundations are called founded, or founded Masses (Can. 826).

Question 3. How many Masses must be celebrated and applied?

Resp. As many Masses must be celebrated and applied as stipends, even small ones, have been given and accepted (Can. 828).

Question 4. What if the alms have already perished before the application of the Mass?

Resp. Although without fault of him who is burdened by the obligation of celebrating the alms of Masses already received have perished, the obligation does not cease (Can. 829).

Question 5. How must the number of Masses be computed, if the offerer has given a sum of money without indicating the number?

Resp. If anyone has offered a sum of money for the application of Masses, not indicating their number, this is to be computed according to the alms of the place in which the offerer was staying, unless it must legitimately be presumed that his intention was otherwise (Can. 830).

Question 6. Whose office is it to define the manual stipend of Masses?

Resp. §1. It belongs to the local Ordinary to define the manual stipend of Masses in his diocese by decree, issued, as far as can be done, in the diocesan Synod; nor is it lawful for a priest to demand one greater than this.

§2. Where a decree of the Ordinary is lacking, the custom of the diocese is to be observed (Can. 831).

It is lawful for a priest to accept a greater stipend freely offered for the application of a Mass; and, unless the local Ordinary has prohibited it, also a lesser one (Can. 832).

Question 7. What is the presumption when there is doubt concerning the mind of the offerer?

Resp. The offerer is presumed to have asked for the application of the Mass alone; yet if the offerer has expressly determined some circumstances to be observed in the celebration of Mass, the priest, accepting the alms, must stand by his will (Can. 833).

Question 8. Within what time must Masses be said?

Resp. §1. Masses for the celebration of which a time has been expressly prescribed by the offerer must be celebrated altogether at that time.

§2. If the offerer has expressly prescribed no time for the celebration of manual Masses:

1st. Masses offered for an urgent cause are to be celebrated as soon as possible in useful time;

2nd. In other cases Masses are to be celebrated within a moderate time, according to the greater or lesser number of Masses.

§3. But if the offerer has expressly left the time of celebration to the choice of the priest, the priest will be able to celebrate them at the time which pleases him more, with the prescription of can. 835 remaining firm (Can. 834).

With relation to §2, 2nd, that moderate time seems to be one month for one Mass, six months for a hundred.

Question 9. How many burdens of Masses to be celebrated by himself is it lawful for no one to receive?

Resp. It is lawful for no one to receive so many burdens of Masses to be celebrated by himself that he cannot satisfy them within a year (Can. 835).

Question 10. What must be done in churches in which, on account of the particular devotion of the faithful, alms of Masses so flow in that all Masses cannot be celebrated there in due time?

Resp. Let the faithful be advised, by a notice placed in an open and obvious place, that the Masses offered will be celebrated either there, when it can conveniently be done, or elsewhere (Can. 836).

Question 11. When must one who has Masses to be celebrated through others distribute them?

Resp. He who has Masses to be celebrated through others should distribute them as soon as possible, with the prescription of can. 841 remaining firm; but the legitimate time for their celebration begins from the day on which the priest who will celebrate has received them, unless something else is established (Can. 837).

Canon 841 prescribes the following:

§1. All and individual administrators of pious causes, or those obliged in any way to fulfill burdens of Masses, whether ecclesiastics or laymen, toward the end of each year should hand over to their Ordinaries, according to the manner to be defined by them, the burdens of Masses for which satisfaction has not yet been made.

§2. But this time is to be understood thus: that in Masses after the manner of manual, the obligation of depositing them runs from the end of that year within which the burdens should have been fulfilled; but in manual Masses, after a year from the day of the burden undertaken, with the different will of the offerers being preserved.

Question 12. To which priests can one who has a number of Masses concerning which it is freely lawful for him to dispose assign them?

Resp. He can assign them to priests acceptable to himself, provided it is honestly established to him that they are above every exception or commended by the testimony of their own Ordinary. - Cf. Can. 838.

Question 13. How long do those remain obliged who have handed over to others to be celebrated Masses received from the faithful or in any way committed to their faith?

Resp. They remain obliged until they have obtained testimony of the obligation accepted by those same persons to whom they handed them over, and of the stipend received. - Cf. Can. 839.

Question 14. Must one who commits Masses to be celebrated to others give the accepted stipends entire? Is it ever lawful for him to retain something?

Resp. §1. He who transmits manual Mass stipends to others must transmit the accepted stipends entire, unless either the offerer expressly permits something to be retained, or it is certainly established that the excess above the diocesan tax was given in view of the person.

§2. In Masses after the manner of manual, unless the mind of the founder stands in the way, the excess is legitimately retained, and it is enough to remit only the manual alms of the diocese in which the Mass is celebrated, if the rich alms takes the place in part of the dowry of the benefice or pious cause (Can. 840).

Question 15. To whom does the right and office of watching that the burdens of Masses are fulfilled pertain?

Resp. In churches of seculars it pertains to the local Ordinary; in churches of religious, to their Superiors (Can. 842).

Question 16. Who are held to have a book into which they report in order the number of Masses, the intention, the alms, and the celebration?

Resp. §1. Rectors of churches and of other pious places, whether secular or religious, in which alms of Masses are accustomed to be received, should have a special book in which they accurately note the number of Masses received, the intention, the alms, and the celebration.

§2. Ordinaries are held by the obligation of reviewing books of this kind at least each year, either by themselves or through others (Can. 843).

§1. Likewise local Ordinaries and religious Superiors who commit Masses to be celebrated to their own subjects or to others should quickly report in a book, in order, the Masses which they have received with their alms, and should take care according to their strength that they be celebrated as soon as possible.

§2. Indeed, all priests, whether secular or religious, must accurately note what intentions of Masses each has received, and for which he has made satisfaction (Can. 844).

Question 17. Can a priest to whom a rich stipend is offered for today's Mass retain this and ask another priest to celebrate for him, promising to celebrate on the following day for the same one, who is about to have it celebrated for the ordinary alms?

Resp. Affirmatively, at least probably, both because nothing appears in this permutation of intention which savors of the appearance of base gain, and because thus bears the most common practice of

pious and prudent priests. Nor, finally, is a sufficient weight of authority lacking to this opinion; indeed, St. Alphonsus himself is not altogether alien from embracing it, nor does he condemn a practice of this kind as mortal. - Cf. Ballerini, note (a), p. 254.

Question 18. Does one satisfy who, after accepting a stipend for a Mass to be celebrated on a privileged altar, celebrates the same Mass on another altar?

Resp. Negatively; and besides, as is established from a recent response of the Sacred Congregation of Indulgences given 24 July 1885, a defect of this kind cannot be supplied or compensated by some other plenary indulgence applicable to the dead. - Cf. *Nouvelle Revue Theologique*, vol. 17, pp. 595 and following. - Ballerini-Palmieri, vol. 5, p. 676, n. 104.

Question 19. Is one obliged by a stipend to celebrate on a privileged altar for a deceased person bound to read a Mass of Requiem when the rite permits it?

Resp. Negatively. Thus the Holy Office, Feb. 20, 1913.

Question 20. What is to be said about that custom which exists in very many Dioceses of the United States, namely that on the day of the Commemoration of all the Dead a rich sum of alms is collected, and one Mass is said for all?

Resp. It is not to be disapproved; for, when the doubt was proposed by the Bishop of Rochester, the Sacred Congregation of the Council responded on 27 Jan. 1877: "Let nothing be innovated; only let a notice be placed in the church, by which the faithful are taught that by those very alms one Mass is sung on the day of the Commemoration of all the faithful departed." - Cf. *Acta S. Sedis*, vol. 10, p. 120. - *The Pastor*, vol. 3, p. 382.

Question 21. By what name do pious foundations come?

Resp. §1. By the name of pious foundations are signified temporal goods given in any way to some moral person in the Church, with the burden, in perpetuity or for a long time, of celebrating some Masses from the annual revenues, or of fulfilling other predefined ecclesiastical functions, or of performing some works of piety and charity.

§2. A foundation, legitimately accepted, takes on the nature of a synallagmatic contract: I give that you may do (Can. 1544).

It belongs to the local Ordinary to prescribe norms concerning the dowry below which a foundation cannot be admitted, and concerning the distribution of its fruits. But in order that a foundation can be admitted, the consent of the local Ordinary, given in writing, is required; before he gives it, he must know that the moral person can satisfy its new and old burden, and that the revenues altogether answer to the burdens. Furthermore, in the acceptance, constitution, and administration the patron of the church has no right. Money and movable goods are to be deposited in a safe place, and let them cautiously be invested as soon as possible for the benefit of the foundation. But all foundations are to be consigned in writing; a double copy of the records is to be preserved, one in the archive of the Curia, the other in the archive of the moral person. With the prescriptions of can. 1514, 1517, and can. 1525 being observed, in any church a table of burdens arising from foundations is to be prepared, and besides the book concerning which in can. 843, §1 (on Masses), another book is to be retained, in which individual perpetual and temporary burdens, their fulfillment, and the alms are noted. - Cf. Can. 1546-1549. If there is question of foundations in churches, even parochial

ones, of exempt religious, the cited rights and offices of the local Ordinary belong exclusively to the major Superior. - Cf. Can. 1550.

Chapter IV. On the Time of the Celebration of Mass

I say 1st. The Sacrifice of the Mass can be celebrated on all days, except those which are excluded by the proper rite of the priest (Can. 820).

Indeed, a priest laudably celebrates daily, unless either his own unworthiness or the prohibition of the Church stands in the way.

I say 2nd. §1. The beginning of Mass to be celebrated is not to be made earlier than one hour before dawn or later than one hour after noon.

§2. On the night of the Nativity of the Lord, only a conventual or parochial Mass can be begun at midnight, but not another without apostolic indult (Can. 821).[1]

[1] Cf. Addenda, p. 1128, n. 87.

Questions

Question 1. Does one sin gravely who celebrates before and after the time prescribed by the Church?

Resp. Affirmatively, if he anticipates or prolongs by much the time established by the Church; but otherwise, if the change is slight; indeed, if a just cause is present, he will be free from every fault. But what change is judged notable is controverted. According to the more common and more probable opinion, it is not held grave unless the celebration is begun a whole hour before or after the established time. - Cf. St. Alphonsus, n. 246.

Question 2. When is it lawful to anticipate or prolong the time of celebration?

Resp. It is lawful 1st. in necessity, for example, that Viaticum may be administered to one dying, in which case it would be lawful to celebrate even at midnight; 2nd. where there is a reasonable custom, for example, so that workers and servants may be able to hear the Sacrifice very early in the morning; 3rd. by force of a privilege granted by the Pope, or of a faculty from the Bishop, or even from a religious Prelate as regards subjects, given in some particular case for a reasonable cause; 4th. when otherwise a great part of the people would lack Mass; from the cause of a journey, of some more solemn funeral, of a sermon, of a public supplication, of the conferral of Orders, at least for one or another hour. Cf. St. Alphonsus, n. 343 and following. - Lehmkuhl, n. 217.

Question 3. Is it lawful to celebrate more often in a day?

Resp. §1. Except on the day of the Nativity of the Lord and the day of the Commemoration of all the faithful departed, on which there is the faculty of offering the Eucharistic Sacrifice three times, it is not lawful for a priest to celebrate several Masses in a day, unless from apostolic indult or from power granted by the local Ordinary.

§2. But the Ordinary cannot impart this faculty unless, in his prudent judgment, on account of scarcity of priests on a feast day of precept, a notable part of the faithful cannot be present at Mass; nor is it in his power to permit more than two Masses to the same priest (Can. 806).

The Baltimore Fathers, Third Plenary Council, nn. 103 and following, speak thus: "Up to this time the Church has wished to determine by no precise rule when otherwise repetition of Mass is legitimate or even necessary. Rather, it has preferred to leave the matter to be decided by the judgment of Ordinaries, so that in their prudence and charity, according to the gravity of the cause, they may repeat Mass or permit it to be repeated by their missionaries.

"But neither does the Holy See wish that, on account of fear of the rigor by which the formula of the faculty is fortified, those using the same should be excessively anxious. For from often-repeated Apostolic declarations and responses it is manifest that for repetition a true necessity is indeed required, but by no means an absolute one, rather a moral one, which is to be judged to exist as often as, with supply of priests lacking and with all other circumstances maturely weighed, it is judged that it will be vehemently useful to the faithful that priests celebrate Mass twice on the same feast day. If such a necessity has been present, let them not only not fear liability of illicit repetition, but rather let them judge that they will be failing in their duty if either they themselves do not repeat Mass for the necessity of the people or do not concede this faculty to their missionaries.

"Let missionary priests note well that they can never use the aforesaid faculty except 'dependently upon the Ordinary, to whom it pertains to pass sentence both concerning the true necessity and concerning the possibility of applying canonical remedies,' and that permission is not to be presumed by anyone so long as recourse to the Ordinary is open." - Cf. Third Plenary Council of Baltimore, nn. 103 and following; and Appendix, pp. 233 and following. - *Acta S. Sedis*, vol. 12, pp. 232 and following; vol. 13, pp. 340 and following; vol. 16, pp. 35 and following.

Question 4. Can one who celebrates two Masses receive two stipends?

Resp. Negatively, entirely, with a special indult excluded.

§2. But as often as he celebrates more than once in a day, if he applies one Mass from a title of justice, the priest, except on the day of the Nativity of the Lord, cannot receive alms for the other, except some remuneration from an extrinsic title (Can. 824).[1]

On the day of the Commemoration of all the faithful departed, it is lawful for a Priest to apply one of the three Masses, which pleases him more, to whomever he shall have preferred, and to receive a stipend from it. S. C. C. 15 Oct. 1915.[2]

[1] Cf. Addenda, p. 1095, n. 29; p. 1109, n. 52.

[2] Cf. Addenda, p. 1095, n. 29; p. 1109, n. 52.

Question 5. Is it lawful on the night of the Nativity of the Lord to celebrate all three Masses before dawn?

Resp. Negatively, without the permission of the Bishop from a just cause, or without Apostolic indult. For the Rubric of the Missal expressly prohibits this, which has it thus: "The first Mass is said in the night; the second at dawn; and the third in the day." This is established also from the Decree of the Sacred Congregation of Rites issued on 18 Dec. 1702, which has itself thus: "It is not lawful at midnight of the Nativity of the Lord to celebrate successively the two other [Masses] and to exhibit holy Communion."

§3. Nevertheless, in all religious or pious houses having an oratory with the faculty of habitually reserving the Most Holy Eucharist, on the night of the Nativity of the Lord, one priest can celebrate

the three ritual Masses, or, with the things to be observed being observed, only one which may avail also for the satisfaction of the precept for all present, and can administer holy communion to those asking (Can. 821).

Cardinals have the faculty of celebrating, or of permitting others to celebrate before them, Mass on Feria V of Greater Week and three Masses on the night of the Nativity of the Lord. - According to this privilege, before the Cardinal himself it would be lawful on the night of the Nativity to say three Masses, in any church with open doors, and to administer communion. - Cf. Can. 239.

Question 6. How much space of time must a read Mass last?

Resp. The general rule is that Mass ought neither to be longer than half an hour, lest those standing by be affected with weariness, nor shorter than a third part of an hour, because otherwise it will not be possible to celebrate decently. But you will not excuse from mortal sin a priest who, in making the Sacrifice, does not reach a quarter of an hour; because, as St. Alphonsus says, in so brief a space he must necessarily commit two grave defects, one of grave irreverence toward the sacrament, the other of grave scandal toward the people. Wherefore that distich is known:

If your Mass shall have been shorter than one quarter,

You will be believed guilty of mortal fault.

Chapter V. On the Place Suitable for Celebrating

I say. §1. Mass is to be celebrated upon a consecrated altar and in a church or oratory consecrated or blessed according to the norm of law, with the prescription of can. 1196 being preserved (Can. 822).

§2. If an altar of his own rite is lacking, it is lawful for a priest to celebrate in his own rite on an altar consecrated in another Catholic rite, but not upon the antimensia of the Greeks (Can. 823).

§1. In a violated church, before it is reconciled, it is unlawful to celebrate divine offices, to administer Sacraments, or to bury the dead.

§2. If the violation occurs during the time of divine offices, these are immediately to cease; if before the Canon of the Mass or after Communion, the Mass is to be dismissed; otherwise the priest is to continue the Mass as far as Communion (Can. 1173).

Questions

Question 1. Whether by permission of the Bishop it can be celebrated in some other place besides a church? Resp. §4. The local Ordinary or, if there is question of a house of an exempt religion, the major Superior, can grant permission of celebrating outside a church and oratory, upon a sacred stone and in a decent place, but never in a bedroom, only for a just and reasonable cause, in some extraordinary case and by way of an act (Can. 822).

By the name of bedroom is meant a place in which there is a bed. Henceforth any reasonable cause suffices: the utility of the priest, the consolation of a family, for example, whose son, a priest, is present at home, a sick priest, and six hundred other cases. *By way of an act* does not necessarily signify only once, but excludes habitually. If some transitory reason is present, while it lasts, the faculty can be granted. But this concession is not to be confused with the communication of permission to celebrate in the open air, etc. Ordinaries can permit by way of an act the celebration of

Mass at home, in favor of those who enjoy the indult of a domestic Oratory, even on those days which are excepted in the indult obtained, provided that the just causes are other than those for which the indult of the domestic Oratory was granted.[1]

The Ordinary, however, provided that just and reasonable causes are present, distinct from those for which the indult was granted, can permit the celebration of Mass by way of an act even on more solemn feasts (Can. 1195, §2.).

§2. The privilege of a portable altar is granted either by law or by indult only of the Apostolic See.

§3. This privilege is to be understood in such a way that it carries with it the faculty of celebrating everywhere, yet in an honorable and decent place and upon a sacred stone, but not at sea (Can. 822).

It is not lawful to celebrate on a ship without a special Apostolic indult, which is not granted except with various restrictions: the sea must be so tranquil that no danger is present of spilling the Sacred Species; another priest is to assist the celebrant, if one is present; celebration in cabins is not absolutely prohibited, when all the circumstances remove the dangers of irreverence. S. C. de Prop. F. 1 Mar. 1902, 13 Aug. 1902. As to Mass, if a Chapel has a fixed place on a ship, it is to be considered as public; otherwise it is neither public nor private, but is regarded as a portable altar. S. C. R. 4 Mar. 1901.

[1] Cf. Addenda, p. 1093, n. 26; p. 1128, n. 88.

Question 2. In what way is a church violated? Resp. §1. A church is violated only by the acts listed below, provided that they are certain, notorious, and placed in the church itself:

1°. By the crime of homicide;

2°. By an injurious and grave shedding of blood;

3°. By impious or sordid uses, to which the church has been devoted;

4°. By the burial of an infidel or of an excommunicated person after a declaratory or condemnatory sentence.

§2. When a church has been violated, the cemetery, even if contiguous, is not on that account judged to be violated, and vice versa (Can. 1172).

Question 3. In what way must a church already violated be reconciled? Resp. §1. A violated church is to be reconciled as quickly as possible, according to the rites described in approved liturgical books.

§2. If it is doubted whether a church has been violated, it can be reconciled *ad cautelam* (Can. 1174).

A church violated because of the burial of an excommunicated person or an infidel is not to be reconciled before the corpse has been removed from it, if the removal can be made without grave inconvenience (Can. 1175).

§1. A blessed church can be reconciled by its rector or by any priest with at least the presumed consent of the rector.

§2. The valid reconciliation of a consecrated church belongs to those of whom there is mention in can. 1156.

§3. Yet in a case of grave and urgent necessity, if the Ordinary cannot be approached, it is lawful for the rector of a consecrated church to reconcile the same, with the Ordinary being informed afterward (Can. 1176).

The things which the canons prescribe concerning the interdict, violation, and reconciliation of churches are also applied to cemeteries (Can. 1207).

Question 4. In what way is a church execrated? Resp. A church is execrated when it loses its blessing or consecration. A church does not lose its consecration or blessing unless it has been wholly destroyed, or the greater part of the walls has fallen, or it has been reduced to profane uses by the Ordinary of the place according to the norm of can. 1187 (Can. 1170); that is, if some church can in no way be used for divine worship and all approaches to repairing it are cut off, it can be reduced by the local Ordinary to a profane but not sordid use, and the burdens, with the revenues and titles of the parish, if the church is parochial, are to be transferred by the same Ordinary to another church.[1]

§1. An immovable altar loses consecration if the table or mensa is separated from the base, even for a moment of time; in which case the Ordinary can permit a priest to perform the consecration of the altar again with the shorter rite and formula.

§2. Both an immovable altar and a sacred stone lose consecration:

1°. If they are enormously broken, whether by reason of the quantity of the fracture or by reason of the place of anointing;

2°. If the relics are removed or if the cover of the sepulcher is broken or removed, except in the case in which the Bishop himself or his delegate removes the cover in order to strengthen or repair or replace it, or to visit the relics.

§3. A slight fracture of the cover does not induce execration, and any priest can strengthen a small crack with cement.

§4. The execration of a church does not carry with it the execration of altars, whether immovable or movable; and vice versa (Can. 1200).

[1] Cf. Addenda, p. 1089, n. 13.

Chapter VI. On the Requisites for Celebrating Mass

I say. For celebrating Mass licitly the following things are required: 1°. a stone altar, fixed or portable, consecrated by a Bishop; 2°. a triple cloth made of linen or hemp; 3°. sacred vestments, blessed by the Ordinary; 4°. a consecrated chalice and paten; 5°. a corporal of linen or of hemp, blessed by the Ordinary; 6°. a pall likewise of linen or of hemp; 7°. a linen purificator; 8°. a missal with a cushion; 9°. a crucifix, but not a cross alone; 10°. two candles of wax; 11°. burse, veil, towel, cruets; 12°. a male minister.[1]

[1] Ibid., n. 14.

Questions

Question 1. Which vestments are necessarily to be blessed? Resp. The vestments certainly to be blessed by the Ordinary or by a priest having the faculty, as among us, are the amice, alb, maniple,

stole, and chasuble. Concerning the cincture, however, the pall, and the purificator, there is dispute. Also concerning the altar cloths, whether they ought to be blessed, there is not one opinion of theologians; and although St. Alphonsus adheres to the affirmative opinion, nevertheless he does not think the opposite altogether improbable. Corporals, however, certainly must be blessed under mortal sin, unless a case of necessity presses. Indeed, in a case of necessity one could celebrate even without a corporal, and *a fortiori* without a pall, but then a purificator or something else would have to be used in place of the corporal, and a burse or something else in place of the pall. - Cf. St. Alphonsus, nn. 375 and seq.

Question 2. Whether it is mortal to celebrate without any sacred vestment, or without a stole or alb, chasuble, maniple, or cincture? Resp. It is mortal to celebrate without any sacred vestment in every case and from whatever cause. Likewise, to celebrate without chasuble or alb, or without stole and maniple together. But probably it is not mortal to celebrate without a maniple or without a blessed maniple. Likewise, to celebrate without an amice, at least for those who do not use it for covering the head, but only the shoulders. The same also must be said of celebration without a cincture; hence a reasonable cause easily excuses from all these. Cf. St. Alphonsus, n. 277. - Baller. note (a) p. 271.

Question 3. Whether the color of the vestments is of precept? Resp. Affirmatively, because all the Rubrics which regard the ceremonies accompanying Mass are held as preceptive. Yet this Rubric does not seem to oblige under grave sin unless scandal is present, for example, if on Easter day or another similar solemnity Mass were celebrated in black vestments. Hence a cause not so grave can excuse from this precept. - Cf. St. Alphonsus, n. 378.

Question 4. Which colors are required in the paraments? Resp. Paraments of white, red, green, violet, and black color are required. Paraments woven together from silk and glass threads at the same time are altogether reprobated. Likewise reprobated are paraments of varied color which, on account of flowers of each color mixed in, not a few had thought could be used on every feast; but S. C. R. prohibited that this could be done, and therefore paraments of this kind can represent only that color which is primary and predominant. Paraments of yellow and blue color are also prohibited. But those which are of gold cloth are permitted, and according to some can be used for every color; according to many, for white, red, and green, but not for black or violet; but according to the use prevailing at Rome, from which one ought not depart, only for white and red.

Observe, however, 1°. that if the silk threads which are mixed with the gold threads are of the prescribed color, they can be used altogether safely for every color, namely, for white if the mixed threads are white, for red if they are red, etc., because then they really exhibit the required color.

Observe 2°. that for the use of paraments of this kind attention must be paid to custom; for when the doubt was proposed: "Whether sacred paraments really woven of gold, at least for the greatest part, can serve for any color, except violet and black," S. C. R. on 28 Apr. 1866 responded: "The custom of places is to be tolerated only in relation to paraments woven of gold." - Cf. De Herdt, vol. 1, n. 147. - *Acta S. Sedis*, vol. 4, p. 52.

Observe 3°. the response of S. C. R. given on 22 Nov. 1901 to the question: "Whether on the Third Sunday of Advent and the Fourth Sunday of Lent paraments of rose color can be used not only in solemn Mass, but also in private Masses and in the Office of the Sunday." S. C. R. responded: Affirmatively.

Question 5. From what material must the chalice and paten be fashioned, and whether they must necessarily be consecrated? Resp. From the present discipline, at least the cup of the chalice must be of gold, or of silver gilt within. But in a case of necessity a chalice of tin could be used. The paten must be of gold or of gilt silver. But they must always be consecrated under grave sin, because the precept concerns a grave matter. Observe, however, that among us, as is clear from the extraordinary faculties, T. n. 26, a simple priest could be deputed by the Bishop to consecrate a chalice, paten, and even an altar, provided he used oils blessed by the Bishop. - Cf. St. Alphonsus, n. 279. Gousset, n. 323.

Question 6. In what way does sacred furnishing lose blessing or consecration? Resp. §1. Sacred furnishing, blessed or consecrated, loses blessing or consecration:

1°. If it has undergone such injuries or changes that it has lost its former form, and is no longer considered suitable for its uses;

2°. If it has been employed for indecorous uses or exposed to public sale.

§2. A chalice and paten do not lose consecration because of the consumption or renewal of the gilding, yet preserving, in the former case, the grave obligation of gilding them again (Can. 1305).

Question 7. What kind of sin is it to celebrate without a minister? Resp. It is mortal according to all. Yet Doctors commonly say that it is lawful to celebrate without a minister when necessity presses of administering Viaticum or, as others concede, in order that the people may hear a Mass of precept. But according to St. Alphonsus, Card. de Lugo, and others, a lesser necessity suffices for celebrating with a minister who does not know how to answer. Moreover, in a case of necessity a woman, especially a Nun, could answer from afar, but not properly minister at the altar by offering the cruets, etc. Cf. St. Alphonsus, nn. 391 and seq. - *Acta S. Sedis*, vol. 26, n. 572.[1]

[1] Cf. Addenda, p. 1089, n. 15; p. 1115, n. 63.

Question 8. What kind of cross is required on the altar while Mass is celebrated? Resp. The cross which is required must not be slight, but must stand out among the candlesticks, so that the priest and the people can easily look upon it. But if on the altar on which Mass is celebrated there is a large image of the Crucified, whether sculpted or painted, it is not necessary to add another cross in the midst of the candlesticks. Likewise, if Mass is celebrated on an altar where the Most Blessed Sacrament is publicly exposed, a cross is not necessary, but it will be possible to expose it or not expose it according to the custom of places. In any case, however, to omit it does not exceed a venial sin. Indeed Kenrick says: "In missions necessity brings it about that a cross not very large is used." - Cf. Kenrick, n. 101.

Question 9. Whether, how many, and which lights are required? Resp. It is mortal to celebrate without any light at all, except in the single case when, after the consecration has been completed, the light is extinguished and no other can be had; for then the reason of completing the sacrifice presses. But in private Masses not fewer than two must be used, although to use only one is not grave, nor can more than two be lit, unless a Bishop celebrates or some extraordinary solemnity requires otherwise. But these lights must always be of wax, except in a case of absolute necessity, and consequently the use of candles of stearin is illicit. Indeed, according to St. Alphonsus it is mortal to use candles of tallow, because this savors of indecency. - Cf. St. Alphonsus, n. 394. - *Acta S. Sedis*, vol. 3, p. 600.

Warning. It is indeed laudable and most highly necessary to adhere to the responses of S. R. C. concerning those things which are required for celebrating, but since the same reckoning does not belong to all, discretion is needed. Prudence likewise is needed in weighing the necessities which among us, especially in the country, are wont to occur. Nor ought zeal or piety to proceed so far that someone would seem to wish to reform everything and to teach the Bishops themselves. For when a certain priest recently had complained before S. R. C. that "the candles which are lit for reciting or singing Mass are not of wax except for a very small part, for example, a fifth or sixth part," - and furthermore that "albs, though of linen in the upper part and sleeves, had been made of cotton in the whole remaining and certainly much greater part," and at the same time had asked what he was to do, etc., S. R. C., on 8 March 1879, responded, "Let the petitioner acquiesce in the judgment of his Bishop." - Cf. *Acta S. Sedis*, vol. 2, p. 644.

Chapter VII. On the Rubrics to be Observed in Mass

I say. With any contrary custom reprobated, the celebrating priest is to observe accurately and devoutly the rubrics of his ritual books, and to beware lest he add other ceremonies or prayers by his own judgment (Can. 818).[1]

The reason is taken both from the Scriptures, which threaten a great penalty to him who does the work of the Lord negligently, and from the positive will of the Church. Therefore the Fathers of Baltimore, after they had said that no rite is employed in performing this sacrifice which can be thought empty without impiety, add: "We will and strictly command that all priests in these Provinces follow exactly all those things which are contained in the Roman Missal." - Cf. Conc. Plen. Balt. II, n. 357 and seq.

[1] Cf. Addenda, p. 1144, n. 116.

Questions

Question 1. Whether all the Rubrics of the Mass are preceptive? Resp. According to the common opinion, all the Rubrics which are observed within the Mass are preceptive, since they regard so sacred a thing. But they oblige under grave or under light sin, according to the gravity or lightness of the matter, as will be said below. But the Rubrics which are observed outside Mass, that is, before or after the Sacrifice, are commonly held as merely directive, as, for example, the prayers for preparation for Mass or thanksgiving; for other prayers can be recited. There is controversy, however, concerning the prayers which from the Rubric are to be recited while the vestments are put on; but with the common opinion it must be held, says St. Alphonsus, that their omission is venially culpable. Others, however, hold that this omission is free from all fault. - Cf. Conc. Plen. Balt. II, n. 358. - De Herdt, vol. 1, n. 2. - St. Alphonsus, n. 399 and seq.

Question 2. Whether a sick priest can celebrate, although he cannot observe all the Rubrics? Resp. Affirmatively, if he omits only a few and lighter ones, especially if he celebrates privately. Indeed several authors of grave note permit a sick celebrant even to use a cane if he needs it, etc. - Cf. St. Alphonsus, n. 402.

Question 3. Whether the use of a small spoon for pouring water into the chalice is lawful for all? Resp. S. C. R., when the doubt had been proposed, responded that the Rubric must be observed. But

this formula implies that the use of a small spoon is not prohibited, according to the response given to the Archbishop of Baltimore, 6 Febr. 1858. - Cf. *Acta S. Sedis*, vol. 3, pp. 600 and seq.

Question 4. Whether it is ever lawful to interrupt Mass? Resp. It is never lawful to interrupt Mass essentially, that is, so that the sacrifice begun remains truncated, unless a most grave or extreme necessity presses, as in the case of imminent fire or of an enemy rushing in to kill; for then the priest, omitting the consecration of the chalice, could consume the host already consecrated or carry it away with him in fleeing. But if he has completed both consecrations, let him immediately consume both species, if he can; or if he cannot, let him carry them with him, to be consumed as quickly as possible in a nearby place. But it is lawful to interrupt accidentally, namely, by inserting something for a just cause before the canon: 1°. because of a sermon after the Gospel, because prayers for the dead are to be recited, because the proclamations of Banns are to be made, or because a procession is to be received, etc.; 2°. for the sake of a crowd of pilgrims on a feast day, if otherwise they cannot hear Mass, and then, if the offertory has not been made, the priest can begin anew, so that they may hear the whole Sacrifice; 3°. if the priest remembers some impediment, for example, that he is not fasting or is not in the state of grace or is irregular, provided the Mass can be broken off without scandal or notice. Yet it is not lawful to interrupt, even accidentally, once the canon has begun, and *a fortiori* after the consecration has been completed, except for a most grave cause, for example, if a dying person must be baptized or absolved. But it is not lawful to administer other sacraments between the consecration and communion, because they are not of such great necessity, except for Holy Viaticum, which could be administered to a dying person who was nearby, so that the priest would not have to remove the sacred vestments. But for this also it is required that the celebrant not lose the altar from his sight. - Cf. St. Alphonsus, n. 352 and seq.

721. Question 4. [continued]

At the first Communion of adolescents, brief sermons, commonly called *Fervorini*, can be held in Mass after the consumption; or for any other cause whatsoever. Dec. Auth. C. S. R. n. 3009.

Question 5. What is to be done if a priest, seized by illness or death, is unable to complete the Sacrifice? Resp. If the priest fails before the consecration, nothing is to be done by another priest, because the sacrifice properly was not begun. But if he fails after the consecration of even only one species, then another priest who is fasting, if one is present, must supply; if no fasting priest is present, let another even not fasting supply and complete the Sacrifice; because the precept of procuring the integrity of the sacrifice presses more gravely. Indeed even an irregular or excommunicated priest would have to supply. Yet if another priest could not be found immediately, after one hour has been interposed, probably he would no longer have to be sought, because moral union would be lacking, and consequently it would not be judged the same Sacrifice. But if a priest, seized by illness during the celebration, is able to complete the Sacrifice after some interruption, he himself will complete it better than another, even if he is not fasting. - Cf. St. Alphonsus, n. 355.

Question 6. What is the Gregorian Thirty? Resp. The Gregorian Thirty, or Gregorian Masses, are Masses which, for thirty continuous days, after the example of Saint Gregory the Great, are celebrated on any altar for souls to be freed in Purgatory. Concerning this Thirty let the following things be noted. The practice of celebrating these Masses in the Church is approved. The confidence by which the faithful hold the celebration of thirty Masses as specially efficacious from the good

pleasure and acceptance of divine mercy for the liberation of a soul from the punishments of Purgatory is pious and reasonable. S. C. Indul. 15 March 1884. The Thirty is not validly celebrated for the living; nor is it certain that an indulgence has been given for it. S. C. 24 Aug. 1888. An essential condition is that for thirty continuous days Mass be said for the soul whose liberation from Purgatory is implored. But it does not obstruct this that in the last three days of Holy Week an interruption occurs, provided that afterward the Masses are immediately said continuously. S. C. Ind. 14 Jan. 1889. A priest does not satisfy in a case in which on the same day twice or three times, either by himself (for example, on the day of the Nativity of the Lord) or through others, he resumes the celebration, so that all the Masses are celebrated within the space of thirty days. S. Off. 12 Dec. 1913: A priest who cannot celebrate by himself is bound to substitute another for himself who is to celebrate some Mass of the Thirty. One does not satisfy "the obligation, if he commits the thirty Gregorian Masses, distributed to several priests, to be all celebrated on the same day or within the space of a few days for the said intention." On days occurring in the Thirty on which a Mass of Requiem is permitted by the Rubrics, it can laudably be read, for the sake of piety toward the dead person, but it is not required for satisfying the burden of the Thirty that that Mass of Requiem be read. S. Off. 12 Dec. 1913. It is not required that the Masses be celebrated at the same altar. S. C. Indul. 14 Jan. 1889.

Question 7. By what rite is the sacrifice to be celebrated? Resp. In the celebration of Mass the priest, according to his own rite, must use unleavened or leavened bread wherever he offers the Sacrifice (Can. 816).

Question 8. In what language is the sacrifice to be celebrated? Resp. The sacrifice of the Mass is to be celebrated in the liturgical language of each one's own rite approved by the Church (Can. 819).

Treatise XV. On the Sacrament of Penance

Part I. On the Essence of the Sacrament of Penance

In the sacrament of penance, through judicial absolution imparted by a legitimate minister, sins committed after baptism are remitted to a rightly disposed faithful person (Can. 870).

Chapter I. On the General Notions of Penance

Penance can be considered simply as a virtue, and as a sacrament. If it is considered in the first way, it is defined: A moral virtue inclining to detestation of sin, insofar as it is an offense of God, and to an efficacious purpose of avoiding it in the future and of satisfying divine justice. - I said, insofar as it is an offense of God, that is, insofar as it brings injury to God and harms His rights over man; but not insofar as it offends the supreme goodness and perfection of God considered in itself: for this pertains to contrition perfected by charity. Hence most theologians after St. Thomas teach that penance, as it is a particular virtue, pertains to justice, by which man renders to God what is His. - Cf. St. Thom. 3, q. 85, art. 3.

But if Penance is considered as a sacrament, it is defined: A sacrament of the new law, instituted by Christ after the manner of a judgment, for remitting through priestly absolution sins committed after Baptism to a contrite and confessed man. - Moreover concerning the truth, necessity, and constitutive parts of this sacrament, the following things must be held:

I. Penance is a true and properly so called sacrament of the new law, and by force of divine institution it has the power of remitting all sins committed after Baptism. This is clear from the Council of Trent, sess. 14, can. 1, where it is said: "If anyone shall say that, in the Catholic Church, Penance is not truly and properly a sacrament instituted by Christ our Lord for the faithful, as often as they fall into sins after Baptism, to be reconciled to God Himself, let him be anathema." - Cf. De Augustinis, part. 2, Thes. 13, p. 155.

II. The sacrament of Penance is necessary by necessity of means, in reality or, if it cannot be received in reality, at least in implicit desire, for remitting mortal sins committed after Baptism. This is clear from the Council of Trent, which in sess. 14 declared these two things, namely in chap. 2: "But this sacrament of Penance is necessary unto salvation for those fallen after Baptism, as Baptism itself is for those not yet regenerated"; and in chap. 4: "The Holy Synod teaches that, although it sometimes happens that contrition is perfected by charity and reconciles man to God before this sacrament [of Penance] is actually received; nevertheless this reconciliation itself is not to be ascribed to contrition itself without the desire of the sacrament, which is included in it." - Cf. De Augustinis, part. 2, Thes. 26, p. 197.

III. The parts of the sacrament of Penance are contrition, confession, absolution, and satisfaction. For the sacrament of Penance was instituted after the manner of a reconciliatory judgment: but this judicial reconciliation is situated essentially, on the part of the penitent, in the sorrowful accusation

of sins, that is, in contrition and confession; on the part of the priest bearing the place of Christ, in the remission of the same sins through absolution; but it is perfected and completed by satisfaction, by which the guilt of temporal punishment also is removed. Therefore satisfaction, insofar as it must be fulfilled, is only an integral part of this sacrament; because the primary effect, namely grace and remission of sins as to fault and eternal punishment, can be had without satisfaction. Cf. De Augustinis, part. 2, Thes. 18, p. 227.

Questions

Question 1. When was the sacrament of Penance instituted? Resp. It was instituted when Christ after His Resurrection breathed upon His disciples, saying: "Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them," etc. For then, as the Council of Trent declares, sess. 14, chap. 1, He conferred on them the judicial power which before the Passion He had only promised. Hence the Tridentine Fathers say that this sacrament was instituted chiefly after the Resurrection.

Question 2. Whether and how far sacramental judgment and forensic judgment agree? Resp. They agree partly and differ partly, as is clear from the form of each. But the chief difference is twofold, one as to mode and the other as to effect: as to mode indeed, because in sacramental judgment the whole matter is carried on secretly, and consequently the penitent himself is the accused, the accuser, and the witness, otherwise than in forensic judgment; but as to effect, because forensic judgments tend to punish the accused, and consequently are of themselves vindicatory; but sacramental judgment tends to absolving, or to reconciling the sinner with God. - Cf. Lehmkuhl, n. 255, note 11.

Chapter II. On the Matter of the Sacrament of Penance

I say 1°. As in the other sacraments, so in the sacrament of Penance, the matter is twofold, one remote, the other proximate. The remote matter is all sins committed after Baptism; these are called the matter *about which*, because absolution is concerned with destroying them. But it is either necessary or merely sufficient and free. Necessary remote matter is all mortal sins committed after Baptism, and never yet directly remitted by force of the keys; because by divine precept sins of this kind are to be subjected to the keys. But sufficient and free matter is all venial sins not yet accused and, as will be said below, mortal and venial sins also already duly subjected to the keys. - It is called sufficient, because any sins, even the least, can be the object of sacramental pardon. But it is called free, because there is no precept of subjecting them to the keys. These things are clear from the perpetual practice and tradition of the Church, as well as from the doctrine of the Council of Trent, sess. 14, chap. 5.

I say 2°. The proximate matter of the sacrament of Penance is the three acts of the penitent, namely contrition, confession, and satisfaction, which are called the quasi-matter of this sacrament, because they are like the sensible matter which in the other sacraments is subjected to the form; for through these acts sins are proposed to be destroyed by the words of the form. This is clear especially from the Council of Trent, sess. 14, can. 4. - Cf. De Augustinis, part. 2, Thes. 18, p. 227.

Questions

Question 1. Whether sins already duly confessed and remitted through absolution are sufficient matter of the sacrament of Penance? Resp. Affirmatively, and the reason is that sin, although

remitted, is always a committed sin; but Christ indefinitely subjected every sin to the power of the keys; and besides He had to give to the sacrament that it should have efficacy in all those things to which the virtue of penance extends. Therefore, just as contrition and confession of the same sin can be repeated with fruit, so also absolution. Nor does it obstruct this that then the sacrament does not destroy this sin; for it suffices that it have its effect in first act, namely, that it furnish grace destructive of sin, although by accident in second act it does not destroy sin. Cf. St. Alphonsus, n. 427. - De Augustinis, part. 2, art. 6, p. 221.

Question 2. Whether an adult to be baptized under condition, in doubt of a preceding Baptism, must confess sins already accused? Resp. Negatively, and the reason is that those sins have already been remitted through the sacrament of Penance, if the prior Baptism was valid; but if it was not valid, they are not matter of confession and will be remitted through the second Baptism. - Cf. Reuter, n. 118.

Question 3. Whether the aforesaid adult must accuse sins not yet confessed, or committed since the last confession? Resp. This was formerly controverted, as may be seen from the opposed opinions of theologians, for example, Lacroix, lib. 6, part. 1, n. 323; and Billuart, on Baptism, diss. 1, art. 5. For when the probable invalidity of the prior Baptism is posited, subsequent sins probably are not matter capable of the sacrament of Penance; therefore also probably they are not to be subjected to the keys; for the obligation of confessing sins cannot follow except consequently to Baptism duly conferred. - But as regards practice, and restricting the question to heretical neo-converts, one must stand altogether by decree 242 of the Second Plenary Council of Baltimore, which has itself thus: "In receiving converts from heresy to the faith, we will that that manner be observed exactly which is contained in the Form handed down by the Sacred Congregation of the Holy Office, on the 20th day of July, in the year 1859." The Fathers of the Third Plenary Council repeat and confirm this same thing, where in n. 122 it is thus established: "After an investigation has been made, the neo-convert will be received according to the manner described in the Instruction of the Holy Office of the year 1859." - Moreover this manner of which both Councils speak is expounded thus by the Congregation of the Holy Office: "If Baptism is to be repeated under condition, one must proceed in this order: 1°. abjuration or profession of faith; 2°. conditional Baptism; 3°. sacramental confession with conditional absolution." Therefore whenever heretics conditionally to be rebaptized are received into the true Church, of whom alone there can be question here, it is not free to our missionaries to exempt them from the obligation of sacramental confession; but that this must be entire is drawn from the fact that, among both the faithful and theologians and in the decrees of Councils, the obligation of confession always carries integrity with it. To these is added both the universal practice of our missionaries, and the response which S. C. Inquis. gave to the Bishops of England on 17 Dec. 1868, and which Cardinal Barnabo, Prefect of S. C. de Prop. Fide, in letters given to the Archbishop of Quebec on 12 July 1869, testified "to contain a general law."

Observe, however, that the case of some Catholic who would have to be rebaptized under condition because it is prudently doubted concerning the validity of the preceding Baptism is not to be resolved in the same way, because the reasons given cannot be extended to him; and therefore in the preceding solution the question was restricted to heretical neo-converts. Therefore a Catholic of this kind could neither be obliged to a general confession of his whole life, nor to confessing those sins which he committed since his last confession.

Question 4. When must confession be made by neo-converts, before or after conditional Baptism? Resp. According to the Instruction of the Congregation of the Holy Office recently cited, one must proceed in this order:

"(A) Abjuration or profession of faith,

(B) Conditional Baptism,

(C) Sacramental confession with conditional absolution."

But just as the practice of those priests who hear the confession properly so called, or the accusation of sins, either before or after the abjuration has been received, then confer conditional Baptism, and finally impart absolution, does not seem to be against the spirit of the aforesaid Instruction, so the practice of those who, when a just cause occurs, defer confession and absolution for a few days does not seem to be out of harmony with the very words of the Instruction.

Question 5. Whether a sin accused only in general is sufficient matter for the validity or liceity of confession; for example, if someone says: I have sinned, - or, I accuse myself of all my sins? Resp. In a case of necessity, or when a penitent, for example, one dying, can accuse no sin in species, such a confession is certainly valid and licit; both because no one is held to the impossible, and because the most common opinion of theologians, and the sense of the faithful, so bears. But outside a case of necessity it must be said that such a confession is more probably valid, if necessary matter is lacking. The reason is that more is not required either by force of the nature of sacramental judgment, since this nature must be the same outside necessity and in a case of necessity, or by force of the precept of integrity, which then presses only when grave sins are present. But several theologians doubt the validity of an accusation of this kind, because the nature of this sacrament, which is after the manner of a judgment, requires determinate matter; but he who only says that he is a sinner submits nothing determinate to the keys. From this it follows that a confession of this kind is certainly illicit outside a case of necessity, because, while the probability of this reason is not to be despised, he who would perform it would expose the sacrament to the danger of nullity without a just cause. Add that this manner of confessing is opposed to the practice of the Church and offers occasion for many inconveniences; for penitents would lack the warnings, counsels, and direction of the confessor, and would be less moved to contrition; nor could the confessor make a judgment concerning sufficient matter subjected to the keys. For a penitent saying, I accuse myself of my sins, not rarely would have mere imperfections in mind. In distant regions, can a Catholic who has been unconfessed for many years, and who only by signs, on account of lack of language, asks for absolution, be absolved without the help of an interpreter? Resp. S. Off. 28 Feb. 1633: "There is no need of an interpreter in the proposed case, just as also absolution of sins can and must be imparted to one showing the signs which he can ... provided that they suffice for expressing some sin in species. But in the case in which someone strives as much as he can to show signs of sins in species but cannot be understood at all, he can be absolved through a manifestation in general alone." Collec. S. S. ad usum Oper. Apost. Soc. Miss. n. 476. - Cf. Suarez, disp. 23, sect. 1. - Lugo, disp. 17, n. 8. - Lacroix, lib. 6, part. 2, n. 620. *Nouvelle Revue Theol.*, vol. 1, p. 67. - Lehmkuhl, nn. 264 and seq. - *Amer. Eccl. Review*, vol. 13, p. 241.

Question 6. Whether, when the penitent provides only doubtful sufficient matter, the confessor is bound to inquire for certain matter from the past life, so that he can absolve him? Resp. Affirmatively, if he wishes to absolve, because otherwise the sacrament would be exposed to danger

of nullity; unless, however, a case occurs in which the penitent can be absolved conditionally, as will be said below. But one would have to respond otherwise if he does not wish to absolve, but only to impart a blessing. But no one doubts that this can be done, since a penitent of this kind does not have a right to absolution.

Question 7. Whether a penitent who does not bring necessary matter, but nevertheless certainly sufficient matter, is necessarily to be absolved? Resp. Affirmatively, and indeed from justice, yet supposing that he is rightly disposed, and no extrinsic reason is present which would advise that absolution is not to be imparted. Nor should you say that such a penitent does not suffer a great inconvenience because he is already in the state of grace; for by refusing absolution you deprive him of an increase of sanctifying grace and of that immense heap of heavenly gifts which are the fruits of this sacrament duly received. - Cf. Lacroix, lib. 6, part. 2, n. 1885. Baller. note (a) p. 297.

You Will Resolve. 1°. The sufficient and licit matter of confession is venial sins, or mortal sins otherwise confessed, according to their species, even generic, for example, I accuse myself of past sins against chastity, charity, etc., prescinding from number and from any circumstances. - The reason is that thus there is had a confession of sin and indeed of determinate sin, at least of one in species; nor is there an obligation of adding the number of venial sins, or of mortal sins already remitted.

2°. If someone accuses himself of no sin in particular, and says, for example, I know nothing, except that I have often had to sin like other men, he is to be examined as children are commonly examined. If nothing can be elicited from the last confession, he is to be questioned about his past life, according to his state and condition. Likewise with little women, little devout persons, and others of this kind, who confess only confusedly and of very slight things, care must be taken that they add some fault from their past life, either in species or at least in genus. But if, after suitable questions have been put, it is possible to draw out nothing determinate, and yet time presses because of the multitude of penitents, there seems to be present a moral necessity which would suffice for giving absolution at least under condition.

3°. For greater security and for receiving a more certain fruit, penitents are to be advised that, besides doubtful sins or even slight daily sins, they always append, from those already confessed, at least generically, some other certain sin concerning which they grieve more vehemently, lest perhaps the sacrament be exposed to danger of frustration.

4°. But penitents who observe the aforesaid practice are to be warned not to subject again to the keys a sin of their past life merely from a certain custom, especially if that sin is slight; because there is fear lest they do not grieve enough, and consequently do not attain the purpose of providing for the validity and fruit of the sacrament.

5°. According to all, confession in general suffices if the confessor plainly knows the penitent from elsewhere, for example, from a recent confession of the whole life, etc., and knows that he wishes to accuse himself of sins already known to him; for then it will be enough to say: I accuse myself of all my sins already known to you; or simply: of all the sins of my past life.

Chapter III. On the Form of the Sacrament of Penance

I say. The form of the sacrament of Penance is distinguished as twofold: one essential, and the other preceptive or rubrical. The first consists in the words: I absolve you from your sins; as is clear from

the Council of Trent, sess. 14, chap. 3, where it is said: "The holy Synod teaches that the form of the sacrament of Penance, in which principally its force is placed, is set in those words of the Minister: I absolve you, etc.; to which indeed, according to the custom of the holy Church, certain prayers are laudably joined." But the rubrical form consists in those prayers which precede or follow the essential form, and thus it is contained in the Roman Ritual:

"May almighty God have mercy on you, and, your sins having been forgiven, lead you to eternal life. Amen.

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 Mary Virgin and of all the Saints, whatever good you have done, and whatever evil you have endured, be to you unto remission of sins, increase of grace, and the reward of eternal life. Amen."

Observe, however, 1°. that the hand is to be raised from the word *Indulgence* up to the words *The Passion of the Lord*; 2°. that the sign of the cross is to be made over the penitent while it is said: *In the name of the Father*, etc.; 3°. that the word *suspension* must be omitted if the penitent is a layman; 4°. that the word *then* is to be pronounced, for in the recent TYPICAL EDITION of the Roman Ritual it is found written as a part of the text.

Observe 2°. that there is a pious custom, which nevertheless in no way obliges, that before confession, while he blesses the penitent, the confessor says: "May the Lord be in your heart and on your lips, that you may rightly confess all your sins," or some similar prayer.

Questions

Question 1. Whether anything can be omitted from the rubrical form, and when? Resp. Although the prayers joined by the Church to the absolving formula are not necessary for obtaining absolution itself, nevertheless, unless for a just cause, let them not be omitted (Can. 885).

But, since according to a probable opinion the *Passion* raises the good works of the penitent to the merit of sacramental satisfaction, it is fitting that it be omitted very rarely. But the words *Our Lord*, etc., do not seem able to be omitted without venial fault, unless necessity presses. - Cf. Rit. Rom. § Form of Absolution. - O'Kane, nn. 981 and seq.

Question 2. Whether the raising of the hand and the formation of the sign of the cross are necessary in imparting absolution? Resp. It is certain that it is not required for the validity of the sacrament, because it pertains neither to the matter nor to the form. This is clear from the Councils of Florence and Trent, as well as from the unanimous consent of theologians, at least after the Council of Trent. Nor is it required under mortal sin for liceity according to the common opinion, against a few; because it is only a Rubric, which does not seem grave. Indeed several grave authors assert that this can be omitted without sin; thus Busembaum, reported and implicitly approved by St. Alphonsus. Whatever may be the case, at least the raising of the hand can be omitted without sin while the

prayers which precede formal absolution are recited. - Cf. St. Alphonsus, n. 425. - O'Kane, nn. 982 and 983.

Question 3. Whether stole and surplice are required in the administration of the sacrament of Penance? Resp. On this matter the Fathers of Baltimore speak thus: "Approaching the sacred tribunal, let the confessor be vested with surplice and violet stole, according to the prescription of the Roman Ritual." Moreover the prescription of the Roman Ritual has itself thus: "Let [the priest] use a surplice and a stole of violet color, according as the time or the custom of places shall bear." Therefore in practice attention must be paid to custom, to the particular statutes of each diocese, and to the privileges which some families of Regulars enjoy in this matter. - Cf. Conc. Plen. Balt. II, n. 213. - Baruffaldi, *de Sacr. Poenit.* tit. 18, n. 21. - *Acta S. Sedis*, vol. 4, p. 62, n. 111.

Question 4. Whether all the words of the essential form: I absolve you from your sins, are essential? Resp. Negatively, for it is probably taught that the word *you* can be omitted, because it is sufficiently contained in the word *your*, and more probably still the whole clause *from your sins*, because those two words *I absolve you* contain the whole effect of the sacrament. But, practically speaking, it is necessary to utter the whole essential form, both because it is prescribed, and because outside a case of necessity, which could scarcely be imagined in this matter, it is not lawful to use probabilities in those things which pertain to the validity of the sacrament. - Cf. St. Alphonsus, n. 430. - Lugo, disp. 13, n. 26. - O'Kane, n. 984.

Question 5. Whether a priest can validly absolve several persons with one form, saying: I absolve you all from your sins? Resp. Affirmatively, because all things required for validity are found. Indeed, this also can licitly be done in a case of necessity, for example, in a shipwreck, before battle, or in the battle itself, etc.; and such an absolution would be multiple, not indeed formally, but virtually and equivalently, and there would be as many sacraments as there were men who had been disposed through some confession and sufficient sorrow. - Cf. Lacroix, n. 645.[1]

[1] Cf. Addenda, p. 1142, n. 108.

Question 6. What presence of the penitent is reputed moral in order to absolution? Resp. That alone which effects that the words *I absolve you*, according to the common estimation of men, are judged to fall upon the penitent: and this indeed is certainly verified when the confessor and penitent are not farther apart from one another than if two men could and usually would converse with an ordinary voice. Many theologians, determining this distance more closely, extend it to 20 paces, especially if the penitent is not outside the sight of the confessor. But when necessity presses, a penitent can and must be absolved as often as he is perceived by some sense. Hence 1°. he is to be absolved who is seen to fall from a roof, to fall into a river, or to be submerged in the sea, at least if he is not far distant from the confessor; 2°. if the confessor, on account of danger of infection or because of another cause, cannot enter the room of the sick person, he must absolve him from the doorway; 3°. if a penitent were to depart from the confessor not yet absolved, thinking himself absolved, he would have to be absolved if, being a little distant, he were seen, or were certainly known to be present within a nearby crowd; nevertheless he would have to be called back, if this could conveniently be done. - Cf. St. Alphonsus, n. 429.

Question 7. What is to be said of absolution given by employing that new instrument which they commonly call telephone? Resp. Outside a case of necessity it is certainly and gravely illicit for a

confessor to use such an instrument, because the sacrament certainly would be exposed to danger of nullity, and because a new practice would be introduced in the administration of the sacraments, and one liable to frauds. But whether in a case of extreme necessity the use of such an instrument could be tolerated is difficult to decide, and the question is worthy of being referred to the Apostolic See. - Yet to say what seems to me, it does not appear why a priest should be condemned who through the telephone conditionally absolved some penitent, after he had learned from him that he was seized by sudden and most grave illness, that he grieved greatly for his sins, and that he had applied his ears to the instrument and would wait for absolution. For moral presence and the connection between matter and form are certainly required in every sacrament, but in a different degree and manner according to the diversity of each rite. But since the sacrament of Penance was instituted after the manner of a forensic judgment, for which that presence suffices by force of which the judge and the accused can converse together, in the proposed case absolution does not seem to be certainly invalid, since the penitent and priest can be said in a true sense to be conversing. - Cf. *Irish Ecclesiastical Record*, Feb., Mar. and Apr. 1883; and Jun. and Jul. 1885.

Question 8. What is to be said of conditional absolution? Resp. It is certain that an absolution imparted under a condition concerning the present or the past is valid in every case, provided that the other things required for the validity of the sacrament are present: for the condition in no way changes the sense of the sacramental form, which it does not affect at all; but it affects only the will of the confessor, who does not intend to absolve unless the condition attached is fulfilled; but when this has been fulfilled, the form becomes absolute; and consequently nothing is found which could hinder its validity. It is likewise certain that conditional absolution is sometimes licit; for if it is valid, it must also be licit when necessity presses.

But the doctrine of some must be rejected as plainly lax, who hold that conditional absolution can be imparted from any light cause whatever, and with no necessity pressing, even if the sufficient disposition of a penitent burdened also with mortal sins is in some way doubted. For there is no one who does not see how many sacrileges a practice of this kind would introduce. For the confessor would then no longer be a prudent dispenser of the sacraments, but would cast pearls before swine; and by this facility of absolving he would bring it about that penitents would waste away in sins. But no more is the doctrine of those to be admitted who, with Collet and certain others, hold that absolution under condition is not to be imparted except in extreme necessity or in extreme danger of life: for a doctrine of this kind is supremely harmful to penitents who can return to the confessor only with difficulty, and, dismissed without absolution, incur danger of eternal damnation.

Hence, with due conditions preserved, when necessity presses, or when there is present a grave and proportionate cause, it is lawful to absolve conditionally in the following cases: 1°. in doubt whether the penitent is living or dead; 2°. in doubt of sufficient matter, for example, when the precept of annual confession presses, etc.; 3°. in doubt of jurisdiction on the part of the confessor; 4°. in doubt whether the penitent was duly absolved; 5°. in doubt of the use of reason in children, the insane, etc.; 6°. in doubt whether the penitent is morally present; 7°. in doubt whether a dying person destitute of the senses is capable of the sacrament; 8°. in doubt concerning the disposition of the penitent, when not only extreme but also simply grave spiritual necessity presses. Cf. St. Alphonsus, nn. 431 and seq. - Billuart, diss. 6, art. 10, §7. - Lacroix, lib. 6, part. 1, n. 78.

Part II. On the Subject of the Sacrament of Penance

The subject, in the sacrament of Penance, is essential, not only because some wayfaring man is required who receives the sanctifying rite, as in Baptism, for example, or in Confirmation, but also for another reason, insofar namely as the supplying of the proximate matter depends upon him; for it was said above that the proximate matter of this sacrament consists in the acts of the penitent. These acts are enumerated as three, namely contrition, confession, and satisfaction; therefore concerning each one something must be said here for practice.

Chapter I. On Contrition

Contrition according to the Council of Trent is "sorrow of soul and detestation for sin committed, with the purpose of not sinning henceforth." This definition prescinds from the new law, in which contrition can have no efficacy without the desire of confession. Therefore the same Council a little below adds "with the desire of performing the other things which are required for rightly receiving this sacrament." Hence the definition of St. Thomas is fitting: "Sorrow taken up for sins, with the purpose of confessing and satisfying." - Cf. Council of Trent, sess. 14, chap. 4. - St. Thom. Suppl. q. 1, art. 1. - St. Alphonsus, n. 435. - De Augustinis, part. 1, art. 5, p. 43.

Theologians dispute, as may be seen in St. Alphonsus, whether contrition consists properly in sorrow, or rather in detestation, and what order intervenes between these two; but practically speaking, this matters little, for it is not to be feared that either one is lacking, since they mutually suppose each other. Yet it is certain that sorrow of soul and detestation of sin regard the past, but purpose is concerned with the future. Therefore in the first place something must be said about this sorrow and detestation, or about contrition properly so called, and then about purpose.

Article I. On Contrition Properly So Called

Contrition is distinguished as twofold: namely perfect, which is detestation of sin arising from the special motive of perfect charity or of the goodness of God loved supremely for His own sake; and imperfect, or attrition, which is detestation of sin arising from another motive, for example, from the consideration of the baseness of sin, or from fear of hell, or from love of eternal beatitude. Concerning each, three things must be explained, namely necessity, qualities, and efficacy.

§ I. On the Necessity of Contrition

I say. Contrition, either perfect with the desire of the sacrament or imperfect with the sacrament itself, is necessary for the sinner, both by necessity of means for obtaining justification and also by necessity of precept at least sometimes in life. The reason for the first is taken from the words of Christ, Luke xiii, 3: "Unless you shall have penance, you shall all likewise perish," and also from the Council of Trent, sess. 6, chap. 6, where hatred and detestation for sin are counted among the principal dispositions for justification. But the reason for the second is both because there is frequent speech in the Scriptures concerning such a precept, especially Matt. iii, 2, where it is expressly said: "Do penance"; and because there exists a natural precept of doing whatever is necessary by necessity of means for salvation. - Cf. St. Thom. 3, q. 86, art. 2. St. Alphonsus, n. 334.

Questions

Question 1. How and when does the precept of contrition oblige? Resp. The precept of contrition, always supposing that someone is in the state of mortal sin, obliges gravely, although now *per se*, now *per accidens*. It obliges *per se* both in danger, even probable, of death, on account of the necessity of attaining the ultimate end, and sometimes in life, as has already been said and will be more determined below. But it obliges *per accidens* when another precept presses which cannot be fulfilled without contrition, for example, the precept of annual confession; or when someone is about to receive or administer a sacrament, or also as often as he receives the sacrament of Penance for the sake of devotion alone. Yet it is certain that the precept of contrition does not oblige immediately after a mortal sin has been committed, because it is affirmative; for it is of the nature of an affirmative precept that it not oblige immediately, because otherwise it would oblige at each moment. - Cf. St. Thom. 4, dist. 17, q. 3, art. 1, q. 4. - St. Alphonsus, n. 437. - Baller. note (c) p. 312.

Question 2. What is the force of that particle "sometimes," or when does delay of contrition induce grave sin? Resp. The theologians do not agree; for some extend it to a year, others to six months; others with St. Alphonsus to one month. But the holy Doctor himself adds: "Sinners, especially the rude, can for the most part, indeed almost always, be excused from this sin of delayed penance, on account of inadvertence." But it seems, not improbably, that not only the rude, but all who satisfy the precept of annual confession, can be excused, because it is not certainly established concerning the obligation of making an act of contrition more often than once in a year. But those who have not confessed for many years, since they already implicitly accuse this sin of delayed penance, are not necessarily to be questioned on this matter. - Cf. St. Alphonsus, n. 437. - Lugo, disp. 15, n. 55. - Salmant. tract. 6, chap. 1, nn. 51 and 55. - Pallav. punct. 3, n. 10. Baller. note (b) p. 313; and note (a) p. 314.

Question 3. Whether he who in the article of death receives the sacrament of Penance with attrition known as such is bound besides to elicit an act of perfect contrition? Resp. Negatively, probably; for he would chiefly be bound on this account, because there is present an absolute necessity of attaining the ultimate end: but this reason cannot be urged, because it is morally certain that justification is obtained through attrition alone with the sacrament; from another source, no one is bound to use the safer means when he has already employed a means simply safe. Therefore ... Yet some affirm that there is present an obligation of eliciting an act of contrition, but *per accidens*, namely if the memory of a past sin occurred to the dying person; for, they say, he would not then satisfy the obligation of eliciting an act of perfect charity if, when the memory of sin occurred, he did not detest this sin from that motive. But because concerning the obligation of eliciting an act of perfect charity in the article of death, when someone has already obtained justification, there is probable dispute on both sides, neither does this argument settle the matter. Whatever may be the case, it is plainly expedient that the dying be stirred, as far as can be done, to eliciting and repeating acts of perfect charity and contrition. - Cf. Baller. note (b) p. 314.

Question 4. Whether it is necessary for the value of the sacrament that contrition precede the accusation itself of sins? Resp. Negatively, and the reason is that according to the Roman Ritual the priest is indeed bound to bring the penitent to sorrow by efficacious words, but only after the confession has been heard. But although the practice of some faithful is that, when they have completed the accusation, they use this or a similar formula: I grieve greatly for these sins and I

accuse myself; nevertheless only scrupulous penitents, instructed by scrupulous confessors, think a formula of this kind obligatory. - I said instructed by scrupulous confessors; for these alone, relying on an empty foundation, demand these formulas for the value of the sacrament. This empty foundation is twofold; for they object 1°. that contrition must be sensible, and that the manifestation of this sensibility is obtained through accusation; but it is answered that the sensibility of contrition can be manifested, and in fact is manifested, in many other ways, especially through the petition and expectation of absolution. They object 2°. that according to theologians confession must be sorrowful; but it is answered that theologians by that word sorrowful require only that confession not be a mere narration of sins, but rather an accusation of oneself in order to receive absolution. Cf. St. Alphonsus, n. 445. Lugo, disp. 14, nn. 13 and 18. - Salmant. tract. 6, chap. 5, n. 22. - Baller. note (a) p. 316.

Question 5. Through what space of time does an act of contrition endure, so that afterward the sacrament may be validly received? Resp. This cannot be determined certainly: yet according to the common opinion it is said that it can persevere for one day, and even longer, provided it has not been retracted by another mortal sin. But some theologians require besides that it was elicited with the intention of making confession. Whatever may be the case, practically speaking those penitents are not to be troubled who, when in the morning, while they were hearing Mass, or later toward midday, they elicited an act of contrition with the intention of confessing that day, but in the evening actually approached confession without having renewed contrition. Indeed they are not to be troubled even if they had had no respect to making confession on that day, because not even in that hypothesis would the nullity of the confession be established. Cf. St. Alphonsus, nn. 446 and 447. - Lugo, disp. 14, nn. 37 and 40. - Baller. note (a) p. 318; and note (a) p. 319.

Question 6. Whether a new act of sorrow is required for receiving a new absolution when the penitent immediately after absolution confesses a mortal sin omitted from forgetfulness? Resp. The opinion which, according to St. Alphonsus, is more common, but according to very many grave theologians is common, undoubted, and morally certain, denies that this is required. For since the prior contrition has not been destroyed by the absolution received, it certainly perseveres; and because it was universal, it extended also to that sin omitted from forgetfulness and now is again manifested in the very act of the new accusation. But St. Alphonsus holds the affirmative opinion as more probable, because sorrow must be not only elicited, but also elicited in order to absolution. Therefore in practice before the fact, if someone does not hold the negative opinion as morally certain, it is necessary that he seek from the penitent a new act of contrition; and this indeed he will most easily accomplish while he raises his hand to impart the new absolution. - Cf. St. Alphonsus, n. 448. - Baller. note (a) p. 320.

§ II. On the Qualities of Contrition

I say. The qualities necessarily required for the validity of both perfect and imperfect contrition are numbered as four; namely it is required that it be internal, supernatural, supreme, and universal. Therefore 1°. it must be internal or true, that is, truly conceived in heart and soul, according to that saying of Joel ii, 13: "Rend your hearts, and not your garments"; 2°. it must be supernatural, that is, elicited through the help of grace and from a motive which in some way is referred to God, because otherwise it could in no way dispose toward obtaining justification; 3°. it must be supreme, insofar namely as the sinner appreciatively detests his crime more than every other evil and is prepared in

soul rather to lose and suffer all things than to commit sin; 4°. it must be universal, namely it must extend to all grave sins either from one universal motive or from several particular motives which, at least taken together, extend to all mortal sins committed, even those not occurring to memory; for no actual sin is remitted without sorrow, but one mortal sin cannot be remitted without another, since remission occurs through the infusion of grace, which cannot stand together with mortal sin. - Cf. Lehmkuhl, nn. 283 and seq.

Questions

Question 1. Whether contrition must be supreme not only APPRECIATIVELY, but also INTENSIVELY? Resp. Negatively, because the intensity of sorrow or of affection or greater or lesser effort is something merely accidental in contrition. Besides, if that intensity were required, it would have to be either absolutely supreme or relatively; if the first, contrition would be impossible, because we can always conceive a greater degree of intensity; if the second, it would follow that contrition which today is good and sufficient could tomorrow be found insufficient, which is surely repugnant. Therefore it suffices that contrition be appreciatively supreme, that is, that sin be held in hatred before other things by estimation or serious will; and consequently all anxiety is to be cast away from those who experience a more vehement sense of sorrow from the death of some friend than from the offense of God. - Cf. St. Alphonsus, nn. 441 and 442. - Lugo, disp. 5, nn. 84 and 87. - De Augustinis, part. 1, Thes. 6, p. 64.

Question 2. Whether a FORMAL comparison is required in appreciation between various evils and sin, or God? Resp. Negatively, for it suffices that the sinner sincerely and truly detest sins and be unwilling to sin further. Therefore confessors would act very imprudently who, in order to explore whether sorrow is supreme, proposed certain very dangerous comparisons to penitents, for example: would you rather be burned alive, or undergo all the torments of the martyrs, or eat venomous reptiles, than sin again? For such comparisons move the imagination more vividly, and when a strong temptation approaches, the true disposition which existed before is easily lost. Indeed St. Thomas accuses confessors of this kind not only of imprudence but also of foolishness. Besides, since for some persons the very idea of death is wont to disturb the imagination too much, generally speaking it is not fitting to ask a penitent whether he is prepared rather to die and to die a hundred times than to offend God. - Cf. St. Thom. Quodlib. 1, art. 9. - St. Alphonsus, n. 433. - Baller. note (a) p. 328.

Question 3. What duration of time is required for conceiving true and supreme contrition? Resp. None *per se*, because duration does not pertain to the essence of the act, but is merely accidental to it; wherefore it is enough that the act be substantially fulfilled; and this can happen even in the smallest moment of time. Yet it is safer to elicit an act of contrition more intense and more prolonged, lest perhaps from lightness or excessive haste none be conceived as to substance. Cf. St. Alphonsus, n. 433.

Question 4. Whether contrition for venial sins must enjoy the same four qualities? Resp. It must necessarily enjoy the first three; namely 1°. it must be internal, because contrition which is not elicited from the innermost heart is not true; 2°. it must be supernatural, because, as was said, natural contrition cannot be a means to a supernatural effect; 3°. it must also be supreme, or the sinner must detest venial sin more than all natural evils. But it does not necessarily have to be universal, whether in the sacrament or outside the sacrament. The reason is that, since venial sin is

not incompatible with sanctifying grace, one venial sin can be remitted without the others. Cf. St. Alphonsus, n. 449.

Question 5. Whether fearful attrition, or attrition conceived from fear of gehenna, suffices for justification in the sacrament of Penance? Resp. Affirmatively, provided that it is truly supernatural, absolutely efficacious, and only materially, but not formally or servilely, servile. The reason is both because attrition of this kind is a true conversion to God and a true aversion from sin, and because this is clearly drawn from the Council of Trent, sess. 14, chap. 4, where attrition conceived from fear of gehenna and punishments is said to be honorable and to dispose the sinner toward obtaining justification in the sacrament of Penance. Moreover attrition is called formally or servilely servile when someone indeed grieves for sin and wishes to avoid it because of the punishments which he knows are to be inflicted by God; yet he would still be prepared to sin if those punishments did not subsist. But it is called materially or simply servile when someone indeed abstains from sin because of fear of punishments, yet is not so disposed that he would wish to sin if those punishments did not exist. Cf. De Augustinis, part. 1, Thes. 8, p. 90. - Lehmkuhl, n. 285.

Question 6. Whether attrition from fear of the punishments of Purgatory suffices for venial sins? Resp. Affirmatively, with the most common and morally certain opinion; because all the reasons adduced above for the sufficiency of attrition from fear of gehenna also have force here.

Question 7. Whether attrition from fear of temporal punishments of this life to be undergone for sin, insofar as they are inflicted by God, suffices? Resp. Affirmatively, with the opinion which seems morally certain, provided such attrition is supernatural. The reason is both because in the Council of Trent it is said: "Attrition from fear of gehenna and punishments," and consequently just as the fear of gehenna alone certainly suffices, so the fear of punishments alone must suffice; and because in fear of this kind all the conditions of true attrition can be present. Yet St. Alphonsus attributes some probability to the negative opinion; if anyone admits this, he cannot in practice and before the fact be content with that attrition. - Cf. Baller. note (a) p. 331.

Question 8. Whether, for obtaining justification in the sacrament of Penance with attrition, a beginning of love is also required? Resp. Negatively, if by beginning of love there is understood some degree of perfect charity, by which God is loved above all things. The reason is that, for rightly receiving the sacrament, an act is not necessarily presupposed which outside the sacrament justifies essentially. But it can be conceded that some beginning of love is required, insofar as attrition, in order that it dispose toward the sacrament, must exclude, as the Tridentine Synod speaks, the will of sinning; and it must also have joined to it the hope of obtaining pardon or justification from God, by which the sinner begins to love God as the font of all justice. - Cf. St. Alphonsus, n. 440. - De Augustinis, part. 2, Thes. 19, p. 238.

§ III. On the Efficacy of Contrition

I say 1°. Perfect contrition justifies a man even outside the sacrament of Penance, but not without the desire of this sacrament. The reason for the first is that perfect contrition includes perfect charity, which imports conjunction with God. The reason for the second is that the sacrament of Penance is the one means instituted by Christ for the remission of sins. - Cf. De Augustinis, part. 1, Thes. 5, p. 45.

I say 2°. Attrition outside the sacrament of Penance cannot justify a sinner; but if it is joined with the sacrament as a prerequisite disposition, it suffices for obtaining pardon of sins. The reason for the first is that the attrite man, although he withdraws from creatures and begins the first steps of conversion to God, nevertheless is not yet perfectly converted to Him and joined by love. But the reason for the second is that then nothing is lacking to prevent the sacrament from producing its effect. Therefore attrition in the sacrament does not justify by its own power, but only together with the other parts, especially with the absolution of the priest. But in this case the penitent is said to become contrite from attrite, not properly and formally, but as to equivalence and effect. Cf. De Augustinis, part. 1, Thes. 9, p. 90; and part. 2, p. 249, Scholion 11.

Questions

Question 1. Whether the desire of confession must be explicit in contrition? Resp. Negatively, with the common opinion. The reason is that for remission it suffices that someone be truly joined with God with his whole heart through perfect contrition; for God, as is clear from what has been said, cannot reject a sinner approaching Him with his whole heart and from the most perfect motive; but it can sometimes happen that a sinner elicits an act of perfect contrition without thinking of confession, whether from inadvertence or natural forgetfulness or from invincible ignorance. Therefore for the remission of sin through contrition it is not essential that the desire of confession be explicit. - Cf. St. Alphonsus, n. 437. - Salmant. chap. 2, n. 23.

Question 2. Whether contrition remits not only the fault, but also the punishment due to fault? Resp. It certainly remits eternal punishment, because a man justified through contrition cannot remain guilty of eternal damnation. Besides, according to the greater or lesser intensity of the same contrition, it also remits part of the temporal punishment due to mortal or venial sins that have been destroyed. Consequently very intense perfect contrition can also abolish all punishment; but it does not necessarily have this efficacy from its nature. This is drawn from the Council of Trent, sess. 6, chap. 14; and sess. 14, on Penance, chap. 8 and can. 12.

Question 3. Whether attrition remits venial sins outside the sacrament? Resp. It is controverted, but more probably it seems that one must answer affirmatively. The reason is, 1°. because from the Council of Trent venial sins can be remitted in various ways: therefore they are not remitted by perfect contrition alone; 2°. because in the opposite opinion venial sins would not be remitted more easily than mortal sins: but this is opposed to the sense of the faithful; 3°. because the power of remitting venial sins is commonly attributed to sacramentals; but it would be attributed falsely if contrition were required for destroying them. Yet not a few deny this, because from Trent, sess. 14, chap. 5, venial sins are usefully accused in confession; but they would not be usefully accused if they could be remitted by attrition. Therefore. But it is rightly replied that venial sins are usefully exposed in confession also for other causes, namely for the remission of punishment, for the merit of confusion, for the advantage of direction, etc. - Cf. De Augustinis, part. 1, art. 9, p. 105.

Article II. On the Purpose of Not Sinning Henceforth

I say. The purpose of not sinning henceforth, at least implicit, is absolutely necessary for the remission of sin. The reason is that otherwise contrition itself would be illusory; for he does not truly detest sin who has the mind of committing it again. But a true purpose must enjoy a threefold condition; namely it is required that it be firm, efficacious, and universal. Therefore it must be:

1°. Firm, namely the penitent must have a sincere will of not relapsing into sin, notwithstanding any inconvenience or human fear whatever; for otherwise he would not will to be totally and sincerely converted to God. Yet the confessor ought not to test the soul of the penitent by employing comparisons, or by proposing inconveniences and certain particular difficulties suited to disturb his imagination.

2°. Efficacious, that is, the penitent must not only firmly establish that he does not wish to sin further, but must also employ the means necessary for avoiding sin and fleeing proximate occasions, etc. - But it suffices that the purpose be efficacious affectively, that is, it suffices that the sinner be prepared in soul to employ the necessary means; because future amendment in fact is not of the essence of purpose.

3°. Universal, or it must extend to all mortal sins, not only those committed, but also those which could be committed. The reason is that full and true conversion to God cannot be given without aversion from every lethal sin.

Questions

Question 1. Whether purpose, in order that it be firm, must besides be found constant? Resp. Negatively, at least absolutely and generally speaking. The reason is that purpose affects the present will, which otherwise from its nature is variable. Hence from relapse after confession, infirmity of purpose cannot be gathered *per se*. - I said absolutely and generally speaking; for if the penitent relapses immediately and with almost no resistance, it can sometimes offer some indication, or at least suspicion, that he lacked a truly firm purpose; for one who firmly purposes does not so easily forget his purpose, but usually perseveres constant at least for some time, and employs efforts for resisting temptations or occasions of sin, and consequently ordinarily falls with greater difficulty and more rarely. Cf. St. Alphonsus, nn. 451 and 459. Lugo, disp. 14, nn. 160 and seq.

Question 2. Whether the purpose of one who indeed has the mind of not sinning, yet fears and in some way foresees that he will relapse, can be judged firm? Resp. Affirmatively, generally speaking: for fear does not impede a sincere will, when it is thrown in from past fragility and the inconstancy of the human will. Hence that penitent has true purpose who, when the confessor asks about the will of not sinning, responds: I am fragile; I fear a fall; nevertheless I do not now will it. But in practice the disposition of the penitent must be inspected: for you will find not rarely sinners asserting that they are going to relapse, who for this reason doubt that they have a sufficiently firm purpose, and yet show nothing other than fear of relapsing and distrust of themselves. It must be inculcated upon penitents of this kind that the matter is not about those things which perhaps are going to happen, but about the actual will and about confidence to be placed in divine help. Cf. Lacroix, lib. 6, part. 2, n. 1733. - Baller. note (a) p. 344.

Question 3. Whether an explicit purpose is required for receiving the sacrament of Penance rightly? Resp. It is greatly controverted among theologians. The first opinion affirms absolutely; because although sorrow necessarily includes purpose, nevertheless an explicit purpose seems to be required by Trent saying: "with the purpose of not sinning henceforth." The other opinion denies absolutely; because if purpose is truly and properly contained in sorrow, which is altogether certain, nothing further ought to be required; but the words of the Council of Trent, say the patrons of this opinion, do not indicate the necessity of an explicit purpose, but only that sorrow, in order to be true, must

contain a firm mind of not sinning henceforth, namely be joined with purpose. Added is the authority of the Roman Council under Benedict XIII, which, in the Instruction for children about to receive the sacrament of Penance, placed at the end of the Decrees, requires only for the value of the sacrament that there be had at least an implicit purpose. This opinion is defended by very many and most excellent theologians, and by some of them is called common, morally certain, or even most true. Finally the third opinion, which St. Alphonsus testifies is called common, teaches that if the penitent thinks about future life, he must formally propose amendment; but otherwise if he thinks nothing of the future. For if he thinks about the future, all agree that it can scarcely happen that the penitent grieves sincerely without at the same time eliciting an explicit and formal purpose.

With these opinions set forth, St. Alphonsus gives his judgment thus: "Those two latter opinions are indeed more probable; but because the first is not without its probability, in practice before the fact it is more safely to be followed." Besides, since, as the same holy Doctor testifies, most even of those who are alleged for the first opinion, although he himself does not acquiesce, agree that if in good faith you have confessed with true sorrow without a formal purpose, you are not bound to repeat the confession, this will already be the one practical conclusion, at once easy and safe: - before the fact let an explicit purpose be elicited, especially if someone is thinking about future life; but after the fact no one is to be troubled. - Cf. St. Alphonsus, n. 450. Salmant. chap. 5, n. 54. - Laymann, chap. 4, n. 6. - Baller. note (a) p. 346; and note (c) p. 347. Lehmkuhl, n. 298.

Question 4. What purpose is required and suffices for the value of the sacrament, where only venial sins are accused? Resp. The same must be said concerning purpose as was said above concerning the sorrow required when only venial sins are accused; and consequently just as it is certain that purpose concerning all venial sins is not required, because these are compatible with the infusion of grace, so it is certain that purpose concerning only one of those things which are accused is required and suffices, whether it is some venial sin committed since the last confession, or whether it is some venial or mortal sin of the past life, and often already accused, even if that accusation is made only according to species, even the lowest species. Indeed not only does this suffice, but it is also expedient that from several venial sins which are accused, some one principal sin be selected, to the detesting and amending of which the soul is applied before the others. - Cf. Sporer, n. 339. - Elbel, nn. 113 and seq.

Chapter II. On the Confession of Sins

Article I. On the Necessity of Confession

I say. Confession, or the manifestation of sins made to a priest in order to obtain absolution of them, is altogether necessary for all who after Baptism have fallen into some mortal sin, both by divine law and by ecclesiastical law. The first is clear from the Council of Trent, sess. 14, can. 6, where it is read thus: "If anyone shall deny that sacramental confession is necessary unto salvation by divine law; or shall say that the manner of confessing secretly to a priest alone, which the Catholic Church has always observed and observes from the beginning, is foreign to the institution and command of Christ, and is a human invention, let him be anathema." But the other is clear from many Councils, but especially from the Fourth Lateran Council under Innocent III, in these words: "Every faithful person of either sex, after he has reached the years of discretion, shall faithfully confess all his own sins alone at least once in the year to his own priest, and shall strive to fulfill with his own strength

the penance enjoined upon him ...; otherwise while living let him be barred from entrance into the Church, and when dying let him lack Christian burial."

Questions

Question 1. How and when does the divine precept of confession press? Resp. Always supposing some mortal sin, the precept of confession obliges both *per se* and *per accidens*; *per se* indeed in danger, and still more in the article of death, and sometimes in life. The reason for the first is that all positive precepts oblige at least in time of necessity, for otherwise they would be imposed in vain; and the reason for the second is that, if Christ had obligated only the dying to confession, it could no longer be said, as is commonly taught and must certainly be held, that the Church, by obligating the faithful to annual confession, more explicitly determined the divine precept itself. - But *per accidens* it obliges 1°. when the Eucharist is to be received; 2°. when the precept of reconciling oneself with God presses, or the state of grace is required, for example, for administering sacraments or for receiving those which are called of the living, and an act of perfect contrition cannot be elicited; 3°. when grave temptation presses, which otherwise cannot be overcome. Cf. St. Alphonsus, n. 663. - Lacroix, lib. 6, part. 2, n. 2020.

Question 2. Whether confession can ever be made by writing, or by nods or signs? Resp. It is certain that confession can be made validly by nods or signs; and with a just cause intervening, even licitly. But as regards writing, three cases must be carefully distinguished. The first is when confession and absolution are both made by writing. The second case is when either confession or absolution is made separately through a letter. Finally, the third is when the penitent, having written the confession, gives or sends it to the confessor so that he may read it, and afterward, kneeling before him, says: I accuse myself of all the sins which you have read. - Moreover, in the first and second case the sacrament would be not only illicit but also invalid, both because, at least in the first case, no form would be had, and because this is clear from the Decree of Clement VIII given 20 June 1602, which has itself thus: "Our Most Holy Lord ... condemned and prohibited, at least as false, rash, and scandalous, this proposition, namely, that it is lawful by letters or by an intermediary to confess sins sacramentally to an absent confessor and to obtain absolution from the same absent confessor, and he commanded that henceforth that proposition not be taught in public or private lectures, sermons, and meetings, nor ever be defended, printed, or in any way brought into practice as probable in some case." That this Decree must be understood not only copulatively but also disjunctively, namely when either absolution or confession alone is made by writing, is clear from the authentic declaration made by Paul V in the Congregation of the Holy Office, on 14 July 1605. But that the Supreme Pontiff willed to declare the sacrament to be not only illicit, but also invalid, is clear from the tenor of the words and from the common interpretation of theologians. - But in the third case the sacrament would be valid and, given a just cause, for example, a most vehement repugnance, even licit. The reason is that then confession would properly be made by words to a priest present through that formula: I accuse myself of all the sins which you have read. - Cf. St. Alphonsus, nn. 428 and 429. Viva, vol. 3, p. 577. De Augustinis, part. 2, Thes. 21, p. 266. - Lehmkuhl, n. 271, note 1.

Article II. On the Integrity of Confession

A twofold integrity is distinguished, one material, the other formal. The first is situated in the accusation of all mortal sins which have been committed; but the other, namely formal, consists in

the accusation of all mortal sins which someone here and now, with the circumstances considered, morally can or is bound to confess. Hence as often as material integrity is had, formal integrity is also had; but not vice versa.

§ I. On the Necessity of the Integrity of Confession

Point I. On the Necessity of Integrity in General

I say. Although material integrity is not always required, because it is sometimes either physically or morally impossible, and God does not command impossibilities; nevertheless formal integrity is absolutely necessary by divine law. This is clear from the Council of Trent, sess. 14, chap. 5, where these things are had: "The universal Church has always understood that the entire confession of sins was instituted by the Lord, and that it exists as necessary by divine law for all fallen after Baptism; because our Lord Jesus Christ, about to ascend from earth to heaven, left priests, His own vicars, as presidents and judges, to whom all mortal crimes into which the Christian faithful have fallen are to be brought; so that, according to the power of the keys, they may pronounce the sentence of remission or retention of sins. For it is clear that priests could not have exercised this judgment, the case being unknown, ... if they had declared their sins only in general, and not rather in species and one by one. From these things it is gathered that all mortal sins of which penitents have consciousness after diligent examination of themselves must be recounted in confession, even if they are most hidden." And in can. 7 it was defined thus: "If anyone shall say that, in the sacrament of Penance, for the remission of sins it is not necessary by divine law to confess all and individual mortal sins of which memory is had with due and diligent premeditation, even hidden sins and those which are against the last two precepts of the Decalogue, and the circumstances which change the species of sin ... let him be anathema."

He who after baptism has perpetrated mortal sins, which have not yet been directly remitted through the keys of the Church, must confess all of which he has consciousness after diligent examination of himself, and explain in confession the circumstances which change the species of sin (Can. 901).

Questions

Question 1. Whether the necessity of integrity requires accusation of sins according to the lowest species? Resp. Affirmatively, altogether, because the lowest species are properly called species, and the Council of Trent speaks properly of their accusation; and consequently it does not suffice to manifest only generic species, namely that you have injured chastity or religion, but it is necessary to add all circumstances inducing a proper species. But this does not import that if someone cannot or is not bound here and now to manifest the lowest species, he is also excused from manifesting the generic species. Therefore if someone, knowing that he has sinned against chastity, cannot or is not bound here and now to say whether it was with a male or female, with an unmarried or married person, nevertheless he is bound to say that he sinned against chastity. The reason is that otherwise formal integrity would not be had.

Question 2. In what way is satisfaction to be made to integrity, when someone cannot arrive at a precise number? Resp. He who cannot remember a certain number is bound to accuse the more probable number, or the number which comes nearer to the truth, adding the particle *about*; because where certainty is lacking, that which is more likely must be accused. Moreover St. Alphonsus well

admonishes that the confessor ought not be too anxious about inquiring into the number of sins in a customary penitent, because it is often impossible to have such a certain number. Rather, let him diligently inquire into the state of conscience, by asking whether he has sinned frequently or rarely; how many times about in a month, in a week, in a day, etc. - Cf. St. Alphonsus, n. 466. - Lehmkuhl, nn. 304 and 305.

Question 3. What number is judged to be comprehended in the particle "about"? Resp. This cannot be determined by an altogether certain rule; nevertheless not just any excess is comprehended, nor a notable defect, but only a moderate one, yet greater or lesser in proportion to the number expressed. Thus, however, it is established by St. Alphonsus: a moderate excess or defect will be, relative to about five sins, to add or subtract one unit on either side; relative to about ten, two; relative to twenty, three or four; relative to forty, four or five; relative to a hundred, five or six ...; and prudently in the first case the penitent will be judged to have sinned four, five, or six times; in the second, however, to have sinned eight, nine, ten, eleven, or twelve times; and similarly concerning the others you will resolve. Observe, however, that sometimes from the very state of the penitent the number of sins can easily be drawn out. Thus, for example, where a man accuses himself that he lived for three years in concubinage, or a woman that for six months she practiced the gain of the body, there is nothing for which the number of sins committed in that state should be inquired further. - Cf. St. Alphonsus, n. 466.

Question 4. To what is a penitent bound who, after completing a confession in which he used the particle *about*, finds the exact number of sins? Resp. A distinction must be made: if the sins which he now remembers are certainly more numerous than the number accused together with the particle *about*, then in the next confession he must add the exceeding number, because that number was in no way manifested; otherwise he is bound to nothing. Likewise he is bound to nothing if he finds that the sins committed were fewer and he exaggerated the number in good faith. I said in good faith; for if he acted in bad faith, he committed, *per se*, a grave sacrilege. For although a lie uttered in confession itself, and which does not touch the necessary matter of the confession itself, is excused from grave sin because it is neither harmful to the penitent nor gravely injurious to the sacrament, nevertheless one must speak otherwise if the lie is concerned with matter necessarily to be expressed in confession itself. - Cf. St. Alphonsus, *Hom. Ap.* n. 34. - Reuter, n. 313.

Question 5. Whether it hinders the integrity of confession if someone accuses venial sins to the ordinary confessor, but mortal sins to another? Resp. Negatively, provided that he never receives absolution without having manifested all mortal sins to one confessor and being absolved by the same. The reason is that that confession is entire which embraces all mortal sins, since venial sins do not have to be accused necessarily. Therefore in practice those are not to be condemned for integrity not preserved who sometimes confess graver sins to an unknown confessor, but subject lighter sins to their ordinary one, if from shame, with which they would be suffused with a confessor familiarly known, they would commit themselves to danger of confessing sacrilegiously. - I said for integrity not preserved, because certainly they would have to be condemned for another reason, for example, if young men about to embrace the clerical or religious state acted thus, deceiving their own confessor. - Cf. St. Alphonsus, n. 471.

Question 6. Whether it hinders integrity if someone feigns another voice, lest he be recognized by the confessor? Resp. Negatively, *per se*; for provided he opens all mortal sins, he makes an entire

confession. Nor is it necessary that he be known by name by the confessor; for it suffices that the confessor intends to absolve the present sinner: but the intention of the confessor is *per se* always determined to the present penitent. Cf. Lacroix, *de Sacram. in genere*, n. 68.

Point II. On Doubtful Sins

Doubt here can be concerned chiefly 1°. with the act of sin or with the sin committed; 2°. with the gravity of the sin, both on the part of the matter and on the part of consent; 3°. with the confession of a sin certainly committed.

Questions

Question 1. Whether mortal sins, not certainly but only probably committed, must necessarily be accused? Resp. Negatively, more probably, if, after a diligent examination has been previously made, the doubt perseveres. The reason is that an obligation cannot be imposed unless it is certainly established concerning it. And indeed from Trent, mortal sins of which consciousness is had must be accused; but consciousness of doubtful sins is not had; for to have consciousness imports certain knowledge of sin, since consciousness is nothing else than certain knowledge and judgment concerning sin committed. Therefore ... - Cf. St. Alphonsus, nn. 473 and 476. - Sporer, n. 389. - Roncaglia, chap. 2, question 7. - Reuter, n. 305.

Question 2. Whether sins certainly committed, but concerning whose gravity only probable reason is had, are to be accused? Resp. Negatively, more probably, *per se*, namely with the principles of probabilism inspected. The reason is the same as for the preceding question; for since it is not established concerning a grave sin committed, neither can it be established concerning the obligation of confession. But in practice attention must be paid to the two following rules:

Rule I. In doubt whether the matter of sin is grave, rude penitents ordinarily must accuse doubts, 1°. because they almost cannot form conscience by themselves, 2°. because for the most part they do not know how to distinguish venial sins from mortal sins. Except, however, the scrupulous, who are not often accustomed to commit mortal sins. But instructed penitents are not bound to accuse doubtfully grave things, because they can form conscience by themselves; nevertheless they too are ordinarily to be gently exhorted to accuse these things.

Rule II. In doubt concerning full consent or perfect advertence, 1°. if the penitents are of a fearful conscience and are not accustomed to sin gravely, they are in no way bound to confess doubtful sins, because the presumption which is had from things ordinarily happening favors them; indeed often they are to be hindered from this accusation if they seem inclined to scruples; 2°. if penitents keep a middle way between a fearful and lax conscience, they are not indeed to be obliged, but certainly are to be induced to declare doubtful consent, because this is useful for the tranquility of conscience, etc.; 3°. if penitents are of a lax conscience, generally they must declare doubtful sins, because the presumption is opposed to them. - Cf. St. Alphonsus, n. 476.

Question 3. Whether sins certainly committed and certainly also grave, but only probably confessed, must necessarily be accused? Resp. It is greatly controverted: some, among whom is St. Alphonsus, say that sins of this kind must be declared, because the obligation of confession is certain, but its fulfillment doubtful. But several other Doctors deny it, so that Lugo could affirm: "All commonly teach that [someone] is not bound to confess a sin which he probably judges that he has already

confessed." But the reason is that a law to which satisfaction has probably already been made, since it is no longer certain and entire, cannot claim entire obedience for itself and bring forth a certain obligation. Thus indeed as to obligation; for in practice the repetition of confession is to be advised for procuring peace of conscience and removing anxieties of soul: unless, however, it happens that in this way anxiety is added to anxiety. - Cf. Lugo, disp. 16, nn. 58 and seq. - Baller. note (c) p. 367; and note (a) p. 368. - St. Alphonsus, n. 477.

Question 4. Whether one who has confessed some sin as doubtful must repeat it if afterward he knows it as certain? Resp. Formerly the Doctors commonly affirmed; but today it is greatly controverted, and the negative opinion appears solidly probable. The reason is deduced from those things which were said above about declaring the number of sins; for just as, after the doubtful number of sins has once been exposed with the particle *about*, you are no longer bound to declare in confession the certain number which you afterward discovered, provided the excess is not notable; so neither are you bound to repeat in confession a sin which you accused as doubtful, afterward known as certain. For there is no difference between either case, since also in a doubtful number certain sins are declared as doubtful; nor must the species be opened more than the number of sins. Besides, the doubtful sin was directly remitted, since it was remitted by force of absolution, to which, as it was in conscience, it was subjected. Therefore it is not necessary to subject it again to the keys. - Cf. Lugo, disp. 16, n. 78. - Sporer, n. 397. - Elbel, n. 274. - Reuter, n. 332. - Baller. note (b) p. 368.

Point III. On the Circumstances of Sins

The circumstances of sins are distinguished in various ways. For 1°. some change the species, namely those which by reason of themselves add to the act a malice distinct in species from that which the act has by reason of its object; thus the circumstance of a vow or of marriage adds to fornication the malice of sacrilege or adultery; 2°. others are only aggravating, but notably or lightly, according as, notably or lightly, within the same species they increase the malice of the sinful act by reason of duration, intensity, degree, mode, time, person, place, etc.; and finally 3°. others are diminishing, as those which render the malice of sin less, for example, defect of advertence, etc. - Consult what was said above, n. 26.

I say. Just as it is certain that circumstances changing the species are to be accused, if they draw the sin into another species of lethal sin, so it is likewise certain that circumstances lightly aggravating do not have to be accused necessarily, although to expose them is sometimes better. The reason for the first is that then there is properly a new mortal sin; but the reason for the second is that venial sins are not necessary matter of the sacrament of Penance.

Questions

Question 1. Whether circumstances NOTABLY aggravating the malice of mortal sins within the same species must necessarily be accused? Resp. Negatively, more commonly and more probably. The reason is that the Council of Trent speaks only of circumstances which change the species of sin, and consequently seems to exclude the obligation of confessing other circumstances. Add that otherwise both penitents and confessors would always fluctuate amid straits, since it is difficult to distinguish which circumstances are notably aggravating; for no rule, at least for the most part, can be assigned by which they are discerned, for example, for duration, intensity, mode, etc. Besides, the reasons on

which the affirmative opinion rests are easily dissolved. Cf. St. Alphonsus, n. 467. - Baller. note (d) p. 372; and notes (a) and (b) p. 373.

Moreover in practice the faithful ordinarily, speaking ordinarily, are wont to declare the more notable circumstances; and this indeed contributes, as to greater peace of conscience, so also to receiving more abundant fruit, both by reason of humility in the confession itself and by reason of the direction which they receive more suitably. - But if the discussion is about circumstances of sins against the sixth precept, not only is inquiry not to be made about them, but it is not even to be permitted that they be exposed, on account of the danger which both the confessor and the penitent could suffer in treating this muddy matter. Indeed Doctors commonly warn that this danger can sometimes require that even inquiry into the species be spared. Cf. Baller. note (c) p. 373.

Question 2. Whether the circumstance of the custom of sin must necessarily be accused? Resp. Negatively, more probably, whether under this name a bad habit is understood, or whether the simple repetition of the same sin is understood: for custom taken as a habit introduced from repeated evil acts, although it is a vice, nevertheless *per se* is not a sin; but custom taken as repetition of the same sin already declared elsewhere does not make the sin again admitted, and here and now to be confessed, either graver on the part of the object or different in its species. - Except, however, if the confessor asks, as is clear from prop. 58 condemned by Innocent XI, which is read thus: "We are not bound to confess to a questioning confessor the custom of some sin."

Question 3. Whether the circumstance of the degree of incest committed with blood-relatives or relatives by affinity must be declared? Resp. The circumstance of conjunction in the first degree of the direct line, whether by reason of consanguinity or by reason of affinity, must certainly be declared, as is clear *per se* and as theologians more commonly teach: namely between father and daughter, mother and son, father-in-law and daughter-in-law, mother-in-law and son-in-law, or stepmother and stepson, stepfather and stepdaughter; but it is not necessary to declare the origin of that incest, namely whether it proceeds from affinity or from consanguinity, nor the circumstance of other degrees, even including the first degree in the collateral line. - Cf. St. Alphonsus, nn. 469 and 470; and *Hom. Ap.* tract. 9, nn. 17 and 18.

Question 4. Whether the circumstance of the dignity or office of the person must necessarily be accused, for example, if the sinner is a superior, magistrate, priest, etc., or a physician, confessor, etc., or the circumstance of sacred time?

Resp. Negatively, to all, with the reason of scandal or of an altogether particular obligation or of deceit and force on the part of the physician excluded; likewise, on the part of the confessor, with any relation of the sin to confession excluded. The reason is that all the said circumstances at most aggravate the sin, but do not change its species. - Cf. St. Alphonsus on the third precept of the Decalogue, n. 273; and on the sixth precept of the Decalogue, n. 451. - Lugo, disp. 16, nn. 359, 451, and 520.

Question 5. Whether he satisfies the integrity of confession who accuses a recent sin as committed formerly? Resp. Affirmatively, *per se*, because the circumstance of time in no way pertains to confession. Hence a penitent satisfies the obligation of confession who mixes new sins with old ones, or who, establishing a general confession, does not distinguish from the others the mortal sins committed since the last confession, although he does this deliberately to cover the time at which he

committed the sins. Yet he must explain whether, by reason of the time at which he admitted the sin, he is still subject to reservation or censure, or whether by force of some circumstance, for example, of a vow or of marriage, the sin itself is different. But if the penitent lies concerning the time, for example, if he denies that he sinned today and declares the sin as if committed at another determinate and remote time, the Doctors more commonly think that he does not satisfy his obligation. The reason is that the act which the penitent placed today is not an act placed in the past year. Hence he lies in two ways, namely by concealing a sin committed today, and by accusing a sin as admitted at another time. Yet theologians are not lacking who, probably, as it seems, think this lie to be light, and their opinion pleases us. - Cf. Lugo, disp. 16, nn. 53 and seq. - Tamburini, *Method. conf.* lib. 2, chap. 1. - Baller. note (a) and (b) p. 376.

Question 6. Whether a penitent must declare the different persons with whom he sinned? Resp. Negatively, *per se*, because it suffices that the number of sins and their species be declared; but sins do not on that account change species because they were committed with several persons. Hence one who fornicated with three different persons or three times with the same person satisfies by saying that he fornicated three times; nor is he bound spontaneously to say whether the accomplice was one or several, whether they were prostitutes or others. Yet if the confessor asks about this, the penitent is bound to respond, because it is expedient that the confessor know whether perhaps there is present a proximate occasion of sinning, as is likely if the sin was committed several times with the same person. - Cf. Bonac. disp. 5, q. 5, sect. 2, punct. 2, § diff. 3, n. 14. - Tamburini, in Dec. lib. 7, chap. 7. - Lacroix, n. 1040.

Question 7. Whether a priest or religious sinning against chastity must open his condition, or only the circumstance of the vow of chastity? Resp. It is controverted, but probably it must be said that it suffices if each manifests the circumstance of the vow, because the species of obligation does not seem to be changed by the special condition either of priest or of religious. - Cf. Lugo, disp. 16, n. 149.

Question 8. Whether nearness of persons in sins of hatred must be declared? Resp. Affirmatively, if there is question of nearer kinship, on account of the strict bond of the virtue of piety. Hence grave hatred against parents, children, grandparents, grandchildren, relatives by affinity in the first degree, godparents, godchildren, a spouse, and siblings must be declared; but otherwise if there is question of remote kinship, namely among the other blood-relatives or relatives by affinity. Cf. Lugo, disp. 16, nn. 303 and seq.

Point IV. On Forgotten Sins

I say. Mortal sins omitted from inculpable forgetfulness must be accused if they return to the memory of the penitent. The reason is that by divine precept all mortal sins committed after Baptism must be declared in sacramental confession; nor can present forgetfulness excuse from so great an obligation even for the future. This is also clear from prop. 11 condemned by Alexander VII, which has itself thus: "Sins omitted in confession, or forgotten because of imminent danger of life or because of another cause, we are not bound to express in a following confession."

Questions

Question 1. Whether sins omitted from forgetfulness or another just cause must be accused as soon as possible? Resp. Negatively, more probably; for an obligation of this kind must be taken morally, especially since these sins have already been destroyed, and consequently there is no danger of soul in delay. Indeed, according to several grave theologians, the penitent probably can defer the confession of these sins until he is bound to confess again by force of another obligation, and consequently he could defer it for several months and even to the time of annual confession. Yet no other confession can be interposed with these omitted. The reason is that it pertains to the integrity of confession to declare in the actual accusation all mortal sins not yet accused, which occur to memory or of which consciousness is had, as the Council of Trent speaks. But, as Suarez says, "those sins are in present consciousness which, committed after Baptism, have not been duly subjected to the keys through another confession." Therefore. Cf. Suarez, disp. 22, sect. 1, n. 1. - Bonac. disp. 5, q. 5, sect. 2, punct. 4, n. 32.

Question 2. Whether a penitent accusing a grave sin omitted in the preceding confession from forgetfulness or another legitimate cause, and already indirectly remitted, must necessarily be absolved again? Resp. Affirmatively, with the most common opinion. The reason is that all mortal sins from the institution of Christ are to be subjected to the keys, that they may be directly remitted. For although they have already been remitted, nevertheless they have not been remitted by force of the sacrament or by force of absolution, but only by force of grace infused through the sacrament and concomitantly with other sins. And although, absolutely speaking, the confessor could omit absolution with penitents who are accustomed to return to the same confessor, since these would be directly absolved in another confession; nevertheless it is better to impart absolution to all when it can easily be done, for the consolation of the penitent and tranquility of soul, as well as on account of the fruit to be received from the sacrament. Add the danger that the penitent may not be able to approach the same confessor again. - Cf. Sporer, n. 627.

§ II. On Causes Excusing from Integrity

Point I. On Causes Excusing from Integrity in General

I say. A difficulty intrinsic to confession itself, however grave it may be, never excuses from the integrity of confession; but a grave extrinsic difficulty excuses, or rather suspends the obligation, namely some moral inability, and *a fortiori* physical inability. The reason for the first is that, since confession by its nature and essentially is laborious, if any difficulty intrinsic to it, for example, great repugnance or shame, excused from integrity, for the most part the faithful would be excused from accusing mortal sins, and consequently the institution of the sacrament of Penance would collapse in great part. But the reason for the second is taken from the general principle that those things which are from positive institution do not oblige with a most grave inconvenience, as often as that inconvenience is extrinsic and is joined to them *per accidens*. - Yet it is required 1°. that only those sins be omitted which cannot be declared; 2°. that another confessor cannot be found, with whom present that extrinsic inconvenience would cease; 3°. that confession be necessary here and now, for example, because of Easter communion or the necessity of celebrating, or if someone living in the state of mortal sin would have to wait for another confessor for several days or even for one day. The reason for these conditions is that otherwise true moral inability would not be present. - Yet I said excuses,

or rather suspends the obligation, because, when that most grave inconvenience ceases, the whole obligation of integrity again revives and presses. The reason is that the precept of confession is not fixed to some determinate time, but affects the whole life. - Cf. St. Alphonsus, n. 487; and *Hom. Ap.* tract. 16, n. 39. - Baller. note (a) p. 381. De Augustinis, part. 2, Thes. 21, p. 266. Viva, on prop. 11 condemned by Alexander VII.

Questions

Question 1. What are the chief examples of inability, whether physical or moral? Resp. They are the following: 1°. Extreme infirmity, that is, when a dying person can express only one or another sin, or, already deprived of the use of the tongue, shows penance and asks absolution only by some sign. 2°. Defect of speech, as happens in the mute, who cannot confess integrally even by signs; or in foreigners, who are entirely or almost entirely ignorant of the language of the region in which they confess. 3°. Defect of time, for example, if soldiers must immediately go to battle. But the multitude of penitents alone does not excuse; for prop. 59 was condemned by Innocent XI, which has itself thus: "It is lawful to absolve sacramentally those only half-confessed, by reason of the great concourse of penitents, such as, for example, can happen on the day of some great festivity or indulgence." 4°. Danger to the life of the penitent, the confessor, or a third person; for example, if enemies arrive, if many are in danger of shipwreck or contagion. Indeed sometimes in the supreme danger of many persons, all, after exhibiting some general sign of contrition and confession, can be absolved thus by one utterance of the form: I absolve you all, etc. The Sacred Penitentiary responded on 6 Feb. 1915:

"Nothing prevents those thus absolved in the aforesaid circumstances from being admitted to receiving the sacred Eucharist. But let the chaplains of soldiers not omit, when opportunity is given, to teach them that absolution thus to be imparted will not profit unless they have been rightly disposed, and that the obligation remains for the same persons to make an integral confession in its own time, if they escape the danger."

5°. Danger to reputation, for example, if a priest about to celebrate soon, and needing a general confession, could not confess integrally without those standing by suspecting the matter. 6°. Danger of revelation or violation of the seal; for example, if a confessor cannot confess integrally without manifesting sins heard in confession, etc.; or if a penitent from a grave cause fears that the confessor may infringe the law of the seal. But this latter case, if nevertheless it should ever be said to happen, is very rare. 7°. Danger of scandal or fall, both on the part of the penitent and on the part of the confessor; for example, if a woman certainly knew the greatest fragility of the confessor, etc. - Cf. St. Alphonsus, nn. 479 and seq.

Question 2. Whether there is an obligation of confessing a mortal sin which cannot be explained without manifestation of the accomplice? Resp. Affirmatively, more probably, and the reason is that no legitimate excuse is given by which derogation may be made from the precept of integrity: for a positive precept cannot be said to be restricted by the natural precept of not defaming one's neighbor; for justice and charity prohibit only that another's crime be manifested without a reasonable cause; but here a cause is had, and indeed a grave one, namely the procuring of the integrity of confession and the direction of conscience. Besides, the accomplice, by committing sin, loses every right to reputation which he could have with the confessor in order to the confession of this sin; and he implicitly consents of his own accord to this detriment of reputation when he sins. Thus St.

Alphonsus, n. 489, with many others. Yet other Doctors probably deny it, teaching that the circumstance from which the accomplice would be detected can, indeed according to some must, be omitted until another confessor is found; nor are they moved by the reasons of the prior opinion, which they say are a begging of the question. - But the patrons of both opinions agree in affirming the obligation of seeking another confessor. - Cf. Lugo, disp. 16, n. 395. Baller. note (b) pp. 382 and seq. Lehmkuhl, nn. 333 and seq.

Question 3. What are the causes excusing from the obligation of seeking another confessor, to whom the accomplice is unknown? Resp. They are the following: 1°. if danger of death or the precept of annual confession presses; 2°. if it would be grave for the penitent to omit confession or communion; 3°. if someone would open his conscience to another confessor with difficulty; 4°. if someone otherwise would have to remain in sin even for one day; 5°. if someone otherwise would be deprived of the benefit of some extraordinary indulgence; 6°. if by approaching the confessor to whom the accomplice is known there would be had better direction or notably greater consolation. - Cf. St. Alphonsus, n. 490. - Baller. note (b) p. 383.

Question 4. Whether it is lawful for the confessor to ask the name of the accomplice, for example, for correction, etc.?

Resp. Negatively, at least generally speaking, both because this without a just cause induces one to detract from one's neighbor, and because it renders the sacrament of Penance odious. Thus the Code: Let him beware altogether lest he inquire into the name of the accomplice ... Can. 888, §2. It is further clear from Benedict XIV, Const. *Suprema Omnium*, Const. *Ubi primum*, Const. *Ad eradicandam*.

Question 5. Whether by the aforesaid declarations of Benedict XIV it is so forbidden to seek the name of the accomplice that in no case is this lawful? Resp. Negatively, both because Benedict XIV himself supposes cases in which this is lawful according to true, as he says, and sound opinions; and because sometimes the penitent must necessarily reveal the accomplice, and nevertheless cannot do this except through the confessor. - Cf. Lugo, disp. 16, nn. 424 and seq. Baller. note (a) p. 386.

Question 6. Whether and in what way the mute and the deaf are bound to confess? Resp. The mute are certainly bound to confess in some way, at least by signs, unless they are so ignorant and dull that nothing can be drawn from them. The reason is that the precept of confession regards all the faithful who can manifest their sins in some manner. Hence the sufficiently instructed mute are bound to confess integrally, at least by signs, if these are understood by the confessor; but if they are less instructed or can be understood by the confessor only with difficulty, it will suffice for them to manifest only one or another sin, or to signify in general that they are sinners and wish to avoid sin. But the deaf, having the use of the tongue, are bound on their part to confess the sins which occur to memory; but the confessor is not bound to question them for procuring the integrity of confession, on account of excessive difficulty of questioning and danger of revelation.

Question 7. Whether mute persons who know how to write are bound to confess by writing for procuring the integrity of confession? Resp. No one doubts that this can be permitted; but theologians warn that then care must be taken that the writing be destroyed. But if there is question of obligation, not a few very probably deny it, both on account of the danger of revelation, and because writing is an extraordinary means which has never been held in the Church as prescribed,

and also because such a mode of confession is of itself public, since writing is of itself public. - Cf. Baller. note (a) p. 388.

Question 8. Whether and in what way those ignorant of the language of the place in which they wish to confess are bound to confess? Resp. Those ignorant of the language of the place in which they are living, and lacking a confessor by whom they can be understood, are bound, when the precept of annual confession presses and in the article of death, to confess in some way, at least by general signs; because although materially they cannot confess integrally, nevertheless they are bound to that which they can do. - But they are not bound to confess through an interpreter, because this is a most grave burden and liable to many dangers, for example, of revelation, ridicule, etc. - Cf. St. Alphonsus, n. 479. - Baller. note (a) p. 389.

Question 9. Whether it is lawful for those who cannot confess otherwise to confess through an interpreter? Resp. Those who cannot confess otherwise are not prohibited, if they wish, from confessing through an interpreter, with abuses and scandals being guarded against, the prescription of can. 889, §2 remaining firm (Can. 903).

Point II. On the Confession and Absolution of the Dying

I say. Although in no way can a dying person be absolved who altogether refuses the sacrament of Penance, or who can in no way be presumed attrite; nevertheless any other dying person can and must be absolved, either absolutely or conditionally; absolutely indeed if in some way by voice or sign he confesses; conditionally, however, if attrition and confession can be presumed on some foundation, however slightly probable. The reason for the first is that otherwise the form of the sacrament would be placed without the dispositions essentially required. The reason for the second is that then confession would be formally integral. Finally, the reason for the third is that in extreme necessity it is lawful to administer a sacrament conditionally with an opinion even slightly probable. Cf. St. Alphonsus, nn. 480 and seq.

You Will Resolve. 1°. All dying persons not yet deprived of the senses and consenting to absolution, and obeying the commands of the confessor, are to be absolved: absolutely indeed if they ask for confession of their own accord or if with a willing soul they propose to confess; but conditionally, if they are with difficulty and scarcely induced to some confession, or if there is prudent doubt concerning their sufficient disposition.

2°. At least conditionally, all dying persons deprived of the senses are to be absolved who before the privation of the senses expressly showed a desire for confession, for example, by ordering a priest to be called, etc. The reason is that they are judged truly to confess through the testimony of those standing by; for then it seems to be done as if a confession through an interpreter. - Cf. St. Alphonsus, n. 481.

3°. Under condition all dying persons altogether deprived of the senses who have lived as Christians are to be absolved, even if then they gave no sign either of sorrow or of desire for confession. The reason is that these can always be presumed to have or to have had some lucid interval, in which by truly sensible signs, such as sighs, motion of the body, etc., they sought absolution. - Cf. St. Alphonsus, n. 482. - Lacroix, n. 1162. - Elbel, n. 208.

4°. Other dying persons deprived of the senses who have lived little as Christians are also to be absolved conditionally; because in them too penance and a desire for confession, which they may have signified outwardly, can still be presumed in some way. - Cf. Lacroix, ibid. - Baller. note (b) p. 390.

5°. A dying person deprived of the senses in the very act of sin, for example, in a duel, adultery, theft, etc., can probably be absolved under condition. The reason is that even he can be sufficiently disposed. This especially has place for one who perhaps was led to the sin by fear, human respect, etc. Cf. St. Alphonsus, n. 483. Elbel, n. 211.

6°. Indeed, probably and under condition, those can be absolved who up to the privation of the senses rejected the ministry of the priest. For these sometimes even in that state can know those standing by, indeed even perceive the things which are said, and wish sighs, etc., to be taken as signs of a petition for absolution because of their evil will changed through divine help. More strictly, Bucceroni, n. 754bis.

7°. It is also lawful to give absolution to a dying schismatic existing in good faith, scandal being removed; for thus the Holy Office responded to a certain case. A schismatic woman made a confession in a Church before a priest who found that she was not of the body of the Church, but was very well instructed in the principal truths of faith, and evidently existing in good faith. Fearing lest further inquiry would be harmful to her, he absolved her as confessed and contrite. To the question: "Whether material schismatics, who are in good faith, can ever be absolved?" the response was: "When scandal cannot be avoided, Negatively, except in the article of death; and then with scandal effectively removed." 20 July 1898. Gennari, *Consultazioni*, v. 1, p. 563.

8°. Conditional absolution can be given to a material heretic deprived of the senses. Thus altogether many. Gury, Cas. n. 488. "Because it can be presumed in some measure that here and now, recognizing the truth, he wishes to die in the Catholic religion, and consequently to confess and to be absolved. For this can happen absolutely. ..." "Then, in a case of necessity," says Bucceroni with Gury, "it is lawful to use even a slightly probable opinion in favor of one in danger." Bucceroni, *Casus* 2, n. 127. 5. Lehmkuhl, n. 651. Gennari, ibid.

9°. With a heretic not deprived of the senses a zealous priest can act thus, according to Lacroix:

"If a Catholic priest understands that a non-Catholic man has been brought to extremes, he acts prudently, unless something else prevents, if he approaches him ... he can elicit with him acts of faith, hope, and charity, and of perfect contrition for sins. But if the circumstances allow, he can afterward ask whether, if he knew that he was not in the true faith, he would not wish to embrace another, and to do all things necessary for salvation, whether he would not wish to confess and be absolved, if this were necessary for salvation. If he assents to this ... he can be absolved under condition." Lacroix, l. 6, p. 2, n. 1866. - Cf. Bucceroni, *Cas.* 2, n. 127, 6. - Lehmkuhl, 11th ed. n. 651. - Gennari, *Consultazioni*, v. 1, 260. - Varceno, *Com. Theol. Mor. De Poen.* art. v. - Ball.-Palm. *Op. Mor.* v. 5, n. 394, 4°.

Let Saint Augustine be heard, "*de Conj. adult.*" lib. 1, chap. 26, n. 33 (M. 40, c. 469): "Therefore for catechumens placed at the end of this life, if by illness or some accident they are so oppressed that, although still alive, nevertheless they cannot ask Baptism for themselves or respond to the questions, let the fact that their will is already known in the Christian faith profit them, so that they may be

baptized in the same way in which infants are baptized, whose will has not yet appeared at all. Yet not on that account ought we to condemn those who act more timidly than it would seem to us ought to be done. ... But not only is it incredible that a catechumen should not wish to be baptized at the end of this life; but also if his will is uncertain, it is far better to give to one unwilling than to deny to one willing, where whether he wishes or does not wish is not apparent, yet in such a way that it is more credible that he, if he could, would say that he would rather receive those Sacraments without which he already believed he ought not to go out from the body." And chap. 28, 35: - "I think that not only other catechumens, but even those themselves who, being joined to living spouses, retain adulterous unions, although when sound in body we do not admit them to Baptism; nevertheless, if they lie desperate and cannot respond for themselves, must be baptized, so that even this sin may be washed away by the laver of regeneration. For who knows whether perhaps they had determined to be detained by the enticement of adulterous flesh up to Baptism? But if, having recovered from that desperation, they are able to live, either they will do what they determined, or, having been taught, they will obey, or there will be done concerning them as contemners what ought to be done concerning such baptized persons. But the same reason which belongs to Baptism belongs also to reconciliation, if perhaps the danger of ending life has overtaken one doing penance. For Mother Church ought not to wish even these to go out from this life without the pledge of their peace."

And these principles of solutions can indeed be most useful in this tremendous moment of death. Think of a priest called to a dying man who lives with a concubine, he himself now separated by divorce from his true wife: he repents of the deed; he promises separation, which now becomes impossible; the priest has before him one disposed. But if he can obtain the assistance of witnesses so that his repentance may be publicly established, so much the better. But if he cannot obtain even this, let him absolve the dying man, visit him frequently, and strengthen his dispositions. - Cf. "*Nouvelle Rev. Theolog.*" v. 46, n. 415.

Article III. On the Repetition of Confession

I say. A confession of mortal sins already made can be either certainly valid, although materially not integral, or certainly invalid, or finally only probably valid. If the first, it does not have to be repeated necessarily, but only the defect must be supplied; because the sins already declared have been directly remitted by force of absolution, and those which were omitted must be subjected to the keys. If the second, the whole confession must necessarily be repeated, and the reason is that all mortal sins must be subjected to the keys; but sins accused in a certainly invalid confession were not subjected to the keys. If finally the third happens, no obligation is given of repeating the confession, both because satisfaction has already probably been made to the divine law concerning making confession, and consequently the former obligation cannot now exist as whole and certain; and because when the act has certainly been placed, the rule of law obtains: *Standum est pro valore actus*, one must stand for the value of the act. - Cf. St. Alphonsus, nn. 502 and seq. Lugo, disp. 16, n. 638. Lacroix, nn. 1216 and seq.

You Will Resolve. 1°. The repetition of a certainly invalid confession must be made entirely, if the penitent approaches a new confessor, as is clear *per se*; but if he confesses before the same confessor still well remembering the previous invalid accusation, it suffices that it be said summarily: I accuse

myself of the sins already declared in such a confession ... on such a day, etc. The reason is that all sins are sacramentally accused in this way. - Cf. St. Alphonsus, n. 502. - Elbel, n. 253.

2°. Indeed, if the confessor remembers only confusedly the preceding confession invalidly made before him, then also, at least probably, the aforesaid summary repetition will suffice. The reason is that, since the confessor has already judged concerning the individual sins, the present general repetition joined with the knowledge previously had suffices for bearing sacramental judgment here and now. But if the confessor does not remember even confusedly the sins already accused, then it is required and suffices that the penitent manifest his state in such a way that the confessor comes at least to a confused knowledge. Here it must be observed that the aforesaid solution has force both if the confession is invalid on the part of the confessor, because, for example, he did not have jurisdiction or did not recite the words of the form, and if it is invalid on the part of the penitent, because, for example, he did not have sufficient attrition. The reason is that in all these cases the confession previously made was in some way sacramental, at least with the intention of the penitent considered. - Cf. St. Alphonsus, nn. 502 and 503.

3°. If all sins were manifested only historically, and afterward the desire of confessing is conceived, a summary confession suffices if the confessor still remembers the whole history. The reason is that then nothing would be lacking to prevent all sins from being said to have been subjected to the keys and sacramentally accused. But if the confessor retains only a confused knowledge of the history heard, according to St. Alphonsus the whole accusation of sins must more truly be repeated. The reason is that then there would be no sacramental confession: not the first, because the sins were not manifested in order to absolution, so that concerning them the confessor is not bound to the sacramental seal; not the second, because, as is supposed, it is only summary and generic, which indeed according to Trent does not suffice outside a case of necessity. Nor should you say that this solution contradicts the preceding under n. 2°; for there the confession previously made was supposed to be sacramental, at least on the part of the penitent. - Yet theologians are not lacking who deny the obligation of repeating the whole confession entirely; this opinion perhaps could sometimes be useful, at least so that absolution may be given conditionally. - Cf. St. Alphonsus, n. 502. - Lugo, disp. 16, nn. 637 and 638. - Baller. note (b) p. 398.

4°. A penitent who fears that for a long time he has confessed invalidly is bound to repeat nothing, especially if he is of a fearful conscience and has been accustomed to employ sufficient diligence in confessions. The reason is that presumption stands for the value of confessions; otherwise, if the presumption against the penitent stands so grave that it is equivalent to moral certainty.

5°. If the confessor did not recognize a grave sin as grave, or judged a mortal sin to be venial, there is not on that account an obligation of repeating it, provided the penitent set forth the fact rightly and faithfully; because for the value of the sacrament and for the direct remission of the sin it is not necessary that the confessor judge this to be mortal; indeed he often cannot discern this. - Cf. St. Alphonsus, n. 500.

6°. If the penitent notices that the confessor because of sleep did not perceive some sins and he does not know which ones, he is bound to repeat the whole confession, if it was brief, because then he can prudently doubt concerning each one whether they were understood by the confessor or not; otherwise, however, if the confession was lengthy and only a few seem not to have been perceived,

because then he can prudently presume that each one was understood; nor does it appear likely that Christ imposed the precept of integrity with so great a burden. - Cf. St. Alphonsus, n. 499.

On Examination of Conscience

I say. The penitent is bound *per se* under grave obligation, before he approaches confession, to institute a diligent examination of mortal sins. But this diligence, although it ought to be serious, and as great as is usually employed in affairs of great moment, nevertheless is not required equal for all, nor so exact that it should be prolonged as long as there is hope of finding some new sin. The reason of the first is, both because the Council of Trent expressly requires a diligent discussion of oneself, and because the obligation of the end imports the obligation of the means: but diligent examination is a means essentially ordered to procuring integrity in confession. But the reason of the second is that, from the very nature of the matter, those who confess frequently or lead a private and tranquil life need less examination than those who rarely approach this sacrament or are wholly entangled in worldly affairs. Finally, the reason of the third is that, as Card. de Lugo wisely admonishes, a most exact examination is not required, but a human one, that is, such that the sacrament is not rendered too grave and burdensome. - Cf. Council of Trent, sess. 14, chap. 5. - Lugo, disp. 16, n. 590. - Baller. note (b) p. 392.

You Will Resolve. 1°. He certainly satisfies who calls to mind where he was on any given day, what affairs he carried on, what in those circumstances he committed by thought, affection, word, and deed or omission, and how he conducted himself at home, in church, and in conversation with his neighbor. - Cf. Baller. note (b) p. 393.

2°. No one is bound, while preparing himself for confession, to write down his sins, even if he fears lest they fall from memory. The reason is that a means of this sort is extraordinary, burdensome, and liable to the danger of revelation. - Cf. St. Alphonsus, n. 471.

3°. He who is morally certain that he has not committed mortal sins since the last confession is not properly bound to examination, except insofar as it is required for supplying sufficient matter to the sacrament. In practice, however, pious penitents are to be advised to give attention to examination of conscience at least for five minutes, or for about half a quarter of an hour, namely for knowing and uprooting venial defects.

4°. In the timorous, a quite moderate diligence of examination is required, because conscience would not be silent if anything gravely culpable were hidden within; indeed in the scrupulous inquiry is to be omitted and sometimes entirely forbidden, as useless and often harmful: for if they had sinned gravely, they would always have the sin before their eyes.

5°. For the sick, an examination as accurate as for the healthy is not required; indeed sometimes none is to be demanded from them because of weakness of the head; nor is their custom easily to be indulged when they say that they are putting off confession from day to day, as though they had not yet sufficiently examined their conscience; but insofar as their condition permits, they are to be examined briefly by the confessor himself through the precepts of the Decalogue and of the Church. For it is better to restore them to the state of grace through absolution, even when they have confessed imperfectly, than, with the sacraments of the Church delayed, to expose them to the danger of damnation. - Cf. Elbel, n. 153.

Question. What is to be done by the confessor if penitents approach without a sufficiently examined conscience?

Resp. If they are instructed, and unless circumstances counsel otherwise, they can kindly be sent away so that they may examine their conscience more accurately and return, at least if lengthy and involved confessions are in question. The reason is that it is almost impossible for someone suddenly asked to remember everything. But if they are uneducated, they are not easily to be sent away so that they may examine their conscience, because charity ought then to counsel the confessor to interpose his own labor. For by some questions he himself will obtain more than they, left to themselves, would accomplish by a long examination, although they would strive to recall all sins into memory. Besides, it is to be feared lest perhaps, terrified by the difficulty, they not return any more to confess. - Cf. St. Alphonsus, n. 471.

§ I. On the Necessity or Opportuneness of General Confession

On General Confession

General confession can be either necessary, or only useful, or useless, or even harmful. Hence the following rules must be established:

Rule I. General confession is to be considered necessary as often as the preceding confessions were morally certainly invalid or sacrilegious, either on the part of the penitent because of defect of contrition or of integrity, or on the part of the confessor lacking jurisdiction; but in other cases it can never be commanded. The reason for both is clear from what was said above concerning the repetition of confession.

Rule II. It is to be advised, but not commanded, when, although the invalidity of the preceding confessions is not established, nevertheless grave doubt is had about this. The reason of this counsel is that anxieties may thus be driven out.

Rule III. General confession is to be permitted, or even prudently advised, although not necessary, when, with the circumstances considered, the penitent is going to perceive a notable spiritual fruit from it, for example, by reason of humility, devotion, fervor, knowledge of himself, manifestation of conscience for more perfect direction or greater purity of soul, for obtaining divine helps more efficaciously, etc.; because the confessor, out of charity, ought to promote the greater spiritual good of the penitent when he easily can.

Rule IV. It is to be prohibited in the other cases as useless and even harmful, when other inconveniences, besides the loss of time, are prudently to be feared, namely scruples, anxieties, disturbance of conscience, etc.; for so great a burden for the confessor and penitent is not to be undertaken without hope of notable fruit; *a fortiori* with fear of notable harm.

You Will Resolve. 1°. General confession is easily to be permitted, indeed advised, in the principal epochs of Christian life, namely before first communion, before the election or reception of a particular state of life, for example, before priesthood, religious profession, or even before matrimony; likewise when someone resolves to lead a more perfect life.

2°. Besides the confession made at the time of first communion, generally speaking, another general confession of the whole life is easily to be permitted; but a third would be conceded only with the

greatest difficulty, when the former was made accurately enough, in good faith, and with good will, unless perhaps it was made in youthful age, for example, before 20 years. Hence penitents who ask from the confessor permission to make a general confession are to be asked for what reason they request this, whether at other times they have already confessed generally, from what time and how often; and from the answers the confessor will judge whether this confession is expedient or not.

3°. Partial general confession, namely of one year, or from the time of the last general confession, is easily to be permitted to devout persons, according to the custom observed among very many religious families. Likewise, it can sometimes be permitted to pious penitents that they repeat summarily, in a few words, the principal sins of their life: attend, however, to the various circumstances of persons.

4°. But confessors ought especially to beware lest they too easily compel penitents to general confession; and those who exact this from all new penitents under pretext of necessity, or by reason of direction, etc., are most greatly to be reproved.

5°. General confession is not to be permitted even in doubt about the validity of preceding confessions, where notable inconveniences are to be feared from it by reason of scruples, disturbance of conscience, etc.; because on account of a doubtful obligation grave and certain inconveniences are not to be undergone.

6°. General confession is never to be permitted to the scrupulous or fearful; because if one is permitted, when this has been finished, they will immediately wish to make another, and after the second, they will ask with troublesome prayers to undertake even a third, with the greatest detriment to the soul, etc. For experience establishes that general confession generates far more scruples in them than it destroys.

§ II. On the Manner of Making General Confession

General confession can be made in multiple ways; but, generally speaking, it will be more expedient if it is made according to the following rules:

Rule I. Before confession, the confessor ought to strive explicitly to know the state of the penitent and the various circumstances from which he can be directed toward questioning prudently and fruitfully. Hence:

1°. He should examine whether it is to be a question of a necessary confession or not; for if it is necessary, the penitent will have to be heard, questioned, and helped with much greater diligence and care. But if it is not necessary, the penitent ought certainly to be warned that diligence of this sort is not required, indeed that he is free to keep silent about the sins he wishes; nor ought he afterward to be anxious because from forgetfulness he omitted more or fewer things.

2°. He should inquire, prudently however, about the condition of the penitent, about his age, state, occupations and duties, and finally about his family.

3°. He should ask from what time the penitent has confessed? whether he was absolved? whether here and now he is entangled in some depraved custom or depraved affection of soul? whether he has frequently approached the sacraments? whether he confessed piously or sacrilegiously? whether he

ever concealed sins; at what time? how long? whether he afterward confessed them or repeated sacrilegious confessions?

These preliminary notions will serve the confessor very much; but he will urge these questions more or less according to the quality of the one confessing and the character of the responses.

Rule II. As to the order of confession: the accusation and questions in the confession itself ought to be made in a certain order, lest all things be mixed together with disturbance of the one confessing and danger of defect of integrity, etc. But the shorter and easier way is if the declaration of sins is made according to the order of the commandments of God, of the Church, and of the special obligations proper to each one's state.

Rule III. As to the manner of confession: if the penitent is sufficiently instructed, the confessor should kindly induce him to set forth his sins according to the aforesaid order, promising that he will help him and, as often as there will be need, will question him, so that all things may be rightly completed.

But if the penitent is uneducated, the confessor should assume almost the whole burden of the confession upon himself, should question in order about all things which penitents of a similar condition are accustomed to commit, and after individual sins should inquire from the penitent whether he knows anything to be added. But before he begins the questions, he should carefully admonish the one confessing that he has nothing to fear for himself as to the difficulty of uncovering sins: "Be quiet and of good courage," he will say; "I will carry out your confession; I certainly know all the sins which you could have committed: I will uncover all these for you; it will be yours only to respond clearly and sincerely to my questions, and to conceive true sorrow for your sins." - Thus Salvatori, *Practical Instruction for New Confessors*.

Norm of General Confession — To Be Made by Interrogations

First let the penitent say what he knows, unless he prefers to be questioned at once. Before all else the penitent is to be asked whether he is joined in matrimony or not? - Then:

I. Whether there has been no sacrilegious confession? Whether at some time you did not dare to say something? how often? Whether in such a state you received Holy Communion? whether in Paschal time? how often? Whether you culpably did not fulfill the penance?

II. Concerning the theological virtues: Whether at times you elicited an act of Faith, Hope, and Charity? Whether you know the principal mysteries necessary to be known, namely that God exists, and is the rewarder of good and evil; the mysteries of the Most Holy Trinity, of the Incarnation and Death of Jesus Christ? Whether perhaps you denied the faith? Whether you doubted concerning some truth of Religion? or denied it? Whether you spoke against Religion? Whether you read prohibited books? sold them? lent them?

Whether perhaps you despaired? Why? (Let the Confessor inject hope: because the good God, if he had wished to damn you, would not today have ...). Whether you presumed?

Whether from human respect you neglected the precepts of God and of the Church?

Whether you gave scandal, depraved counsels, or examples to your neighbor?

Whether you sought occasions of sinning?

III. Concerning the precepts of God: 1st. Superstition? divination? vain observance? magic? idolatry? the habit of never or scarcely ever praying?

2nd. Oath? vow? blasphemy?

3rd. Working on a Sunday or feast day? Omission of Mass or bad hearing of it?

4th. Toward parents, master, Pastor: disobedience? murmurings? insults? blows? wishing death upon them?

Toward children, servants, or other subjects: education? instruction? care of salvation, proximate occasions of sin? vigilance concerning duties of religion? scandal? anger?

5th. Harms inflicted on neighbor in body or soul? hatred? desires of revenge? imprecation? quarrels? beatings? homicide? duel? abortion? abuse of matrimony? But here and concerning the following precept one must question sparingly, cautiously, chastely.

6th and 9th. Thoughts? morose delectation? desires? what kind? with what kinds of persons? Words? whether you uttered immodest words, jokes, songs ... or listened willingly? whether you read obscene books? - Works? with yourself? by touches? by pollutions? by sight? with others? with unmarried persons? with married persons? with relatives? with those bound by vow? of the same sex? Whether here and now you are still in a proximate occasion? Wives can be asked whether they were obedient to their husbands in all lawful things?

7th and 10th. Harm? theft? fraud? wages due to workers retained, or defrauded, or diminished? Restitution? small thefts?

8th. Pernicious lies? rash judgments? detraction? calumny? (reparation of reputation and of further harm perhaps inflicted).

IV. Concerning the precepts of the Church: Fast? abstinence from flesh on forbidden days? - Confession? Paschal Communion?

V. Concerning the capital sins: Drunkenness? pride? sloth? envy? anger? avarice?

VI. Concerning the duties of state: Husband; wife; master; civil magistrate; advocate; merchant (weight and measure).

N. B. At the end let him ask whether anything else still holds him anxious.

Chapter III. On Satisfaction

Article I. On the Imposition of Sacramental Satisfaction

I say. The confessor is bound to impose satisfaction upon any penitent who is able to fulfill satisfaction; but he ought to enjoin not just any satisfaction whatsoever and at his own pleasure, but one both vindicatory and medicinal, fitting and salutary, namely one which is proportioned to the number and gravity of sins, and also to the penitent's strength and dispositions. The reason for both is, both because the confessor as minister of the sacrament is bound, insofar as he can, to procure its integrity, even accidental integrity, in the due manner and according to prudence, and because the Council of Trent thus requires, sess. 14, chap. 8, where it reads thus: "Therefore the priests of the Lord ought, as much as spirit and prudence shall suggest, according to the quality of the crimes and

the capacity of the penitents, to enjoin salutary and fitting satisfactions; lest, if perhaps they connive at sins and deal more indulgently with penitents, by enjoining certain very light works for very grave offenses, they be made participants in the sins of others. But let them have before their eyes that the satisfaction which they impose is not only for the protection of the new life and a medicine of infirmity, but also for the vindication and chastisement of past sins."

More briefly the Code: According to the quality and number of sins and the condition of the penitent, let the confessor enjoin salutary and fitting satisfactions; which the penitent ought to receive with willing soul and fulfill personally by himself (Can. 887).

Questions

Question 1. How great is the obligation of imposing penance?

Resp. This obligation, if mortal sins have been accused in confession, is grave from its kind, although many exceptions can be given, as will be said below. The reason is that the precept by which, in such a hypothesis, the confessor is bound would be grave *per se*, both by reason of the matter and by reason of the end. But if only venial sins have been accused, it is disputed among theologians; but probable is the opinion of those who hold that it is light, because Christ instituted this sacrament by way of judgment, of which satisfaction would be only an integral part or complement; but a judge who omits some complement of slight moment in rendering judgment does not fail gravely in his office. Besides, the penitent who does not fulfill a light satisfaction imposed upon him for light sins does not sin gravely; therefore neither does the confessor sin gravely who does not impose it; for the fulfillment of satisfaction is as much required for the integrity of the sacrament as its imposition. Cf. St. Alphonsus, *Hom. Ap.*, n. 47. - Lugo, disp. 25, nn. 47 and seq. - Salmant., chap. 10, nn. 15 and seq. - Baller. note (a) p. 409.

Question 2. How great a satisfaction is to be imposed upon penitents?

Resp. This quantity cannot be determined universally; but it is left to the prudence and judgment of the confessor. Nevertheless it is certain, regularly speaking, that a grave satisfaction must be imposed for mortal sins, and a light one for venial sins. But a satisfaction is considered grave, at least from the present practice of the Church, which corresponds to a work that is enjoined under grave obligation by the Church, or which of itself would oblige under grave obligation if it were commanded. Hence a grave satisfaction, and one sufficient for an ordinary grave sin, will be to hear Mass, to fast, to recite the Rosary even of only five decades, the Little Office of the Blessed Virgin, the Litany of the Saints, and other similar things; but it would not be considered grave if only the Psalm *Miserere* were imposed. - Cf. St. Alphonsus, nn. 508 and 515.

Question 3. When is satisfaction or sacramental penance to be imposed?

Resp. Generally speaking, it is to be imposed before absolution: the reason is that thus the order of judgment is preserved, which requires that the accused first pledge satisfaction before he is absolved. But if the confessor from forgetfulness has not enjoined penance before absolution, he ought to impose it after absolution. Nevertheless it is not grave to impose penance after absolution; indeed it is probably free from every fault, if the penitent is presumed to be going to accept the work enjoined upon him. - Cf. St. Alphonsus, n. 514.

Question 4. For what cause can a lighter penance be imposed?

Resp. If the penitent 1°. is very weak and infirm in body; concerning which matter the Roman Ritual says thus: "Let the priest remember that a grave and laborious penance is not to be enjoined upon the sick, but only that is to be indicated which, if they grow well, they may perform at a suitable time:" indeed if the sick person is constituted in danger of death, then he can be absolved without any penance, although it is always expedient to impose some penance upon him; 2°. if there is prudent fear lest he not fulfill a greater penance, or lest on account of a more grave penance he be turned away from confession; 3°. if probably a greater penance would do him more harm than good; 4°. if the penitent appears very contrite; 5°. if the time is present for gaining a plenary indulgence, especially of a jubilee. Nevertheless "Confessors should not omit to impose his own salutary penance upon each penitent in the sacrament, not even under pretext of the jubilee to be obtained by the same penitent": *Warnings*, for the Holy Year, 1900. - Cf. St. Alphonsus, n. 507; and *Hom. Ap.*, n. 49. - Baller. note (a) p. 411.

You Will Resolve. 1°. Perpetual penances are never to be imposed, both because they are accustomed to induce danger of forgetfulness or excessive anxiety, and because, if such penances are imposed upon the same penitent by various confessors, he will be bound by innumerable bonds at once and for the whole of life. Indeed penances are not to be imposed for a lengthy time, for example, for a year or for five months, nor even for one month, at least ordinarily. Cf. St. Alphonsus, *Hom. Ap.*, n. 52.

2°. Those satisfactions are never to be imposed which can expose the penitent to the mockery of others, for example, that he recite five *Our Fathers* in the middle of the church with arms extended, etc. But *a fortiori*, penances are not to be imposed which cannot be fulfilled without revelation of the confession easily following.

3°. Nor are fasts to be imposed upon boys, peasants, craftsmen worn out by continual labor, nor upon sons living in the family, who by fasting would bring wonderment upon parents or even offend them. Pilgrimages or lengthy prayers are not to be enjoined, nor, generally, alms upon women constituted under the power of a husband, just as neither upon the poor procuring a livelihood for themselves by constant labor.

4°. Penances involved with many diverse works are not to be imposed, because they cannot be held in memory; nor, at least ordinarily, penances too repugnant to nature, for example, to sign the cross with the tongue on the ground, to visit enemies, etc. Also, it is generally imposed imprudently upon children that they ask pardon from parents or from others because of disobedience, irreverence, or petty thefts; because these things often render confession odious and for the most part are omitted, etc.

5°. Certainly there can be imposed, and often more usefully there is imposed, some work already owed from another source. The reason is that, since that work is satisfactory, it can well be elevated by the keys to the merit of sacramental satisfaction. - Cf. St. Alphonsus, n. 513.

6°. There can also be imposed, at least probably, some penance under the condition of relapse, for example, if you again become drunk, you will fast. For in this case the penance would be as though disjunctive: either you will apply an entirely great effort toward resisting temptation, or you will fast. Nevertheless, it is expedient that some other satisfaction be imposed absolutely. - Cf. St. Alphonsus, n. 524. - Baller. note (a) p. 412.

7°. The penitent, fulfilling prayers or pious works to which indulgences are attached, can at the same time both satisfy the penance and gain the indulgences. S. C. Indulg., 14 June 1901.

Article II. On the Fulfillment of Sacramental Satisfaction

I say. The penitent is bound to accept a reasonable penance sacramentally enjoined, and to fulfill it at the time designated by the confessor, or as soon as he conveniently can, so that if the penance obliges under grave obligation, he will sin gravely if he delays it for a long time. The reason of the first is that to the obligation of the confessor imposing penance there must necessarily correspond the obligation of the penitent accepting and fulfilling it. But the reason of the second is that *per se* it is grave to prolong for a long time the payment of a notable debt. - Cf. St. Alphonsus, n. 516; and *Hom. Ap.*, n. 55.

Questions

Question 1. How great is the obligation of fulfilling penance?

Resp. If the penance is grave in itself and at the same time was imposed for grave sins, the obligation will certainly be grave, with all agreeing; unless, however, the confessor either expressly or tacitly has manifested that he wishes to oblige only lightly, which indeed he certainly can do, although generally it is not expedient. But if the penance was imposed for light sins, the obligation will always be light, whether the work enjoined is in itself light or grave; for if the first, the obligation will certainly be light by reason of the matter; if the second, then just as the confessor was not bound, indeed properly could not command it, so neither is the penitent bound under grave obligation to fulfill it. - Cf. St. Alphonsus, nn. 517 and 518.

Question 2. What delay of penance is grave fault?

Resp. If the penance was light in itself, delay, however great it may be, will never be grave, since from what has been said the omission itself of the penance does not exceed light fault. But if the penance is grave and imposed for grave sins, according to the more probable and more common opinion only a delay of two or three months is to be reckoned grave, unless the penance is medicinal or danger of forgetfulness is present. For the rest, no general and absolute rule can be established about this, and no one is easily to be condemned of mortal sin. - Cf. St. Alphonsus, n. 521. - Baller. note (b) p. 416.

Question 3. Whether, if the penitent has forgotten the enjoined penance, he is bound to repeat the confession, so that he may receive another penance?

Resp. Negatively, more probably, and the reason is that the fulfillment of the penance once already enjoined, through forgetfulness even culpable, has been made impossible. But no one is bound to the impossible. If, however, the penitent prudently presumes that the confessor is still mindful of the enjoined penance, he ought, if he conveniently could, to approach him, so that he may learn again from him what that penance is. - Cf. St. Alphonsus, n. 520.

Question 4. By whom can penance be commuted?

Resp. As far as validity is concerned, certainly it can never be commuted by the penitent himself, not even into something better, although a vow can be changed by the one vowing into a work evidently better; because penance cannot be elevated to the merit of sacramental satisfaction unless it was imposed by the minister himself of the sacrament of Penance. - Nevertheless it can be commuted 1°.

by the confessor who imposed it, because he is after the manner of a legislator who can change his own law; 2°. by any other confessor, because any other confessor can be judge of the same cause, if the penitent submits himself to his tribunal; for the successor in the same authority can do whatever the predecessor could do. Nevertheless exception seems to be made if the penance was imposed by the superior himself for reserved cases, because an inferior cannot change the sentence of a superior: unless, however, a grave cause is present or the consent of the superior can easily be presumed. - But for commutation to be made licitly a just cause is required, such as: 1°. if the penance seems difficult; 2°. if it is foreseen that the penitent is not going to satisfy it because of repugnance, frailty, forgetfulness, etc. - Cf. St. Alphonsus, n. 528.

Question 5. Whether the penitent is bound to repeat the confession in order to obtain commutation of the penance?

Resp. Negatively, at least probably, whether he approaches the same confessor, in whatever way mindful or unmindful of the state of the penitent's conscience, or a different confessor. The reason is that it is not a question of bearing judgment concerning faults declared in the preceding confession, where judgment concerning them has already been formed, but only of commuting the penance; but for this the knowledge of the former penance and the notion of frailty or difficulty in fulfilling it suffices. Nor should it be said that the new penance cannot have the character of vindication or medicine, since the cause is not known; for the confessor can easily preserve that character if he attends to the nature of the former penance. Cf. St. Alphonsus, n. 529.

Question 6. Whether the confessor can commute penance outside confession?

Resp. Negatively, if the confessor is different. The reason is that the confessor has no power except in the sacramental judgment. But if he is the same one who imposed the penance, he can change it immediately after absolution, before the penitent departs; but not afterward, at least more probably. The reason is that for this it is required and suffices that the preceding judgment of the confessor morally perseveres, which does not seem to have place if the penitent approaches the confessor outside the tribunal of Penance. Therefore. ...

Thus St. Alphonsus, who says that this is the truer and more common opinion. Nevertheless others say that commutation of penance can be made by the same confessor outside confession even after several days, indeed as long as the confessor retains memory, at least confused, of the sins; because then it still seems to be morally united with the preceding sacramental judgment. For the parts of this sacrament, they say, though distant in time, can be morally united to integrate one sacrament; and just as a longer interval does not prevent either sorrow or confession or the fulfillment of satisfaction from being morally united with absolution, so also one can judge concerning the change of penance. - Cf. St. Alphonsus, n. 529. - Lugo, disp. 25, n. 112. - Voit, n. 632.

You Will Resolve. 1°. The penitent is not bound to fulfill penance when the confession was invalid; because the sacramental sentence of the judge was null, and consequently there is no sacrament to be integrated: otherwise, indeed, satisfaction would have to be made twice for the same sins. The same must be said for the same reason concerning a penance imposed without absolution. Except 1°. if the penance is medicinal, and therefore necessary by reason of medicine; 2°. if the penitent approaches several times for completing the same confession, and meanwhile the confessor, as often happens, imposes some penance on individual occasions, so that less remains to be imposed at the end.

2°. Not only does he who omits the penance sin gravely, but also he who omits a part of it notable before the whole penance; or even one which would be grave considered in itself.

3°. Universally, for judging about the gravity of omission, attention must be paid to whether the matter or circumstance omitted contributes much or little to the end of the precept, whether the substance of the precept has been fulfilled, etc. Thus he fulfills the substance of the precept and sins only venially who, standing or in a room, recites the Rosary which by command of the confessor ought to have been recited on bent knees or before an image of the Blessed Virgin; but it is otherwise if the penitent had been commanded, for example, to pray with arms outstretched; for this mortification is notable, and its omission can be held grave.

4°. Prayers imposed as penance can be recited even while someone meanwhile hears Mass of precept, unless however something else was established by the confessor. Prayers which, from the use of the Church or the practice of the faithful, are customarily recited as in choir, for example the Rosary, etc., could also be recited alternately with companions.

5°. The penitent cannot satisfy through another, unless perhaps, as many have thought, this is done with the consent of the confessor; because satisfaction is defined by the Tridentine Council as being quasi-matter and an integral part of this sacrament, insofar as it is the act of the penitent fulfilling the penance imposed upon him by the confessor. Therefore *per se* it is to be placed by the penitent himself. It is established also from proposition 15 condemned by Alexander VII, which is of this sort: "The penitent by his own authority can substitute another for himself, who may fulfill the penance in place of him." - Cf. Suarez, disp. 38, sect. 9, n. 2.

6°. If the confessor has imposed as penance that two Masses are to be heard on the same day, they seem to have to be heard successively, but not at the same time; for we reasonably presume that the confessor intended this. - Cf. St. Alphonsus, *Hom. Ap.*, n. 58.

7°. He satisfies, according to the common opinion, who fulfills the penance in mortal sin, because to satisfy some precept it suffices to place the work enjoined, although the end of the precept is not obtained. But whether he sins, there is not one opinion of theologians; but it can be held that he is exempt from every fault, because, with contempt excluded, there is no fault in placing an obstacle only to the remission of punishments. - Cf. St. Alphonsus, nn. 522 and 523. - Baller. note (a) p. 416.

8°. The penitent upon whom a more difficult penance is enjoined ought to warn the confessor about the impossibility or excessive difficulty of fulfilling it; and if the confessor does not acquiesce, he can approach another. But if the penance does not appear so grave, the penitent is bound to accept it, nor can he depart without some fault.

9°. If a penitent, after accepting a penance from one confessor, repeats the confession before another, so that he may obtain a milder penance, or even for another cause, he is by no means freed from the prior penance, unless he makes mention of the preceding confession and of the accepted penance; the reason is that for commuting the penance on the part of the confessor there is required a positive act of the will by which the prior obligation is revoked.

On Penances More Usefully to Be Imposed — I. Works of Piety

1°. Vocal prayers, *Our Father*, *Hail Mary*, *Creed*, Litany of the Blessed Virgin, Rosary, or its third part; morning and evening prayers.

2°. Mental prayers, discreetly, according to the capacity of the penitent; for the uneducated, some thought about hell, about death, about the passion of Christ, morning and evening, for example, for the time of one *Hail Mary*.

3°. Acts of Faith, Hope, Charity, contrition, confidence in God, conformity to the divine will, purpose of not sinning ... so many times ..., for example, morning, evening, especially in temptations or dejection of soul.

4°. Offering of oneself to God very early in the morning, the sign of the cross, various aspirations or ejaculatory prayers to Christ, to the Heart of Jesus, to the Blessed Virgin, to the Guardian Angel. (Ordinarily they are not to be multiplied.)

5°. Exercise of the Way of the Cross, especially when it is done in common: prayers for nine days in honor of the Blessed Virgin or of some Saint.

6°. Hearing of sermons, of catechism, attendance at the Offices of the Church, for example, at solemn Mass, Vespers, etc., or at spiritual exercises, or at the pious exercise of the Marian Month, or at other things of this sort, at least several times.

7°. General examination of conscience in the evening, at least for a brief time; likewise particular examination concerning such a defect, or such a depraved custom, from a firm purpose of amendment.

8°. Visitation of a church or of any altar, or of one in particular, for praying something there, or for asking the grace of sinning no more.

9°. Pious reading, for example, for a quarter of an hour on Sunday, or one or another chapter, for example, of the *Imitation of Christ*, of the *Lives of the Saints*, or of another pious book, etc.

10°. Frequentation of the Sacraments, on such a day, or at such a time, or so many times. Here the confessor should act cautiously, and should not impose an obligation upon those who rarely confess that they approach the tribunal of penance once or twice in a month for a year; but he should not enjoin this except once, and perhaps another time, and only upon penitents willingly accepting it.

II. Works of Mortification

1°. Fasting, either entire according to the laws of the Church, or partial according to the physical and moral strength of the penitent. Nevertheless a penance of this sort is not to be imposed except rarely, and only upon those who will accept it willingly.

2°. Some subtraction of food, which can in no way harm the health of the body, or the duties or labors of the penitent, for example, half the part of the customary breakfast on Friday or Saturday or on the vigil of some feast, etc.

3°. Abstinence from wine or intoxicating liquor, on such a day, at such a time, or not to exceed a certain quantity.

4°. Some subtraction of ordinary sleep, especially by rising earlier in the morning, or at a determined hour as a remedy for laziness, or even for forestalling impure temptations.

5°. To pray on bent knees, or with arms extended in the manner of a cross, to kiss the ground for the sake of humility, to make brief pilgrimages.

6°. To offer to God sometimes illnesses, diseases, or other hardships of life occurring, by bearing them patiently.

7°. Sometimes to be deprived of recreation, even honest recreation, for example, a walk; to repress excessive curiosity in hearing, in sight; not to stand so long at the door of the house or at the windows. This especially befits girls addicted beyond measure to vanity.

8°. To chastise the body moderately, by discreet mortification, some flagellation, an uncomfortable position. - (But these things are to be enjoined very rarely; indeed to be permitted with great discretion.)

III. Medicinal Penances

Since, generally speaking, contraries are cured by contraries, the following penances can be enjoined, or only advised, yet with discretion, with attention paid especially to the quality and greater good of the penitents.

1°. Upon penitents rarely and badly praying, brief prayers should be imposed, to be performed morning or evening, for about a week. - Upon the tepid, pious readings, or ejaculatory prayers to be made several times in the day, but few, and for a few days, lest they be omitted through forgetfulness or torment the penitent. - Upon those tempted against Faith and Hope, acts of Faith, Hope, confidence, or the recitation of the Apostles' Creed, etc.

2°. Upon blasphemers, external reverence toward God, toward the Cross ..., for example, to kiss the Crucifix reverently, or sacred images, or to say devoutly: Blessed be the name of the Lord. Praise be Jesus Christ.

3°. Upon lovers of the world and of its pomps, some meditation about the vanity of worldly things, for example, when they rise in the morning or seek their bed, or renewal of the promises made in Baptism.

4°. Upon those who often omit Mass, some supererogatory Mass to be heard, for example, a second on Sunday, or one on a weekday, or some visitation of the most holy Sacrament to be made several times, etc.

5°. Upon those keeping hatred, some works of charity toward neighbor, for example, to greet an enemy or speak to him, prudently however; prayer and an act of charity for neighbor in general, and also especially for enemies; recitation of the Lord's Prayer for the same, especially of these words: Forgive us our debts, as we also forgive our debtors.

6°. Upon the lustful, some mortification or subtraction of comforts, especially flight from occasions, prayer, frequentation of the Sacraments, frequent renewal of firm purpose, memory of the last things, etc.

7°. Upon thieves and the avaricious, some alms according to their faculties, even if a single as were sometimes to be distributed to the poor or to the Church. But grave alms are never to be imposed unless they are willingly accepted.

8°. Upon the proud, certain offices of humility, for example, to kiss the ground, to visit the poor, or kindly to assist them, to treat them humanely, or to elicit various acts of humility, for example, to say with the publican: Lord, be propitious to me a sinner.

9°. Upon the gluttonous and the drunken, some subtraction of foods, abstinence from food and drink outside the customary meals, or abstinence from wine on such a day, or a prohibition lest such a quantity of wine be exceeded at meals, etc.

Add also the works of mortification which were indicated in the preceding section.

Part III. On the Minister of the Sacrament of Penance

Chapter I. On the Power of the Minister

Two things are required for the power of the Minister of Penance, 1°. power of order, 2°. power of jurisdiction. Thus Can. 872: "Besides the power of Order, for valid absolution of sins there is required in the minister power of jurisdiction, whether ordinary or delegated, over the penitent"; and Can. 871: "The minister of this Sacrament is the priest alone."

Article I. On the Power of Jurisdiction in General

Questions

Question 1. What is the power of jurisdiction?

Resp. The power of jurisdiction or of governance which by divine institution is in the Church is one thing of the external forum, another of the internal forum, or of conscience, whether sacramental or extra-sacramental (Can. 196).

Jurisdiction of the internal forum is not necessarily sacramental; namely it can be exercised in the extra-sacramental internal forum, unless the sacramental is required.

Question 2. What power of jurisdiction is ordinary, and what delegated?

Resp. Ordinary is that which by the law itself is attached to an office; delegated, that which has been committed to a person. But ordinary can be either proper or vicarious. - Cf. Can. 197. Ordinary is as it were official, delegated personal.

Question 3. Who are to be understood under the name of Ordinary?

Resp. § 1. In law under the name of Ordinary are understood, unless someone is expressly excepted, besides the Roman Pontiff, for each one's own territory, the residential Bishop, Abbot or Prelate *nullius*, and their Vicar General, Administrator, Vicar and Prefect Apostolic, and likewise those who, when the aforesaid are lacking, meanwhile succeed in governance from the prescription of law or from approved constitutions; but for their own subjects, major Superiors in exempt clerical religions.

§ 2. But under the name of Ordinary of the place or of places come all those listed, except religious Superiors (Can. 198).

This is very much to be noted in the canons of the Code, lest an error be made, and what is just not be given to him to whom it is owed.

Question 4. What is the law concerning delegation of ordinary power of jurisdiction, and concerning subdelegation of delegated power?

Resp. § 1. He who has ordinary power of jurisdiction can delegate it to another in whole or in part, unless something else is expressly provided by law.

§ 2. Even power of jurisdiction delegated by the Apostolic See can be subdelegated either for an act, or even habitually, unless the industry of the person was chosen or subdelegation was prohibited.

§ 3. Power delegated for a universality of affairs by him who below the Roman Pontiff has ordinary power can be subdelegated in individual cases.

§ 4. In other cases delegated power of jurisdiction can be subdelegated only by a concession expressly made; but delegated judges can subdelegate some non-jurisdictional article even without express commission.

§ 5. No subdelegated power can again be subdelegated, unless this has been expressly conceded (Can. 199).

Care must certainly be taken lest the clause at the end of the first paragraph, "unless," etc., be passed over.

Question 5. What power of jurisdiction is to be interpreted broadly, and what strictly?

Resp. § 1. Ordinary power of jurisdiction and power delegated for a universality of affairs are to be interpreted broadly; any other strictly; yet to him to whom power has been delegated, those things also are understood to have been conceded without which the same power could not be exercised.

§ 2. Upon him who asserts that he is delegated rests the burden of proving the delegation (Can. 200).

Because he ought not be admitted to a work proper to another unless it is established that the right has been conceded to him.

Question 6. Over whom can the power of jurisdiction be exercised?

Resp. § 1. The power of jurisdiction can be exercised directly over subjects alone (Can. 201).

Question 7. Whether one having judicial power, whether ordinary or delegated, can exercise it for his own advantage or outside the territory?

Resp. Negatively, with the prescriptions of Can. 401, § 1, 881 § 2, and 1637 remaining safe. Cf. Can. 201, § 2. Now indeed Can. 881, § 2, says "those who have ordinary power of absolving can absolve subjects everywhere on earth."

Question 8. Whether one having voluntary or non-judicial power of jurisdiction can exercise it for his own advantage, or while existing outside the territory, or upon a subject absent from the territory?

Resp. Affirmatively, unless something else is established from the nature of things or from law. - Cf. S. C. Indulg., 1 Feb. 1905, to II. - Can. 201, § 3.

Question 9. Whether an act of the power of jurisdiction given for one forum is valid for the other?

Resp. § 1. An act of the power of jurisdiction, whether ordinary or delegated, conferred for the external forum, is valid also for the internal forum, but not conversely.

§ 2. Power conferred for the internal forum can also be exercised in the extra-sacramental internal forum, unless the sacramental is demanded.

§ 3. If the forum for which the power has been given has not been expressed, the power is understood to have been conceded for both forums, unless from the very nature of the matter something else is established (Can. 202).

Question 10. When does delegated power cease?

Resp. § 1. Delegated power is extinguished when the mandate has been completed; when the time has elapsed or the number of cases for which it was conceded has been exhausted; when the final cause of the delegation ceases; by revocation of the delegating one directly intimated to the delegate, or by renunciation of the delegate directly intimated to the delegating one and accepted by the same; but not when the right of the delegating one has been resolved, except in the two cases of which in can. 61.

§ 2. But when power has been conceded for the internal forum, an act placed through inadvertence, after the time has elapsed or the number of cases has been exhausted, is valid.

§ 3. When several have been delegated collegially, if one fails, the delegation of the others also expires, unless something else is established from the tenor of the delegation (Can. 207).

Question 11. Whether ordinary power is extinguished when the right of the Superior conceding the office to which it is attached has been resolved? When does it cease? When is it silent?

Resp. According to the norm of can. 183, § 2, ordinary power is not extinguished when the right of the one conceding the office to which it is attached has been resolved; but it ceases when the office has been lost; it is silent when a legitimate appeal has been interposed, unless perhaps the appeal is only in devolutive effect, with the prescription of can. 2264, 2284 remaining firm (Can. 208).

According to canon 183, an ecclesiastical office in the case of the resolved right of the superior is not lost, unless the law provides otherwise, or unless in the concession there is contained the clause: *at our good pleasure*, or another equivalent.

Question 12. Whether the Church supplies jurisdiction in common error or in positive and probable doubt?

Resp. In common error or in positive and probable doubt, whether of law or of fact, the Church supplies jurisdiction for both the external and internal forum (Can. 209).

Common error in this cause is understood as "not error of fact and in second act, but common error of law and in first act," i.e., as Bucceroni says, "in such a state or condition of things, that error of the public or of the community naturally can and ought to follow if the matter follows its natural course." This interpretation seems able to be admitted altogether securely; otherwise often we would not be able to say when, in what individual confession, absolutions in determined cases began to be valid. - Bucceroni, *Cas.* 612, 129. 5; I. M. n. 769.

Question 13. Whether the power of order attached to an office by a superior or committed to a person can be committed to others?

Resp. The power of order, by a legitimate ecclesiastical Superior whether attached to an office or committed to a person, cannot be committed to others, unless this has expressly been conceded by law or indult (Can. 210).

Thus, for example, the interim Superior of some vacant mission can be given the faculty of administering the sacrament of Confirmation, but that cannot be committed to others, unless the power of subdelegating has been expressly conceded.

Article II. On the Jurisdiction of Confessors

I say 1°. The power of jurisdiction is necessary for validly receiving confessions, nor does the power of Order suffice. The reason is taken from the Council of Trent, sess. 14, chap. 7, where it reads thus: "Since therefore the nature and character of judgment require this, that sentence be passed only upon subjects, it has always been persuaded in the Church of God, and this Synod confirms it to be most true, that that absolution ought to be of no moment which a priest pronounces upon one over whom he does not have ordinary or subdelegated jurisdiction."

I say 2°. § 1. By ordinary jurisdiction for receiving confessions for the universal Church, besides the Roman Pontiff, the Cardinals of the Holy Roman Church possess it; for each one's own territory, the Ordinary of the place, and the pastor and others who are in the place of the pastor.

§ 2. With this same jurisdiction there are also endowed the canon penitentiary of a church, even collegiate, according to the norm of can. 401, § 1, and exempt religious Superiors for their subjects, according to the norm of the constitutions.

§ 3. This jurisdiction ceases by loss of office, according to the norm of can. 183, and, after a condemnatory or declaratory sentence, by excommunication, suspension from office, or interdict (Can. 873).

I say 3°. § 1. Delegated jurisdiction for receiving the confessions of any persons, whether seculars or religious, is conferred upon priests, both secular and religious, even exempt, by the Ordinary of the place in which the confessions are received; but religious priests should not use the same without the permission, at least presumed, of their Superior, with the prescription of can. 519, however, remaining firm.

§ 2. Ordinaries of places should not habitually concede jurisdiction for hearing confessions to religious who are not presented by their own Superior; but to those who are presented by their own Superior, they should not deny it without grave cause, with the prescription of can. 877, however, remaining firm (Can. 874).

From these things it is clear: for hearing the confessions of seculars, delegated jurisdiction is conferred by the Ordinary of the place of the accepted confession upon priests both secular and religious, even exempt. The same one confers the same jurisdiction upon the same persons for hearing the confessions of religious. But religious priests ought not use delegation without the permission, at least presumed, of the Superior; if nevertheless a religious approaches and is absolved, the confession is valid and licit according to the norm of Canon 519. But if some religion enjoys a privilege of absolving from certain cases reserved to the Supreme Pontiff, the manner in which it is communicated to individual confessors is to be learned from the Constitutions.

I say 4°. § 1. For validly hearing confessions there is need of jurisdiction expressly conceded by writing or words.

§ 2. Nothing can be exacted for the concession of jurisdiction (Can. 879).

Wherefore tacit jurisdiction no longer avails; but it must be conceded expressly, either by words or by writings.

I say 5°. § 1. Both Ordinaries of places should not concede jurisdiction, and religious Superiors should not concede jurisdiction or license of hearing confessions, except to those who have been found suitable by examination, unless there is question of a priest whose theological doctrine they have ascertained from another source.

§ 2. If after jurisdiction or license has been conceded they prudently doubt whether the priest previously approved by them still continues to be suitable, let them compel him to a new trial of doctrine, even if there is question of a pastor or canon penitentiary (Can. 877).

The law is indeed grave, which keeps away the unsuitable, and admits only the suitable to exercising this sacred ministry. The law concerning not conceding jurisdiction or license except to those who have been found suitable by examination strikes both Ordinaries of places and religious Superiors, unless the knowledge of these men has been ascertained by them from another source. It would indeed be a most grave sin to assign to this office a man not suitable; nor is this ever licit. Suitability must be established by examination, unless there is question of a man whose theological doctrine is known. When they do not have this sufficient theological doctrine ascertained from another source, they are bound under grave obligation to require an examination; if they have it ascertained from another source, they are not bound to require an examination, for concerning them there is not the law: let them not concede except to those who have been found suitable by examination, unless there is question of a priest whose theological doctrine they have ascertained from another source. Therefore the prohibition of conceding jurisdiction or license without examination does not seem to affect those who are known without examination to have sufficient theological knowledge.

But if prudent doubt is present concerning the continuation of the suitability of the confessor, Ordinaries and Superiors can, indeed ought, compel him to a new examination.

Questions

Question 1. Whether the Church supplies jurisdiction when penitents invincibly are ignorant of its defect?

Resp. In common error the Church supplies jurisdiction for both forums. - Cf. Can. 209.

Question 2. Whether it is licit to absolve with negatively doubtful jurisdiction?

Resp. Negatively, unless some necessity urges, and then absolution is to be given under the condition: if I can. St. Alphonsus thinks that necessity of this sort is present: 1°. if the precept of annual confession urges; 2°. if the penitent must celebrate Mass or communicate, and otherwise would incur a mark of infamy; 3°. if a priest is bound to celebrate from obligation. - Cf. St. Alphonsus, n. 571.

Question 3. Whether it is licit to absolve in positive and probable doubt, whether of law or of fact?

Resp. Affirmatively, because the Church supplies in positive and probable doubt, whether of law or of fact. Cf. Can. 209.

Question 4. Whether heretics, excommunicates to be avoided, degraded persons, irregulars, apostates, etc., absolve validly in danger of death, when another priest is lacking?

Resp. Affirmatively, because then the Church supplies jurisdiction, as is established from the Council of Trent, sess. 14, chap. 7, where it reads thus: "Very piously, lest on this very occasion someone perish, it has always been observed in the same Church of God that there is no reservation at the article of death: and therefore all priests can absolve any penitents whatsoever from any sins and censures whatsoever." - Indeed, not only in the article, but also in danger of death absolution can be given by any priest, because in canon law the article and danger of death are customarily taken for the same thing, such as, for example, is considered to be present in battle, on a long voyage, in difficult childbirth, and similar cases. Cf. St. Alphonsus, nn. 560 and 561.

"Whether any soldier, constituted in the state of war-convocation or, as they say, mobilization, by that very fact can be equated with those who are placed in danger of death, so that he can be absolved by any priest met with." The Sacred Penitentiary, after maturely considering the things set forth, kindly, with our Most Holy Lord Pius X assenting, responded thus: "Affirmatively, according to the rules handed down by approved authors." 18 March 1912.

Question 5. Whether a simple priest can validly absolve a dying person even when an approved confessor is present?

Resp. In danger of death all priests, although not approved for confessions, validly and licitly absolve any penitents whatsoever from any sins or censures whatsoever, however reserved and notorious, even if an approved priest is present, with the prescription of can. 884, 2252 remaining safe (Can. 882).[1]

Can. 884 treats of absolution of an accomplice in the article of death; Can. 2252 of the necessity of recourse in the case of absolution from some censure *ab homine*, or from a censure reserved in the most special way.

[1] Cf. Addenda, p. 1150, n. 125.

Question 6. Whether a Pastor can call in a Pastor of the same or of a different diocese for hearing confessions in his parish?

Resp. Affirmatively, as regards a Pastor of the same diocese; for although by force of his office he has jurisdiction only for his own parish, nevertheless from almost universal custom he can also hear confessions in the whole diocese, unless the Bishop decrees otherwise. - But as regards a Pastor of a different diocese, he can be called in for hearing the confessions of his own subjects; but not for hearing the confessions of other penitents. - Cf. Can. 881 and 874.[1]

[1] Cf. Addenda, p. 1095, n. 30.

Question 7. Whether among us that ancient pact still flourishes, by which some priest, after receiving faculties from his own Bishop, can validly use the same in another diocese?

Resp. Negatively, as is established from the Second Plenary Council of Baltimore, n. 118, where it is said: "Lest wandering, unknown, and depraved priests undertake sacred offices with offense of the faithful, the Fathers judged that the faculties which the Bishops by a certain common pact mutually bestowed upon themselves in the convention held in the year 1810 were to be revoked; and therefore for the future, none of the priests, by force of that pact, can exercise jurisdiction or undertake any sacred office without the authority of the ordinary." Note, however, the statute recently enacted in a certain Synod of New York, where n. 157 says: "For the sake of liberty of conscience, we concede that

every outside Priest who is known in his own diocese to be endowed with ordinary faculties may be able to absolve a Priest of Our Diocese who has chosen to confess to him in this diocese, and likewise all persons who have true habitation in his house." - Cf. *Amer. Eccl. Rev.*, Vol. 2, pp. 37 and seq.

Question 8. Whether a priest approved by the Bishop can hear the confessions of the faithful without the permission of the Pastor?

Resp. Negatively, as regards liceity, if the confessions are received in a church subject to the Pastor, because due order altogether requires that, since he is the immediate superior in his church, permission to exercise sacred ministries there be sought from him. But as regards validity, it is certain according to all that the license of the Pastor is not required.

Question 9. Whether a priest approved in some place can receive the confessions of pilgrims, wanderers, and Eastern Catholics coming there?

Resp. § 1. All priests of either clergy approved for hearing confessions in some place, whether instructed with ordinary or delegated jurisdiction, can also validly and licitly absolve wanderers and pilgrims from another diocese or parish who approach them, and likewise Catholics of any Eastern rite.

§ 2. Those who have ordinary power of absolving can absolve subjects everywhere on earth (Can. 881).

Wherefore our pastors can hear their own subjects everywhere; and this can carry with it a vast good of souls.

Question 10. Whether the Bishop can forbid under penalty of invalidity that diocesans go to confess outside the diocese?

Resp. Negatively, because the right is given to a subject of confessing to the confessor whom he prefers.

Question 11. Whether a simple priest can absolve those navigating on the Ocean, or from whom approval must be obtained?

Resp. § 1. All priests undertaking a sea journey, provided they have duly received the faculty of hearing confessions either from their own Ordinary, or from the Ordinary of the port in which they board the ship, or even from the Ordinary of any intermediate port through which they pass on the journey, can, during the whole journey, receive on the ship the confessions of any faithful whatsoever navigating with them, although the ship on the journey passes through or even for some time stops in various places subject to the jurisdiction of different Ordinaries.

§ 2. But as often as the ship stops on the journey, they can receive the confessions both of the faithful who approach the ship for any cause whatsoever, and of those who, when they themselves have touched land in passing, ask to confess to them, and validly and licitly absolve them even from cases reserved to the Ordinary of the place (Can. 883).[1]

[1] Cf. Addenda, p. 1109, n. 52.

Question 12. To whom can the faithful confess?

Resp. It is free to any faithful person to confess his sins to any legitimately approved confessor, even of another rite, whom he prefers (Can. 905).

Question 13. Whether one who, having delegated jurisdiction, has begun to hear a confession can finish it even if meanwhile the delegation expires?

Resp. "Some say that he cannot. Petrus de Ledesma, cp. 12. Others, however, affirm that he absolutely can, whom Sanchez reports and follows, l. 2 in *Decal.* cp. 13, n. 15, and in a similar matter indicates l. 4, cp. 54, n. 34; Diana, v. I, *De Bulla Cruciata*, Resp. 94: which opinion is very probable, because the matter is not whole. Cap. *Gratum* and Cap. *Relatum* on the office of a delegate." - Lugo, *de Sacr. Paen.* disp. 19, sec. 2, n. 24.

Question 14. Whether delegated jurisdiction or license can be conceded with limitation?

Resp. § 1. Delegated jurisdiction or license of hearing confessions can be conceded circumscribed by certain limits.

§ 2. Nevertheless let Ordinaries of places and religious Superiors beware lest they too greatly restrict jurisdiction or license without reasonable cause (Can. 878).

Those who have not been found generally suitable for hearing confessions and nevertheless have asked to be admitted can receive limited jurisdiction at the judgment of the Ordinary.

Indeed it is evident, universally speaking, that jurisdiction and license ought not to be too greatly restricted.

Nevertheless, a power conceded generally is not to be considered limited as regards time, places, and other circumstances, unless these are held in the law itself as contained in the general concession, such as reserved cases.

On Jurisdiction in Religion

I say. § 1. In an exempt clerical religion, for receiving the confessions of the professed, novices, or others of whom in can. 514, § 1, delegated jurisdiction is conferred also by their own Superior, according to the norm of the constitutions; to whom it is lawful to concede it even to priests from the secular clergy or of another religion.

§ 2. In an exempt lay religion, the Superior proposes the confessor, who nevertheless must obtain jurisdiction from the Ordinary of the place in which the religious house is found (Can. 875).

You Will Resolve. Whence it follows that the Superior in an exempt clerical religion and the Ordinary of the place can concede power or delegated jurisdiction for hearing the confessions of the professed, novices, or others living in the religious house day and night by reason of service, education, hospitality, or infirm health.

Indeed it is lawful for the Superior to concede this jurisdiction even to priests from the secular clergy or of another religion. Therefore just as a confessor adorned with delegated jurisdiction by the Superior alone of his own exempt clerical religion can validly and licitly receive the confessions of his confreres or of others of whom above, so also a confessor enjoying delegated jurisdiction from the Ordinary of the place alone can hear the confessions of the same. Concerning such penitents the source of that jurisdiction is twofold, the Superior and the Ordinary of the place.

1°. If the Bishop, or your superior by delegation from him, concedes to you approval for a determined class of penitents, the faculty cannot be extended to others, as is clear. But if the request for the faculty from the Bishop or from the superior is general, and the concession has not been restricted when the tenor of the words is inspected, the faculty obtained is not limited to the work which was the occasion of the petition. The reason is taken from the known rule: Whatever is not excepted is contained in the concession. Nevertheless, except reserved cases, which by the law itself are never understood to be comprehended in the general faculty of hearing confessions.

2°. A religious Superior, when by delegation from the Bishop he employs a subject for the general works of the sacred ministry, with the hypothesis of some special restriction excluded, is considered to concede to him every kind of faculty for any penitents whatsoever, and also for all reserved cases contained in the episcopal concession. The reason is that he is considered to concede all that which he can and customarily does concede, according to the aforesaid rule: Whatever is not excepted is contained in the concession.

Questions

Question 1. Whether it is licit for the Ordinary of the place or the religious Superior to revoke or suspend jurisdiction or license?

Resp. § 1. The Ordinary of the place or religious Superior should not revoke or suspend jurisdiction or license for hearing confessions, except for a grave cause.

§ 2. But for grave causes the Ordinary can even forbid to a pastor or penitentiary the office of confessor, with recourse in devolutive effect to the Apostolic See remaining safe.

§ 3. Nevertheless it is not licit for the Bishop, without consulting the Apostolic See, if there is question of a formed house, to take away jurisdiction all at once from all confessors of some religious house (Can. 880).

Question 2. Whether a Regular once approved in some diocese needs a new approval if, after changing habitation, he returns to the same place?

Resp. Negatively, because one approved indefinitely and without limitation remains approved at least until an implicit revocation of approval; but in the present case no revocation has intervened, not even implicit. Therefore ... Cf. Lugo, disp. 21, n. 44. Lacroix, n. 1541.

Note, however, that among us it is established that many Bishops, as is gathered from Synods recently held, wish to revoke, and in fact do revoke, faculties conceded as soon as some priest departs from the diocese in such a way that he no longer has domicile there.

Question 3. Whether a Religious validly absolves seculars, when the superior is unaware or unwilling, from the delegation of the Bishop alone?

Resp. Affirmatively, because this delegated jurisdiction alone suffices for validly hearing confessions, though the Superior is unaware or even unwilling. - Cf. Can. 874. Nevertheless religious priests ought not use this faculty without the permission, at least presumed, of the Superior, with the prescription of Can. 519 remaining safe.

Question 4. Whether Regulars can absolve, without the approval of the Bishop, their servants or other familiars living in the monastery?

Resp. Affirmatively, by force of Canon 875, § 1, brought forward at n. 774.

Question 5. Whether Regulars can absolve resident pupils without the approval of the Bishop, as being of the family?

Resp. Affirmatively, by force of Canon 875, § 1, brought forward at n. 774.

Question 6. How many confessors are to be deputed in individual houses of a clerical religion?

Resp. § 1. In individual houses of a clerical religion, several confessors legitimately approved are to be deputed according to the number of members, with power, if there is question of an exempt religion, of absolving even from cases reserved in the religion.

§ 2. Religious Superiors having the power of hearing confessions can, with the things to be observed by law observed, hear the confessions of subjects who spontaneously and by their own motion ask this of them, but they should not do this by way of habit without grave cause.

§ 3. Let Superiors beware lest they induce any subject, either themselves by themselves or through another, by force, fear, troublesome persuasions, or another reason, to confess sins before them (Can. 518).

Question 7. Whether religious Superiors having the power of hearing confessions can hear the confessions of their subjects?

Resp. Affirmatively, in relation to subjects who spontaneously and by their own motion ask this of them, but without grave cause they should not do this by way of habit. But let Superiors beware lest they induce any subject, either themselves by themselves or through another, by force, fear, troublesome persuasions, or another reason, to confess sins before them. Cf. Can. 518, §§ 2, 3.

Note. - The master of novices and his associate, the Superior of a Seminary or college, should not hear the sacramental confessions of their pupils dwelling with them in the same house, unless the pupils spontaneously ask this in particular cases from a grave and urgent cause (Can. 891).

Question 8. Whether it is licit for a religious, even for quiet of conscience, to institute confession before any confessor approved by the Ordinary of the place, although not numbered among the designated?

Resp. Affirmatively, as is clearly apparent from the following canon:

With the constitutions remaining firm which command or advise confession to be made at stated times before determined confessors, if a religious, even exempt, for the quiet of his conscience approaches a confessor approved by the Ordinary of the place, although not numbered among the designated, the confession, any contrary privilege being revoked, is valid and licit; and the confessor can absolve the religious even from sins and censures reserved in the religion (Can. 519).

While the canon leaves the fullest liberty to religious, even exempt, it likewise leaves in place the constitution which commands or advises confession to be made before determined confessors, and it does not abrogate the use, approved by immemorial experience of centuries, of confessing to one stable and prudent confessor. The confession of which in the canon is valid and licit. And the confessor can absolve any religious, even exempt, from cases reserved in the religion.

Question 9. What has been established by law concerning confessors in lay religions of men?

Resp. Even in lay religions of men there is to be deputed, according to the norm of can. 874, § 1, 875, § 2, an ordinary and extraordinary confessor; and if a religious asks for some special confessor, let the Superior concede him, in no way inquiring into the reason for the petition, nor showing that he bears it with difficulty (Can. 528).

Question 10. Who designates the priest for sacred rites and approves him for sermons in lay religions?

Resp. A distinction is to be made according to Canon 529:

If there is question of non-exempt lay religions, it belongs to the Ordinary of the place to designate the priest for sacred rites and to approve him for sermons; if of exempt religions, the regular Superior designates the same priests, and the Ordinary supplies his negligence (Can. 529).

On the Confessions of Religious Women

I say. The new Code thus establishes the principle:

§ 1. With any contrary particular law or privilege revoked, priests both secular and religious, of whatever grade or office, need peculiar jurisdiction for validly and licitly receiving the confessions of any religious women and novices, with the prescription of can. 239, § 1, n. 1, 522, 523 remaining safe.

§ 2. This jurisdiction is conferred by the Ordinary of the place where the house of the religious women is situated, according to the norm of can. 525 (Can. 876).

From canons 239, § 1, n. 1; 522, 523 it is clear: Cardinals can hear their confessions everywhere. If some religious woman, for tranquility of conscience, confesses in any church or oratory, even semi-public, before a priest approved for hearing women, the confession is valid and licit; and the same is to be said when religious women are gravely ill, to whom it has been conceded to call in any priest approved for hearing the confessions of women. With these cases removed, for validly and licitly hearing the confessions of any religious women and novices whatsoever, the general power of hearing confessions of either sex does not suffice, but there is required peculiar jurisdiction conceded by the Ordinary of the place where the house of the religious women is situated.

Questions

Question 1. What is the law of the ordinary confessor according to the new Code for religious women?

Resp. It is contained in the two paragraphs of canon 520, and regards each house and any religious woman who asks for a special moderator of the soul.

§ 1. To individual houses of religious women let only one ordinary confessor be given, who receives the sacramental confessions of the whole community, unless on account of their great number or another just cause there is need of another or of several.

§ 2. If some religious woman, for the quiet of her soul and for greater progress in the way of God, asks for some special confessor or spiritual moderator, let the Ordinary easily concede him; he, however, should watch lest abuses creep in from this concession; but if they creep in, let him cautiously and prudently eliminate them, with liberty of conscience preserved (Can. 520).

For each religious community there should be one ordinary confessor, at least regularly; but just causes can require that there be several, such as the number of religious women or ignorance of language on the part of some. How grave this office is, how pleasing to God, is clear from the thing itself; and the more difficult it is, the more meritorious also. To God alone are known the immense fruits which the zeal of religious women in our country has brought forth; they themselves merit everything by which they may become holier. But besides the ordinary confessor of the community, another case, foreseen in some measure by Benedict XIV, is found in the present canon. "We were persuaded, and therefore we are persuaded, that not only to the whole community, but also to individual nuns, indulgence must be given in those things which are justly and reasonably sought, especially when those things are recognized to contribute to the quiet and security of their conscience." Thus he himself in Const. *Pastoralis curae*. Provision is made in the present case for such a religious woman. A special confessor is easily to be conceded, and although one must watch lest abuses creep in, they are nevertheless to be eliminated cautiously, with liberty of conscience preserved. In the whole legislation of the New Code, provision is made for the security of liberty of conscience.

Question 2. What is the law of the extraordinary confessor for communities of religious women?

Resp. § 1. To each community of religious women let there be given an extraordinary confessor who at least four times in the year approaches the religious house, and to whom all the religious women must present themselves, at least to receive a blessing (Can. 521).

An extraordinary confessor must be given to any community; this one should visit the religious house at least four times in the year; all must approach him, either to confess or to receive a blessing. Since the adverb at least is joined to the number four, that number designates the limit below which it is not licit for the extraordinary not to approach, above which it is licit for him to approach. Therefore he must approach at least four times, but it is licit for him to approach more often.

Question 3. Whether other confessors also are to be designated by Ordinaries of places for a community of religious women?

Resp. Affirmatively, as is clear from the following:

§ 2. Ordinaries of places in which communities of religious women exist should designate several priests for individual houses, to whom they may easily have recourse for the sacrament of penance in particular cases, without it being necessary to approach the Ordinary himself as often as this occurs (Can. 521).

The care of the Church in this can be seen, that those are to be designated to whom religious women can easily have recourse. In no way ought they approach the Ordinary as often as this occurs, but they themselves are to have recourse to the designated men with entirely every kind of liberty. Whence in the same canon it is prescribed:[1]

§ 3. If some religious woman asks for one of these confessors, it is licit for no female Superior, neither by herself nor through others, neither directly nor indirectly, to inquire into the reason for the petition, to oppose the petition by words or deeds, or in any way to show that she bears it with difficulty (Can. 521).

[1] Cf. Addenda, p. 1113, n. 60.

Question 4. Whether it is licit for religious women to confess in any Church or oratory, even semi-public, before any confessor approved for women?

Resp. Affirmatively, any contrary privilege being revoked.

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

Religious women traveling outside the house, or visiting the poor, or walking, for instance while they go from schools to the religious house, or for any other similar cause, can enter a Church or oratory, even semi-public, and confess to any confessor approved for women. Indeed the same is licit within the house in the same places.[1]

[1] Cf. Addenda, p. 1095, n. 31; p. 1125, n. 82; p. 1150, n. 125.

Question 5. Whether it is licit for a gravely ill religious woman to call in any priest approved for women?

Resp. All religious women, when they are gravely ill, although danger of death is absent, can call in any priest approved for receiving the confessions of women, even if he is not destined for religious women, and can confess to him, during the continuance of the grave infirmity, as often as they wish; nor can the female Superior prohibit them either directly or indirectly (Can. 523).

Grave illness suffices that one can licitly use this faculty; it is not required that danger of death be present. She can call in any confessor approved for women. The faculty is conceded to be used during the infirmity as often as the religious woman wishes. It is gravely enjoined upon the female Superior that she not prohibit her directly or indirectly.

Question 6. What sort of men ought to be designated for the office of confessors of religious women?

Resp. Regularly it is required that they be forty years old, outstanding in integrity of morals and prudence; they can be taken from either clergy; for a just cause, those who are below the fortieth year of age can be deputed, provided they enjoy the other endowments; let them have no power in the external forum over them.

§ 1. To the office of both ordinary and extraordinary confessor of religious women, let priests be deputed, whether from the secular clergy or religious with the permission of Superiors, outstanding in integrity of morals and prudence; let them moreover be forty years old, unless a just cause, in the judgment of the Ordinary, demands otherwise; and let them have no power in the external forum over the same religious women (Can. 524).

Question 7. Whether an ordinary confessor of religious women, when his office has been completed, can be named extraordinary? or again deputed ordinary in the same community? whether an extraordinary can be named as ordinary?

Resp. § 2. An ordinary confessor cannot be named extraordinary, nor, except for the cases numbered in can. 526, again deputed ordinary in the same community, except after a year from the completed

office; but an extraordinary can immediately be named as ordinary (Can. 524).

Question 8. What is prohibited to confessors of religious women, both ordinary and extraordinary?

Resp. It is prohibited to them to involve themselves in any way in the internal or external governance of the community. Cf. Can. 524, § 3.

Question 9. How long does the office of hearing the confessions of religious women last?

Resp. The ordinary confessor of religious women should not exercise his office beyond three years; nevertheless the Ordinary can confirm him for a second, indeed even for a third three-year term, if either on account of a scarcity of priests suitable for this office he cannot provide otherwise, or the greater part of the religious women, including also those who in other affairs do not have the right of casting a vote, by secret votes, has agreed to the confirmation of the same confessor; nevertheless, for those dissenting, if they wish, provision must be made otherwise (Can. 526).

Question 10. Whether the Ordinary of the place can remove the confessor of religious women?

Resp. The Ordinary of the place, according to the norm of can. 880, can, for a grave cause, remove a confessor of religious women, both ordinary and extraordinary, even if the monastery is subject to regulars and the priest himself from confessions is a regular, nor is he bound to signify the cause of the removal to anyone, except the Apostolic See, if it is required by it; but concerning the removal he must warn the regular Superior, if the nuns are subject to regulars (Can. 527).

Question 11. Who concedes the faculty of hearing the confessions of religious women?

Resp. If the house of religious women is immediately subject to the Apostolic See or to the Ordinary of the place, the latter chooses the priests for confessions, both ordinary and extraordinary; if to a regular Superior, the latter presents confessors to the Ordinary, to whom it belongs to approve the same for hearing the confessions of those nuns, and, if there is need, to supply the negligence of the Superior (Can. 525).

Question 12. What are the dispositions of the new Code concerning manifestation of conscience for all religious, men and women?

Resp. § 1. All religious Superiors are strictly forbidden to induce persons subject to them in any way to make manifestation of conscience to themselves.

§ 2. Nevertheless subjects are not prohibited from being able freely and of their own accord to open their soul to Superiors; indeed it is expedient that they themselves approach Superiors with filial confidence, setting forth to them, if they are priests, also the doubts and anxieties of their conscience (Can. 530).

The first paragraph declares what is forbidden in this matter; it is forbidden to Superiors to induce their subjects in any way to make manifestation of conscience to themselves. Inducement on the part of Superiors, direct or indirect, exercised upon persons subject to them for making manifestation of conscience to themselves, is evidently forbidden under grave obligation.

The second paragraph explains what is not forbidden and what is expedient. It is not forbidden to subjects freely and of their own accord to open their soul to Superiors; indeed it is expedient that

subjects approach Superiors full of confidence, and open to them, if they are priests, their doubts and anxieties.

Article III. On Reserved Cases

Reservation is the calling away of certain cases to his own judgment, made by a Superior limiting the power of absolving in inferiors.

§ I. On the Principle and Nature of Reservation

I say 1°. There is given in the Church the power of reserving certain cases or causes of graver crimes, from which inferior confessors cannot absolve without a special faculty.

§ 1. Those who by ordinary law can concede the power of hearing confessions or impose censures can also, with exception made of the Capitular Vicar and the Vicar General without a special mandate, call away some cases to their own judgment, limiting in inferiors the power of absolving.

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

§ 3. As regards the reservation of censures, the prescription of can. 2246, 2247 is to be observed (Can. 893).

I say 2°. Three things are required, at least from the custom of the Church, so that some sin can be reserved, namely, that it be 1°. mortal not only by reason of the object, but also by reason of malice in the act of the will; 2°. external, and indeed grave as external; 3°. consummated by deed, but not merely attempted, unless something else is established from the express declaration of the one reserving. - Cf. St. Alphonsus, n. 582. - Baller. notes (a), (b), and (c) p. 470. Thus, for example, some sin is reserved, suppose against chastity: 1°. but someone sins lightly, the sin is not reserved; 2°. he sins gravely internally, the internal sin, although grave, is not reserved; 3°. he externally places some light sin, suppose some word containing in itself no grave malice against chastity, but he places it from the mind of fornicating: such a one sins gravely and externally, but the external sin is grave solely on account of the gravely depraved internal malice with which it is clothed, of which nevertheless it is not a natural external sign, and therefore it is not reserved; 4°. but now he places some external act gravely depraved, suppose an invitation to fornicate: that external act is a natural external sign of grave internal malice, and of itself, if it is placed voluntarily and knowingly, is sufficient matter of grave sin, and not only by respect to the internal act.

Questions

Question 1. What is prerequired for this, that sins can licitly be reserved by Ordinaries of places?

Resp. Ordinaries of places should not reserve sins unless, the matter having been discussed in the diocesan Synod, or outside the Synod after the cathedral Chapter and some of the more prudent and more approved curators of souls of their diocese have been heard, the true necessity or utility of the reservation has been proved (Can. 895).

The reservation of cases of conscience is to be directed toward the destruction of fortifications, according to the saying of the Apostle, 2 Cor. X, 4, namely for removing obstacles which are no common impediment to the salvation of souls. Therefore it must be done in an orderly and clear way, so that no cause may be given for anxieties or doubts. It is an extraordinary remedy; therefore hands

are not to be put to it unless the true necessity or utility of reservation is established. And hence the matter must first be discussed in Synod, or outside the Synod the cathedral Chapter and some of the more approved curators of souls must first be heard, before a sin is reserved. In this canon it is a question of the reservation of sins and of the prerequirements so that the Ordinary of the place may licitly reserve them; the prerequirements are: the necessity or utility of reservation proved, discussion of the matter in Synod, or outside Synod the hearing of the cathedral Chapter and of the more prudent pastors of souls.

Question 2. Who among the superiors of an exempt clerical religion and in monasteries *sui juris* can reserve sins?

Resp. Among Superiors of an exempt clerical religion, only the Superior General, and in monasteries *sui juris* the Abbot, with each one's own Council, can reserve sins of subjects, as above, with the prescription of can. 518, § 1, 519 remaining firm (Can. 896).

Therefore the superior general and the Abbot with each one's council can reserve sins; but in individual houses confessors are to be deputed with power of absolving even from those reserved cases; moreover a religious for quiet of conscience can approach any confessor approved by the Ordinary of the place, who can absolve him from sins and censures reserved in the religion. - Cf. Can. 518, § 1, 519.

Question 3. How many and what sort of sins are to be reserved, and how long does reservation remain in force?

Resp. The cases to be reserved should be very few, namely three or, at most, four, from only the graver and more atrocious external crimes specifically determined; but the reservation itself should not remain in force longer than is necessary for rooting out some public inveterate vice and perhaps restoring collapsed Christian discipline (Can. 897).[1]

Therefore reserved cases should be few; at most four; only the graver crimes; external crimes to be specifically determined; reservation should not continue in force after the end has been obtained. The reasons for all of these are found in the very nature of reservation. Furthermore, reservation is directed toward removing obstacles which are no common impediment to the salvation of souls; therefore it should not exceed the due measure and mode, otherwise it can turn to the destruction rather than the utility of souls; and on account of this danger of souls, merely internal sins and sins deriving from human frailty are not reserved.

[1] Cf. Addenda, p. 1115, n. 64.

Question 4. Whether it is licit for Ordinaries to reserve to themselves sins which are already reserved to the Roman Pontiff, even by reason of censure?

Resp. All should altogether abstain from reserving to themselves those sins which are already reserved to the Apostolic See, even by reason of censure, and regularly also from those upon which a censure has been imposed by law, although reserved to no one (Can. 898).

The reason of the matter is evident: lest laws be multiplied without necessity. Hence the law declares that Ordinaries must altogether abstain as to the first point; but as to the second it says regularly; therefore promiscuous reservation is prohibited, but it can be that on account of frequent scandal or

another cause some cases of this sort are reserved. From reserving sins of which in the first point, one must always abstain; from sins of which in the second, regularly.

Question 5. Whether pastors can reserve cases?

Resp. Negatively, from canon 893.

Question 6. Whether all reserved cases have been reserved on account of censure, or independently from it?

Resp. Most episcopal cases are simply reserved without censure; but papal cases almost all have censure and are reserved principally on account of the censure, so that in them the censure is reserved immediately, and the sin itself mediately or accessorily. Hence in papal cases, when the censure is reserved, the sin also remains reserved; but on the contrary, when the censure is removed, for example, because it was unknown, neither is the sin reserved, because, the object of reservation being removed, that is, the censure, the sin now does not remain reserved.

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

Question 7. Whether one who is ignorant of it incurs simple reservation of sins?

Resp. It is much controverted. The first opinion affirms, because there is nothing in the law by which the ignorant are excused. The law itself does not except them; therefore we ought not except them. Nor does it avail to say that reservation is a punishment and hence that those at least not grossly ignorant are excused; because the Instruction of the S. C. of the Holy Office, 13 July 1916, n. 5, clearly distinguishes between reservation and punishment. "Let them be altogether cautious and as sparing as possible as regards penal sanctions, especially excommunications, with which perhaps they may wish to fortify their reservations." Indeed, when the end of the law is inspected, the ignorant are urged no less than those who know. And this is altogether the opinion of very many. Nevertheless, there are not lacking those who even now defend the milder opinion, which the aforesaid Instruction, n. 6, seemed to many to favor. "Let them take care (Ordinaries) that the same (reservations) be brought to the certain knowledge of the faithful - for what force do they have if they are hidden?" In other words: what utility is there of reservations which subjects do not know? None. Now then, this truth has equal force after as before the Code, which omitted that clause since it contains the reason of the law. Therefore, since such reservations are rightly held useless to the ignorant, and the Code establishes that only those must be made which (Ordinaries) have judged truly necessary or useful, and this law is of strict interpretation, the milder opinion does not seem to lack its probability, especially since the confessor ought to warn such ignorant persons about the existing law. Add that reservation takes away the liberty of the penitent of choosing a confessor and deprives him of the hope of obtaining absolution from someone other than the supreme diocesan judges; and fear of the privation of this hope naturally deters from committing the crime, as Benedict XIV affirmed concerning the one sin reserved by reason of itself to the Supreme Pontiff, Const. *Sacramentum Paenitentiae*, n. 3. Notification begets such fear. Then it scarcely seems equitable that those who labor under ignorance at least not gross and supine be deprived of the very great good of approaching any suitable confessor. Cf. Aertnys, n. 389. - Ferreres, n. 672. - Noldin, n. 363. - Arregui, n. 607. - *Razon y Fe*, v. 52, 53. - *La Civilta Cattolica*, an. 1918, n. 3, p. 545.

Question 8. Whether in doubt about reservation a sin is to be considered reserved?

Resp. Negatively, whether the doubt is of fact, namely, if the sin was doubtfully committed or doubtfully grave; or whether it is of law, that is, is concerned with the existence of the reserving law and its extension. The reason for each solution is that reservation is something odious, and consequently is of strict interpretation. - Cf. St. Alphonsus, n. 600. - Elbel, n. 343.

Question 9. Whether a subject of another diocese can be absolved if the case is reserved only in the place of confession?

Resp. Negatively, if he confesses to a simple confessor; for this man's jurisdiction is limited, Can. 893, § 1, and in no way comes from the Ordinary of the penitent, Can. 874; a pilgrim is held as an inhabitant and is bound by the reservations of the place in which he is; the same is also clear from the response of the Sacred Penitentiary given 21 Nov. 1873, when the dispute was fervent. Titius, a priest approaching the tribunal of penance, sets forth sins partly simply reserved, partly also with episcopal censure in the diocese of the confessor. The latter grieves at this, and humanely admonishes the brother to present himself to one having the faculty: but he insists on absolution and says that the confessor, since he is not a judge of opinions, can and ought to absolve a penitent who wishes to follow an opinion not only probable, but most common among ancient and living Theologians. The confessor, firm in his opinion, does not acquiesce, and dismisses the penitent unabsolved.

It is asked 1°. Whether the confessor conducted himself well? 2°. Can he always conduct himself thus in the case?

The Sacred Penitentiary, having considered the things set forth, responds: As to the first case, to both affirmatively.

Question 10. Whether a subject of another diocese can be absolved when the sin is reserved in his own diocese, but not in the place of confession?

Resp. Affirmatively, outside the territory of the one reserving, even if the penitent departed from it only to obtain absolution (Can. 900, n. 3), reservation lacks every force.

§ II. On Absolution of Reserved Cases

I say 1°. They can absolve from reserved cases by ordinary power: 1°. those reserving them themselves; 2°. their successors in the same power; 3°. their superiors. The reason is that for taking away a reservation the same power is required and suffices as for placing it.

I say 2°. § 1. Once reservations have been established which they have judged truly necessary or useful, let Ordinaries of places take care that the same be brought to the knowledge of their subjects, in the manner that seems better to them, and that they not impart the faculty of absolving from reserved cases to anyone at all and indiscriminately.

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

§ 3. By the law itself, from cases which Ordinaries in any way have reserved to themselves, there can absolve both pastors, and others who in law are considered under the name of pastors, during the whole time useful for fulfilling the Paschal precept, and individual missionaries at the time when missions happen to be held for the people (Can. 899).

Therefore care must be taken that they be brought to the knowledge of subjects - for what force do they have if they are hidden? - and that they remain firm as long as they have been necessary. And therefore Ordinaries should not concede to anyone at all and indiscriminately the faculty of absolving, otherwise reservation will disappear. This power made to the canon penitentiary is not delegable to another; it can be exercised also upon pilgrims and wanderers in the diocese, and upon diocesans outside the territory of the diocese. The faculty must be habitually imparted to vicars forane, with the faculty especially in more remote places of subdelegating as often as necessary for some more urgent case.

Indeed benign is the disposition of law made in the last point of the canon, by which very many inconveniences of reservations will be removed: namely, pastors and others who by law are held under this name, and individual missionaries, can absolve from cases which Ordinaries in any way have reserved to themselves; pastors during the time useful for fulfilling the Paschal precept; missionaries during the time of the mission. It is a question of cases which the Bishop reserves to himself.

Questions

Question 1. When does any reservation lack every force?

Resp. Any reservation lacks every force:

1°. When a confession is made either by the sick who cannot leave the house, or by spouses for the sake of entering matrimony;

2°. As often as either the legitimate Superior has denied the requested faculty of absolving for some determined case, or, in the prudent judgment of the confessor, the faculty of absolving cannot be sought from the legitimate Superior without grave inconvenience of the penitent or without danger of violation of the sacramental seal;

3°. Outside the territory of the one reserving, even if the penitent has departed from it only to obtain absolution (Can. 900).

In these cases there is no longer any force of reservation; any confessor can absolve them. The sick who cannot leave, spouses confessing for the sake of entering matrimony, can be absolved by any confessor; the sick, it is not said gravely sick, but it is said the sick who cannot leave the house. The second point comprehends three cases, or rather cases of a threefold kind. But it must be noted as to the first kind that it is very general; the faculty of absolving for a determined case has been sought from the legitimate superior, the faculty has been denied, reservation lacks every force; therefore the case does not remain called away to the judgment of the one reserving, but can be absolved by any confessor. The second kind of cases is had when by the prudent judgment of the confessor the faculty cannot be sought from the Superior without grave inconvenience of the penitent. The third kind is had when, also by the prudent judgment of the confessor, the faculty of absolving cannot be sought without danger to the seal.

This point will solve difficulties from a denied faculty which we sought, or from grave difficulty for the penitent or the sacrament arisen or about to arise from the faculty to be sought.

The third point removes the difficulty on the part of the territory of the one reserving; outside this territory any confessor can absolve even a penitent going there for the purpose of obtaining absolution.

Wherefore the principle no longer avails against him who goes, as it used to be said, in fraud of the law.

Question 2. Whether one bound by episcopal reservation, who is impeded from approaching the Bishop, can be absolved by a simple confessor?

Resp. Affirmatively, if he is pressed by an urgent cause, and in the judgment of the confessor the faculty of absolving cannot be sought from the Superior without grave inconvenience of the penitent according to canon 900, 2°; but if a case to which a censure is joined urges, the same is to be said according to can. 2254, with the burden of having recourse imposed. Cf. below, concerning absolution of censures.

Question 3. Whether one bound by reservation, in necessity of communicating or celebrating, is bound to confess to a simple confessor, when another is lacking?

Resp. Affirmatively, if the penitent is bound by a censure *latae sententiae* which cannot be observed without grave danger of scandal or infamy according to can. 2254, § 1; indeed even if there is simple reservation of sin and in the prudent judgment of the confessor the faculty cannot be sought without grave inconvenience of the penitent according to can. 900, 2°; for in these cases any confessor can absolve.

Question 4. Whether one absolved in the article of death from papal cases is bound to present himself to the Roman Pontiff, health having been recovered?

Resp. Negatively, if there is question of censures reserved either simply or in a special way to the Supreme Pontiff; Affirmatively, if of censures reserved in the most special way. - Cf. Can. 882, 2252; concerning necessary recourse see can. 2252.

Question 5. Whether an inferior can absolve a dying person from reserved cases, when the superior or another having the faculty is present?

Resp. Affirmatively, according to can. 882. - Cf. 773, Q. 5.

Question 6. Whether reservation is taken away by a null or sacrilegious confession?

Resp. Affirmatively, to both, according to a probable opinion. The reason is that reservation is ordered principally to this, that sins be brought before the superior. Nevertheless, except 1°. if the penitent culpably keeps silent about the reserved sin itself, because the superior is by no means presumed in a sacrilegious confession of this sort to wish to take away the reservation of a sin deliberately not brought before him; 2°. if the invalid confession is made in a jubilee, because the Pontiff does not give the faculty of absolving from reserved cases except so that the faithful may gain the jubilee, and consequently otherwise he is not considered to wish to concede it. But other theologians, among whom is Card. de Lugo, think otherwise as to this second exception, which St. Alphonsus places, provided the penitent has the intention of gaining the jubilee, namely of afterward

confessing validly and placing all the other requisites. - Cf. St. Alphonsus, n. 598. - Lugo, disp. 20, n. 113. - Baller. note (a) p. 533.

Question 7. Whether reservation is taken away if the penitent, confessing before the superior, forgets to confess the reserved case?

Resp. Affirmatively, at least probably, because the superior is rightly presumed to have wished to free the penitent from every bond from which he can absolve him. Cf. St. Alphonsus, n. 597.

Since, therefore, in the article of death someone inculpably omitted cases simply reserved to the Bishop or the Supreme Pontiff, it seems probably to be said that, recovering, he can be absolved by any simple confessor. (Gennari, *Il Monitore*, v. 9, P. 1, p. 66).

Question 8. Whether one who has confessed to an inferior a doubtfully reserved sin is altogether freed from reservation, even if afterward he recognizes it as certain?

Resp. Affirmatively, more probably, because when a doubtfully reserved sin has been accused, it has already been directly absolved, and consequently the reservation has been directly taken away. - Cf. St. Alphonsus, n. 600.

Question 9. Whether a license of absolving from reserved cases is extended to sins committed after the license itself?

Resp. A distinction must be made: for either the power has been given for sins committed or narrated so many times, in which case the privileged one can absolve only from these; or it has been given indefinitely, in which case they commonly affirm, according to St. Alphonsus, that it is extended to others, provided a great distance is not interposed between the concession of the license and the commission of the new faults, namely when it has been conceded for a particular penitent. St. Alphonsus, l. 6, n. 601. "Because it is a benefit of the Prince and harms no one," says D'Annibale, n. 347, "it is not fitting to estimate it from the rigor of the words." Thus if there is not more than a month's delay between the concession and use of the faculty, the privileged one can absolve also from sins committed after the license was given. - De Lugo, *De Paen.* disp. XX, n. 126.

On Absolution of One's Own Accomplice in a Sin Against Chastity

I say. The absolution of an accomplice in a sin against chastity is invalid, except in danger of death; and even in danger of death, outside a case of necessity, it is illicit on the part of the confessor according to the norm of the apostolic constitutions, and by name of the constitution of Benedict XIV *Sacramentum Paenitentiae*, 1 June 1741 (Can. 884).

§ 1. One absolving or pretending to absolve an accomplice in a sin against chastity incurs *ipso facto* excommunication reserved in the most special way to the Apostolic See; and this even in the article of death, if another priest, although not approved for confessions, can receive the confession of the dying person without some grave infamy and scandal about to arise, except the case in which the dying person refuses to confess to another.

§ 2. The one absolving or pretending to absolve an accomplice does not escape the same excommunication when the accomplice indeed does not confess the sin of complicity, from which he has not yet been absolved, but acts thus because he has been induced to this by the accomplice-confessor, whether directly or indirectly (Can. 2367).

Questions

Question 1. What in this matter comes under the name of accomplice?

Resp. By complicity here is understood that action by which two or more, reciprocally or mutually, by words or by deed declare consent, agreement, or conspiracy in some sin against chastity known as such. The accomplice must know that the act placed and manifested by the other accomplice is gravely culpable objectively and subjectively; he must fully consent to the sin committed by the other and externally manifest this internal consent; the sin must be common to each accomplice; an exterior manifestation of mutual lust is required, and reciprocal communication in the exterior act itself. Cf. Pauwels, *De Casibus Reservatis*. Wherefore, if a priest, having found the occasion from sleep or drunkenness, used some woman to satisfy lust, she would not properly be an accomplice, because there would not be a mutual conspiracy formally sinful. For the same reason, that priest would not be an accomplice properly so called, and consequently would not lose jurisdiction, who by the greatest wickedness persuaded some woman that it was not a sin if she permitted herself to be shamefully touched by him. - Cf. Bucceroni, *Comment. in Const. Sacramentum Paenitentiae*, n. 68.

Question 2. What in this matter comes under the name of sin against chastity?

Resp. Under the name of sin against chastity here comes every grave, external sin against the sixth precept of the Decalogue, even if not consummated by intercourse. First, therefore, the sin must be grave, for Benedict XIV speaks of a sin which must necessarily be destroyed by sacramental absolution. Then it must be external, for otherwise there would not be true complicity in a sinful action; indeed it does not suffice that the sin be in some way externally manifested, but it is required that it be grave insofar as it is external. Nevertheless, it is not required that it be consummated by intercourse, and consequently a kiss, touch, or sight, provided the other conditions are present, comes here under the name of sin against chastity. Indeed, even an impure conversation is comprehended by this law, for although previously there could be doubt from reasons not to be despised, nevertheless today it must altogether be held that no exception is given, as is established from the declaration of the S. Congr. U. I. given on 28 May 1873, where it is said: "By the prohibition of absolving an accomplice in a matter against chastity are comprehended not only touches, but truly all grave sins externally committed against chastity, even those which consist in mere conversations and looks which import complicity." - Cf. Bucceroni, n. 68. Lehmkuhl, n. 935.

The sin must be mortal on both sides, and indeed certainly; and therefore if it is doubtful whether the penitent sinned gravely, although it is certain that the priest sinned, the case is not comprehended by the law. Nor does it suffice that a grave sin be committed only internally by both, although externally it is venial; but it is required that the external action be the indication and manifestation of an internal depraved affection, mortally sinful in the character of an exterior act.

Question 3. Whether the person of the accomplice is to be restricted to the female sex?

Resp. Negatively, altogether, because the words of the Bull are altogether general; for in it it is said: "Who dares to receive the sacramental confession of the accomplice person in a sin against chastity committed against the sixth precept and to impart absolution to him." - Therefore the disposition of the Constitution is not to be restricted to the female sex.

Question 4. Whether a priest must be called an accomplice when the sin against chastity was committed before the reception of sacred Orders, but now for the first time is subjected before him

to the keys?

Resp. Affirmatively, as it seems, because the law must be understood as the words sound, and according to the end which the legislator intends. Furthermore, the priest will always be in the true sense an accomplice as long as he lives; and the end of the law is to impede the danger of sinning and to procure the worthy administration of the sacrament. But this end certainly would not be obtained if the priest could absolve his former accomplice still polluted by this sin against chastity. Besides, by the reception of Orders some change was made in the priest only; but in this question, so that jurisdiction can again be given, attention is paid only to a change of the penitent. - Cf. Ituriaga, vol. 5, cas. 47. - Bucceroni, n. 69. - Lehmkuhl, n. 935. The response of the S. Penitentiary, 27 Jan. 1879, agrees: "The confessor cannot absolve an accomplice with whom before priesthood in boyhood he acted shamefully, unless he is morally certain that the same has already been directly and validly absolved from the sin of complicity by another confessor."

Question 5. Whether a priest can absolve an accomplice in the article or danger of death?

Resp. Affirmatively, validly and licitly, if another priest cannot be called who can perform the office of confessor; or if he can indeed be called, but not without scandal. But if another priest is present, even not approved, who can receive the confession, then the accomplice priest will indeed absolve validly, but illicitly, and will not escape the penalties. This is established from the cited Constitutions of Benedict XIV and Can. 884, 2367. - Bucceroni, nn. 62 and seq.

Question 6. Whether outside the case of death the accomplice priest can ever absolve his accomplice, suppose if the woman accomplice has no other priest to whom she may have recourse, and because of the circumstances of the place, as can happen in some missions, there is no hope that she will have one for several years, especially if danger of scandal and infamy is added, because the said woman had previously been accustomed to approach confession and communion frequently?

Resp. Negatively, according to the more common opinion of theologians; and the reason is, both because it is unlawful to place diverse exceptions where the legislator explicitly placed only one, namely the case of death, and because that law is not only prohibiting but also invalidating, the nature of which requires that it not cease on account of some particular inconvenience. Besides, the infamy, scandal, and other inconveniences which are supposed are not necessarily nor always verified; nor can the obligation of confessing once in the year, or rather sometime in life, as being of divine law, be urged, since divine law supposes that a suitable confessor is present. - Nevertheless these reasons do not seem altogether convincing; for it is true that Benedict XIV made one exception, but it is also true that he supposed, in enacting that law, that other priests were present or could easily be found, and did not have our case before his eyes. Besides, that law, although invalidating, is nevertheless a human law, and consequently in the extreme necessity of some extraordinary case can admit epikeia. But when it is said that the divine law of confession does not urge because a suitable confessor is not present, a mere begging of the question is made: namely, it is supposed that the accomplice confessor, placed in the aforesaid most grave necessity, has already lost jurisdiction; and this is precisely that about which the question is made. Wherefore the affirmative opinion seems probable. Cf. Baller. note (a) p. 540. - Bucceroni, n. 67. - Lehmkuhl, n. 937.

Question 7. Whether a priest can absolve his accomplice after the latter has already been duly absolved by another confessor?

Resp. A distinction must be made, and it must be denied if the penitent accuses only the sin of complicity, because, since that sin is altogether withdrawn from the jurisdiction of the accomplice-confessor, in no case would there be matter for absolution. Nevertheless others say that he does not lack jurisdiction over this sin already directly remitted, because it is no longer necessary matter of confession, and it seems that judgment must be made about this sin as about reserved sins directly remitted: thus Bucceroni, n. 1296. - D'Annibale, n. 324, note 37. - Genicot, n. 352. But affirmatively one must respond if the penitent confesses other sins extraneous to shameful complicity, because, with that shameful sin destroyed by absolution duly imparted by another confessor, the prohibition now ceases and jurisdiction returns. Cf. St. Alphonsus, n. 555. - Baller. note (a) p. 539. The S. Inquisition on 29 May 1867 resolved the case: "It is free for the confessor to absolve the accomplice person who has already been absolved from the sin of dishonest complicity through another confessor: nevertheless counsel must always be given to the confessor of whom there is question, that, unless necessity compels, he abstain from receiving the sacred confessions of the accomplice person, although already absolved from the sin of complicity." But if, after direct absolution from the sin of complicity accepted from a non-accomplice priest, compelled by some necessity he confesses before his accomplice, practically the penitent "should altogether abstain from any mention, even indirect, of sins of complicity, nor is there need that in a general confession he intend to subject them to the keys." But the confessor "who absolves, insofar as he can, should not intend to absolve from those sins, and there will be no remaining difficulty." Thus the S. Penitentiary, on 29 Feb. 1904, responded to the question: "Whether a priest can absolve his accomplice already absolved by another non-accomplice confessor, and returning to him, if he accuses himself after sins committed since the last confession with these words (as pious penitents are accustomed to do), 'I include besides all the sins of my past life, especially against the angelic virtue,' or whether he is always bound to say 'excepting sins of complicity?'" *Theolog. Prak. Quart.*, v. 58, p. 382.

Question 8. Whether a priest incurs excommunication who indeed hears the confession of an accomplice but does not absolve him, either because he does not pronounce the words of absolution, or because he simulates or dissimulates them?

Resp. Affirmatively, by force of canon 2367.

Question 9. What is to be said about the following double case: 1°. if the penitent, forgetful of the sin of complicity, does not accuse it; 2°. if the sin of complicity is indeed accused, but the penitent and confessor do not mutually recognize each other?

Resp. It seems altogether probable that in neither case is excommunication incurred, because presumption and rash daring, of which Benedict XIV speaks, are lacking. But whether the absolution is valid, namely whether the confessor is deprived or not of jurisdiction in each aforesaid case, is controverted among theologians. The more probable opinion teaches that the absolution is invalid; and the reason is that, from the very words of Benedict XIV, the accomplice, as long as the sin of complicity has not been directly remitted by another priest, is altogether withdrawn from the jurisdiction of the accomplice-confessor. But others deservedly reply that this reason supposes the Benedictine law is to be extended to cases of this sort, which indeed is not established. Cf. *Nouvelle Revue Theologique*, vol. 13, p. 577. - Bucceroni, nn. 70 and 72. - Lehmkuhl, n. 935.

Question 10. What must be said about the case of a confessor 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 acts thus because the confessor induced the penitent to this, either directly or indirectly?

Resp. He incurs excommunication, according to canon 2367, § 2.

Question 11. Whether a confessor doubting whether the penitent is his accomplice can absolve him?

Resp. Affirmatively. The confessor, after carefully weighing the matter and still doubting whether this penitent is his accomplice, can absolve him, because the legislator scarcely seems in this case to urge the law because of infamy and scandal. This is admitted by some if he himself remained altogether unknown to the penitent, because, for example, masked or for another reason, he approached her; the reason is that he is not bound to betray himself. But in no way can he absolve him when the penitent knows the priest with whom he committed the crime, but here and now while he confesses does not recognize him. - Ball.-Palm., n. 650. - Genicot, n. 353.

You Will Resolve.

1°. Benedict XIV forbids that anyone dare to receive the sacramental confession of an accomplice person in a sin against chastity committed against the sixth precept of the Decalogue: "Therefore any authority and jurisdiction for absolving any person whatsoever from a fault of this sort having been taken away from him by the law itself." The Sacred Penitentiary responded in the same way (16 May 1877): "The privation of jurisdiction of absolving an accomplice in a sin against chastity, and the attached excommunication, insofar as the confessor has absolved him, is in order to the very sin against chastity, in which the same confessor was an accomplice." But if the penitent acts in good faith, the absolution of other sins is not to be held invalid; for jurisdiction is removed not from these, but from the sin of complicity. - Bucceroni, n. 1291. - Lehmkuhl, n. 1203, affirms "not improbably" that this was said. - *Nouvelle Revue Theolog.*, v. 13, p. 573; v. 31, p. 151. - D'Annibale, n. 324. ... The same would have to be said if the penitent by inculpable forgetfulness does not confess the sin of complicity but other sins, for the same reason.

2°. If a priest inadvertently absolved his accomplice confessing all his sins before him in good faith, the priest himself certainly does not incur the censure; the absolution of other sins must be said to be valid. - Bucceroni, n. 1293. Bulot, n. 574. This must be admitted, if suppose the penitent does not advert that this is his accomplice, and is absolved by the priest himself not adverting. Indeed some in the case of inadvertence of the priest and good faith of the penitent hold that the absolution is simply valid. For Benedict XIV wished to restrict presumptuous and rash daring: the Supreme Pontiff renders null the absolution of one knowing and willing. "The nullity of absolution," as D'Annibale once said, "burdens the penitent; therefore it is also quasi-punishment of him; if the confessor is exempted from punishment, it is equitable that the penitent also be exempted." - Cf. Pennacchi, *Comment. in Cons. Apos. Sedis*, p. 312. - Ball.-Palm. 650 and others; whether truly, let the wiser judge.

3°. If in the article of death the confessor, any other priest being absent, has begun to hear his accomplice, when another priest arrives he can complete the confession; the power of the judge, duly brought into use at the beginning, does not expire as long as the cause has not been completed. The same must be admitted by equal reason if the confessor in the article of death, necessity urging, began to hear the accomplice and meanwhile the article of death passed.

4°. Two confessors enter into a horrible pact among themselves of absolving their accomplices. Titius absolves Caia, the accomplice of Titus, and Titus absolves Bertha, the accomplice of Titius. Titius and Titus by this pact become accomplices to each other. If the accomplice persons themselves are conscious of this wicked pact, then it seems altogether to be said that the confessor and penitent alike become accomplices: for a mind is added to the penitent, so that he may sin more securely, in the hope of more easily obtaining remission. But if these persons are unaware of this pact, the confessors certainly act sacrilegiously, but they do not absolve their own accomplices; and therefore those confessors absolving each other or the accomplices conscious of the pact incur excommunication, but not if they absolve accomplices unaware of the pact. - Cf. *Diction. de Theol. Cath.*, v. 3, c. 617, Dolhagaray. - Bulot, n. 575.

On Solicitation in Confession

I say 1°. By the common law of the Church all priests soliciting to sin against the sixth precept of the Decalogue with relation to confession are to be denounced to ecclesiastical superiors. This is established from the Bull of Gregory XV, *Universi gregis*, given in the year 1622, which was confirmed through the Constitution of Benedict XIV, *Sacramentum Paenitentiae*. For Gregory XV speaks thus: "We command all Ordinaries of places that they diligently inquire and proceed against all priests, both secular and regular, who, in the act of sacramental confession, whether before, or immediately after, or on the occasion or pretext of confession, even when confession has not followed, or outside the occasion of confession, in the confessional or in any place whatsoever where confessions are heard or chosen for hearing confession, pretending there to hear confessions, have attempted in any way to solicit or provoke persons, whoever they may be, to indecent things among themselves or with others, or have had illicit and indecent conversations or dealings with them; commanding all confessors that they warn their penitents, whom they have known to have been solicited by others as above, concerning the obligation of denouncing those soliciting to the Ordinaries of places."

According to the norm of the apostolic constitutions, and by name of the constitution of Benedict XIV *Sacramentum Paenitentiae*, 1 June 1741, the penitent must denounce the priest guilty of the delict of solicitation in confession within a month to the Ordinary of the place, or to the Sacred Congregation of the Holy Office;[1] and the confessor must, with his conscience gravely burdened, warn the penitent concerning this burden (Can. 904).

I say 2°. Solicited penitents cannot be absolved before they have satisfied the obligation of denouncing, or at least unless they promise that they will shortly satisfy their obligation. This is established from the Constitution *Sacramentum Paenitentiae* of Benedict XIV, § 2, where it is said: "Moreover let confessors carefully beware lest they impart sacramental absolution to penitents whom they have known already to have been solicited by others, unless first, bringing the aforesaid denunciation to effect, they have indicated the delinquent to the competent judge, or at least pledge and promise that they, as soon as they can, will bring him forward." It is also established from the Instruction of the S. U. I. in the Second Plenary Council of Baltimore, Appendix, p. 300, nn. 3 and 5.

I say 3°. Denunciation must be made within a month from the time when its obligation became known. But the penitent who, without sufficient reason, that is, from negligence or fault, does not carry out denunciation at the established time, incurs an excommunication *latae sententiae* reserved to no one; from which consequently, such negligence or fault having been removed, any confessor can

absolve. This is established from Canon 2368, § 2 and the Constitution *Apostolicae Sedis*. - Cf. St. Alphonsus, n. 693. - Varceno, vol. 2, p. 208.

[1] Cf. Addenda, p. 1092, n. 24.

Questions

Question 1. When is solicitation considered to have relation to confession?

Resp. This must be clear from all the circumstances of persons, places, time, from the manner of speaking, etc.; but it certainly has relation if it is done in the following cases:

In the very act of confession: it suffices if the confession has had a beginning. Immediately before or after: "When nothing mediates between solicitation and confession, so that neither the confessor nor the penitent has turned himself to extraneous acts."

Or on the occasion or pretext of confession, even when confession has not followed: occasion is the opportune time of action, and in undertaking and completing an affair it is of the greatest moment; and it is a thing which offers a motive of acting; and in a twofold way confession is called the occasion. Thus it would be on the occasion of confession if the confessor immediately solicited a woman asking to confess at once, and this even if it happened outside the confessional: confession to be made here and now provides the occasion of soliciting.

On the pretext of confession: pretext is that which covers intention by some fact. A confessor invites a woman to confession in order to provoke her to shameful things. According to D'Annibale, v. 3, n. 367, he pretexts who does one thing under the veil of another. The pretext is ordered to soliciting. He abuses the very confession to which he invites her so that he may solicit more freely, although the confession itself does not follow: that is, under the color and appearance of confession he solicits. He pretexts confession in order to deceive and solicit the penitent. D'Annibale and others think that there is not solicitation, of which here there is question, if the penitent himself asks to confess while pretexting, but not wishing, to confess but to solicit, or if each does so from agreement so that others may be deceived.

Outside the occasion of confession: in the confessional, or in another place destined or chosen for confessions, with simulation of hearing confessions there.

Solicitation so severely punished can therefore be outside the occasion of confession; but then simulation of confession is required, or a feigned placing of the act of confessing, or a feigned act of confessing, namely one which, as to external appearance, is so placed as if someone truly confesses. There is a threefold place in which this simulation of confession, if it is placed, is punished by penalties according to the Pontifical Constitutions: the confessional in a church; or a place in the sacristy, suppose, where there is a kneeler with gratings and a seat; or finally any chosen place, for example, a room of the sick. Now therefore, so that the obligation of denunciation may be present in these cases, it is required that both on the part of the penitent and on the part of the priest an external action be placed there, of itself signifying that confession is being made here and now. These three things must be well distinguished: just as the occasion of confession is not the pretext, so neither this nor that is simulation.

In relation to simulation in a place here and now chosen, positive signs are required: suppose, the priest sits, blesses the woman, applies his hand to his face, and other similar things; the penitent

signs herself with the sign of the cross, and her external action, her speech, has the appearance of a true accusation. These are necessary at least in the beginning, namely so that simulated confession may be had. Cf. St. Alphonsus, n. 678. - Baller. note (b) p. 544. - Varceno, vol. 2, pp. 209 and seq.

Question 2. Whether a confessor is to be denounced who in confession asked a woman where she lives, if afterward he solicited her at home?

Resp. Affirmatively, because, although the question made in confession seems indifferent, nevertheless afterward from the circumstances it is known to have been placed for soliciting, and consequently it is verified that confession gave the occasion, namely opportunity, to the solicitation. And the same solution must be given if the confessor solicits the woman as a person whose character or frailty he knew from confession, and suggests this by words or in another way; for then also solicitation is made on the occasion of confession. - Cf. St. Alphonsus, nn. 676 and 678. - Baller. note (b) p. 556.

Question 3. Whether only the solicited person is bound to denunciation?

Resp. Negatively, but all others also are obliged who certainly know it, unless they have known this under the secret of counsel, and this holds even if the crime cannot be juridically proved. This is established from the Decree of the Roman S. I., in St. Alphonsus, and from the common consent of theologians. Cf. St. Alphonsus, nn. 680 and 695. - Varceno, vol. 2, p. 222. - Baller. note (c) p. 546.

Question 4. Whether the penitent is bound to denunciation if he himself consented to the solicitation?

Resp. Affirmatively, as is established from the Constitution *Sacramentum Paenitentiae*, § 2, where it is said that the confessor is to be denounced "even if ... the solicitation between the confessor and penitent was mutual, or the penitent consented to the solicitation." - Nor does it stand in the way that the penitent by natural law is not bound to accuse himself; for ordinarily he can denounce the one soliciting without confessing that he gave consent to the solicitation. - Cf. Instr. S. U. I. in the Second Plenary Council of Baltimore, p. 300, n. 6. - Baller. note (b) p. 548.

Question 5. Whether a confessor is to be denounced who consented to a penitent soliciting him, but himself did not solicit?

Resp. Affirmatively, as is openly gathered from II and IX among the sixteen Decrees of the Holy Office which appeared on 11 Feb. 1661, and afterward were confirmed by Benedict XIV by Apostolic authority. Furthermore, to the question: "whether a confessor consenting to solicitation, but immediately ceasing to speak about that shameful matter, deferring its completion to another time, and not providing absolution to the penitent, incurs the penalties contained in the Bull of Gregory, and is to be denounced?" - it was answered, by Decree II, "that he incurs, and that the confessor is to be denounced, with the probable opinion rejected, which they judged not to be probable." The same thing is openly drawn from Decree IX, where it is said: "that a confessor who consented from fear is to be denounced": therefore *a fortiori* where no excuse whatsoever of inflicted fear is present. - Cf. Baller. note (a) p. 549. - Instr. S. U. I. n. 2.

Question 6. Whether the obligation of denunciation urges if the guilty one has amended, or if the solicitation happened a long time ago?

Resp. Affirmatively, to the first, because the Pontiff does not intend only the amendment of the guilty one, but also his punishment for repairing the damage of the Church and the scandal. Affirmatively also to the second, for the same reasons; for if one who committed the crime a long time ago were not to be denounced, the reason indeed would be that he would be considered already amended; but this reason does not avail, as was just said. Moreover, it would be very difficult to determine what would be a long or brief time. This is also established from the Constitution *Sacramentum Paenitentiae*, § 2, where it is sanctioned that the confessor is to be denounced, "even if a long time has already flowed by after the solicitation itself." Nevertheless that circumstance would have to be manifested to the superior to whom the denunciation is made. - Cf. St. Alphonsus, n. 686. - Baller. note (a) p. 554; and note (a) p. 555.

Question 7. Whether a penitent is excused from making denunciation because of fear lest he incur the indignation and rebuke of the one denounced?

Resp. Negatively, because this annoyance is to be made very little of in a matter of such moment and pertaining to the common good. For it cannot be compared with the innumerable and very great evils arising from the corruption of a priest. But if great harm in life, reputation, or temporal goods is reasonably feared, the penitent seems to be excused as long as the danger lasts; but then the confessor must have recourse to the Ordinary. - Cf. Baller. note (b) p. 555. - Second Plenary Council of Baltimore, Instr. S. U. I., p. 301, n. 7.

Question 8. Whether a confessor soliciting and sinning lightly because of smallness of matter is to be denounced?

Resp. To this same question it was thus answered from Decree III of the S. Inquisition: "Since in venereal matters smallness of matter is not given, and if it were given, in the present matter it would not be given, they judged that he is to be denounced and that the contrary opinion is not probable." - Nevertheless Scavini notes on this place that this must be understood if the act is fully deliberate, and besides if from the circumstances it is certainly conjectured that by that light act the priest truly has the intention of proceeding further. - Cf. Scavini, lib. 3, tract. 10, n. 580. - Varceno, vol. 2, p. 219.

Question 9. Whether faith is easily to be given to women accusing priests of solicitation?

Resp. Negatively, but the circumstances both of things and of persons are carefully to be weighed both by the confessor and by superiors. Not once have women been seen who from envy, hatred, jealousy, or another perverse end have atrociously calumniated entirely innocent clerics. Therefore all circumstances are to be weighed by mature examination, especially when the woman shows herself ready and prompt for obeying the precept of denunciation. But here two things must be noted:

1°. The crime of false accusation concerning solicitation from canon 894 is reserved by reason of itself to the Apostolic See, and indeed with excommunication reserved to the same in a special way from canon 2363.

2°. Superiors, after the truth of the crime has certainly been known, ought to proceed very cautiously, so that they may correct the guilty one according to the gravity of the delict; nor should they punish indiscriminately a fault already long past, or had by chance from frailty, as they would one recent or committed from custom; likewise so that they may at the same time consult the good of Religion, of the priesthood, and of the guilty one himself, forestalling scandals and rumors insofar as can be done.

Question 10. What are the penalties against those soliciting?

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

Question 11. How practically is denunciation to be made?

Resp. In this matter these things are to be observed:

1°. Denunciation is to be made by voice, insofar as can be done, but not only by writing. Therefore the solicited person must present himself before the Ordinary and declare the act of solicitation, without however in any way revealing his own consent, if he gave any.

2°. Denunciation is to be made to the Ordinary of the place in which the penitent is found, even if the soliciting confessor belongs to another diocese. For it belongs to the Ordinary of the place to receive the sworn denunciation and transmit it to the Bishop of the guilty priest.

3°. If denunciation cannot be made by voice, it is to be made by a letter signed with one's own name and surname, or at least through an intermediary. For the obligation of denouncing the one soliciting is not so much of approaching the superior personally as of bringing the delinquent before him, as Benedict XIV speaks in his Bull. But he who is bound to the end is also bound to the means.

4°. Nevertheless the confessor is not bound to take upon himself the burden of transmitting the denunciation to the Ordinary; but he satisfies his office by warning the penitent that at a suitable time he should duly denounce the one soliciting. Nevertheless he can provide his own labor if he has judged this expedient; but the knowledge of the matter must be received outside confession.

5°. If the solicited person can in no way be induced to make denunciation in such a form, namely because he is affected by fear or insuperable shame, let the Bishop be allowed to be warned about that matter; he will be able to delegate someone to receive the denunciation. But the delegated priest must take an oath concerning silence to be observed and concerning the office committed to him faithfully to be fulfilled.

6°. In every case denunciation made through anonymous letters is altogether insufficient and entirely invalid, just as if it had not been made, as the S. Congregation of the Inquisition declared several times.

Note. Consult altogether the Instruction of the S. U. Inquis. in the Second Plenary Council of Baltimore, Appendix X, p. 298, and there you will find many things concerning the practical manner in which denunciations are to be made or received: how the difficulties of penitents affected by shame are to be overcome, and especially under n. 7, how the confessor must conduct himself when the penitent refuses either immediately or altogether to obey. Consult also the Instruction of the Holy Office, 6 Aug. 1897, and the Decree of the same S. Congregation, 15 May 1901.

Question 12. What are the obligations of Regular Superiors in matters pertaining to the Holy Office?

Resp. In matters pertaining to the Holy Office, it in no way belongs to Regular Superiors "to know the causes of their subjects, and by no title or pretext" can they or ought they "unless by express mandate

of the S. Congregation, to inquire about these matters, receive denunciations, interrogate witnesses, examine the accused, institute judgment, render sentence, or in any other way or manner mix themselves in them or lay hands upon them; but those religious men who from their subjects or confreres or even superiors have known the guilty or suspected of crimes of this sort (especially as regards the abuse of Sacramental Confession), are strictly bound, without any communication with any others whatsoever, with no permission sought, and with no fraternal correction or warning first sent ahead, to denounce them without delay to the Holy Office or to the Ordinaries of places." They are bound besides to bring these laws to the certain knowledge of subjects and to urge observance. Holy Office, 15 May 1901.

Chapter II. On the Office of the Minister

The offices by which the Minister of the sacrament of Penance is bound, some must be exercised in the very act of confession and others after the confession has been heard.

§ 1. Let the priest remember in hearing confessions that he sustains alike the person of judge and of physician, and that he has been constituted by God the minister at once of divine justice and mercy, so that he may consult the divine honor and the salvation of souls.

§ 2. Let him altogether beware lest he inquire the name of an accomplice; lest he detain anyone with curious or useless questions, especially concerning the sixth precept of the Decalogue; and especially lest he imprudently question younger persons about those things which they do not know (Can. 888).

§ 1. Pastors and others to whom the care of souls is entrusted by virtue of office are held by a grave obligation of justice to hear, either personally or through another, the confessions of the faithful committed to them, as often as these reasonably ask to be heard.

§ 2. When necessity urges, all confessors are held by an obligation from charity to hear the confessions of the faithful; and in danger of death all priests are so held (Can. 892).

Article I. On the Office of the Minister in the Confession Itself

§ I. On the Offices of the Confessor in General

Four offices must be performed by the confessor in the very act of confession, namely those of father, physician, teacher, and judge. But when the diverse nature of penitents has been considered, the obligations which flow from these four offices can and must be modified; but if you attend to their substance, assuredly they must always be observed. A few things concerning each, but see more in the Second Plenary Council of Baltimore, nn. 279 and following.

I. Concerning the Office of Father

I say. Every confessor, as such, is truly and properly the spiritual father of penitents. The reason is taken from a twofold head; for the confessor not only through the absolution which he imparts truly furnishes or increases spiritual life, namely grace, although instrumentally, but also bears the place of the best parent of all, namely of Christ himself. There is added the very sense of the faithful, who all and everywhere throughout the world call the priest in the sacred tribunal of Penance father. Hence:

1°. The confessor, while he receives confessions, must both have and show great charity toward penitents; for that which is contained above all in the name of father is distinguished and inexhaustible charity. Therefore Leo XII, in the Bull for the great Jubilee of the year 1825, admonished each confessor that, "clothed with the bowels of mercy of Christ Jesus, who did not come to call the just, but sinners, he should know how to deal earnestly, patiently, and meekly with sinners."

2°. The confessor must show this paternal charity at the beginning, in the course, and at the end of confession. At the beginning indeed, insofar as he receives all kindly and promptly without any distinction, whether they are rich and pious, or whether they are poor, uncultivated, and sinners. Besides, if he sees someone unprepared, let him help him and render him prepared; if he notices someone timid because of shame or entangled because of scruples, let him add courage and say that the whole matter can be arranged with easy business. - In the course of confession let him beware lest he exhibit himself as impatient or affected with weariness, nor let him show that he is struck with wonder at the sins which are narrated. Finally, at the end it is necessary that the confessor perform the office of father with more vehement ardor; for on the one hand he must then briefly indeed, but more severely, place before the eyes of the penitent the multitude and gravity of his sins, especially if the penitent does not appear very disposed; and on the other he must use those words, and act with such meekness, that the penitent can take no offense from it, or be less prompt in the future to return to him. - Cf. St. Alphonsus, *Prax. Confess.* ch. 1, § 1.

II. Concerning the Office of Physician

I say. The confessor is a true physician of souls; for just as sinners are often compared in the Scriptures to the sick or even to the dead, indeed are also properly called by these names, so the confessor can not only be compared to a physician, but also is one; for he must rescue the souls of penitents from the various diseases of sin and restore them to divine grace. Hence:

1°. The confessor must know the cause of the disease; for just as a bodily physician must first devote all his diligence and strength to this, that he may investigate the very root of the disease, so also the confessor; otherwise he will supply useless or insufficient, or even harmful, remedies. Therefore good confessors inquire not only about the number and species of sins and about dispositions, but also about habits, occasions, and other circumstances which are connected with the disease, if indeed the disease is present and not only some passing weakness.

2°. He must heal the disease; for it is not enough to know the origin of the disease, but it is necessary besides to place the finger on that part of the wound which flows with the greater corruption, and either by cutting away or by fostering to obtain the cure of it. Therefore the confessor must make due observations, suggest counsels, and declare what is to be done. To the point St. Alphonsus says: "The confessor must not attend to other penitents who surround him. For, as St. Francis Xavier used to say, it is better to hear the confessions of a few rightly made than the disordered confessions of many and without fruit. And it matters little that others wait or depart unconfessed; for the confessor must render an account on the day of judgment only concerning this one who now confesses to him, but not concerning the others." - Cf. St. Alphonsus, *Prax. Confessarii*, nn. 6, 7 and 10.

3°. He must guard against relapse; which certainly the confessor will perform by assigning to the penitent remedies suited to the disease. But remedies are either general or particular. General ones

are reduced to pious prayers, to frequent invocation of the Blessed Virgin Mary, to consideration of the eternal truths, to the evening examination of conscience, and especially to frequency of the sacraments. But particular remedies must necessarily be diverse according to the diversity of penitents and of the circumstances in which they are found; nor will he rightly indicate them unless he uses great prudence. - Cf. St. Alphonsus, *Prax. Confessarii*, n. 15; and *Hom. Ap.*, tract. 21, nn. 5 and 6.

III. Concerning the Office of Teacher

I say. The confessor deserves the office of teacher for himself by a twofold reason, namely insofar as he must teach penitents all those things which pertain to the sacrament to be rightly received here and now, and insofar as he has already acquired for himself competent knowledge before he begins to receive confessions. The reason of the first is because it pertains essentially to the nature of a Minister divinely instituted to procure the valid and licit reception of the sacrament which is here and now to be administered by him. But the reason of the second is taken above all from the Scriptures; for it is said in Malachi ii, 7: "The lips of the priest shall keep knowledge, and they shall seek the law from his mouth"; and Hosea iv, 6: "Because you have rejected knowledge, I will reject you, lest you perform the priesthood for me." It is also established from the natural law itself; for the confessor entering the sacramental tribunal of Penance without being furnished with competent knowledge exposes himself to the evident danger of gravely erring, with grave injury to the sacrament and to the great detriment of souls. Therefore Christ himself says, Matthew xv, 14: "If the blind man furnishes guidance to the blind, both fall into the pit." And St. Alphonsus did not hesitate to utter these words: "I affirm that that confessor is in the state of damnation who exposes himself to receiving confessions without sufficient knowledge." But according to the mind of St. Alphonsus himself, by the name of sufficient knowledge is not understood that by which the confessor can always, immediately, and by himself solve all doubts which occur, but only that by which he can understand and resolve cases commonly occurring, and in more difficult ones knows at least how to doubt. - Cf. St. Alphonsus, n. 627. - Lugo, disp. 21, n. 70.

From the things just said the following conclusions must be deduced:

1°. Every confessor is held to know all those things which pertain to the value, substance, integrity, and effect of the sacrament of Penance, and which are required for its licit administration, both on his own part and on the part of the penitent.

2°. He must also know the common and proper obligations of states, the various species of sins, their circumstances changing the species, the principles of discerning between mortal and venial sins, and what are mortal and venial in the individual precepts, at least according to general principles and the common opinion of theologians; likewise what acts are valid and licit. The reason is clear, because he must know that concerning which he must judge; otherwise he will not be able to render an equitable judgment.

3°. He must know reserved cases and the censures in force, the impediments of marriage, the conditions of contracts, the various causes of restitution, the roots and occasions of sins, the remedies to be applied to them, salutary and suitable satisfactions to be imposed, etc.

4°. Therefore the confessor sins who knows that the aforesaid knowledge is lacking to him, even if he receives confessions from charity alone and obedience. Nor does the approval of the Bishop excuse

him of itself; for this does not give the knowledge due from the nature of the thing, nor does it supply for its defect.

5°. The superior also sins who gives permission to an ignorant confessor to receive confessions, because he consents to and cooperates with his sin; nor can he be excused except on account of necessity: namely, if learned priests are not present and meanwhile the good of souls must be provided for.

6°. The penitent himself also sins who purposely chooses an inept confessor. Yet if someone is in good faith, the confession will be valid; because on the part of the penitent there intervenes an integral declaration of sins and a due disposition of soul; on the part of the confessor there intervenes at least knowledge of sins under the confused aspect of sin, which suffices for the matter of the sacrament.

7°. Experience cannot supply knowledge, but only assist it; but where it is destitute of the aid of knowledge, it will drive a rash confessor into very many errors, and those very grave.

8°. Therefore every confessor is held diligently to devote himself to the study of moral theology; and, as St. Alphonsus says: "He must never interrupt that study; because from so many things so diverse and mutually unlike, which pertain to this knowledge, many things, although read, because they occur more rarely, fall away from the mind with the progress of time; for which reason it is necessary always by frequent study to recall them into the mind." Whence it must be said that they gravely err who regard the knowledge of moral theology as easy and scarcely worthy of any attention, saying repeatedly that almost all cases can be solved by some common sense with knowledge of general principles. - Cf. St. Alphonsus, n. 628; and *Hom. Ap.* n. 100. - Baller. note (a), p. 567.

Questions

Question 1. Whether the confessor, besides those things which are necessary for the sacrament to be rightly received here and now, is also held to teach penitents those things which are necessary for living as Christians?

Resp. Affirmatively, at least speaking generally; and consequently, where he notices that someone is ignorant of the obligations of his state, he must instruct him. The reason is taken from the general principle of charity and from the great opportunity which the confessor alone has of teaching certain obligations. Nevertheless this obligation is not to be extended so far that the confessor is held to instruct penitents concerning all things which they themselves must know and can learn elsewhere, both because this would turn to the grave inconvenience not only of the confessor but also of other penitents, and because other means, perhaps more suitable, are not lacking for dispelling such ignorance. Cf. St. Alphonsus, nn. 607 and following.

"Bishops will take care that priests receiving confessions have fixed and immovable that sacramental absolution is invalid when imparted to one ignorant of things necessary by necessity of means; nor can men be reconciled to God through a sacrament of this sort unless first, the darkness of this ignorance being shaken off, they are led to the acknowledgement of Faith. But confessors will carefully note that the absolution of one who through his own fault does not know things necessary by necessity of precept is to be put off to another time; and only sometimes in this case can the penitent be absolved, in which he recognizes and accuses himself as guilty of this vincible ignorance,

and deeply sorrowing both begs pardon from God and seriously promises the priest that he will devote earnest effort by which, with the aid of divine grace, he may learn also the things necessary by precept." - Cf. Benedict XIV in the Constitution *Etsi minime*. Congregation de Propaganda Fide, 13 April 1807.

Question 2. Whether a penitent laboring under ignorance concerning some obligation must always be warned?

Resp. Affirmatively, if the ignorance seems vincible, that is, if the confessor notices that the penitent doubts in such a way that good faith is already lacking. The reason is because in giving the warning no danger threatens; but otherwise the penitent acting with that doubt is not immune from sin. - But if the ignorance is invincible, the penitent is to be warned if fruit from the warning is hoped for; otherwise, speaking generally, he is not, if it is not hoped for. The reason is because on the one hand this warning would not help, and on the other it would harm him, since, after being warned, he would formally sin in the future. Therefore the penitent is to be warned: 1°. whenever he himself asks concerning the malice of some thing, because, since he doubts about the licitness of the thing, he is no longer situated in invincible ignorance; 2°. whenever the silence of the confessor would confirm him in the purpose of performing an evil thing; 3°. whenever his ignorance concerns the primary principles of natural law, or the proximate conclusions of them, because such ignorance, if it is possible, cannot long be invincible; 4°. whenever, if the warning is omitted, the penitent would remain in a proximate occasion of formally sinning, or his ignorance would bring spiritual harm to the community. - Cf. St. Alphonsus, nn. 610, 614 and 615. - Baller. note (a), (b), and (c), p. 570.

IV. Concerning the Office of Judge

By a twofold different reason the confessor is held to perform the office of judge, namely insofar as he must instruct the cause or interrogate penitents, and insofar as he must render sentence. Hence:

I say 1°. The confessor is held, with ordinary diligence, to interrogate penitents about the species, number, and circumstances changing the species, about the causes of sins, about habit and proximate occasions, as often as he reasonably presumes or prudently doubts that these things are not sufficiently declared. The reason is because the confessor, as Minister of the sacrament, must procure its integrity, and as judge he must acquire for himself the knowledge necessary for rendering an equitable judgment. - I said 1°. with ordinary diligence, because the penitent himself is not held to examine himself with the highest and exquisite diligence, but only ordinary diligence. But the obligation of the confessor cannot be heavier than that of the penitent, since the confessor is not held to examine the penitent except secondarily or in defect of him. - I said 2°. as often as he reasonably presumes, etc., because the obligation of the confessor, as was said just now, is only secondary or conditioned upon the ignorance or malice of the penitent who does not know or does not wish to manifest all things. Cf. St. Alphonsus, n. 607; *Hom. Ap.* n. 103; and *Prax. Confess.* nn. 19 and 20.

But that interrogations may be made more easily and at the same time more prudently, attention must be given to the following practical rules, which Doctors commonly hand down:

Rule I. Interrogation must be moderate; and therefore the confessor must beware lest he be excessive or almost anxious in interrogating; otherwise confession would become very burdensome and odious both to himself and especially to the penitent. Hence let him never ask useless things, nor allow them to be narrated to himself. - Nor should you say that it is no burden for some, especially women,

to pursue long narrations; for it is answered that by those narrations some injury is done to the sacrament, occasion is given to the jests of malevolent men, and time is lost. Therefore the Roman Ritual rightly says: "Let [the confessor] beware lest ... he detain anyone with useless interrogations." Cf. St. Alphonsus, n. 607. - Sporer, 792. - Reuter, *Neoconfessarius*, ch. 3.

Rule II. Interrogation must be discreet; namely, the confessor must interrogate with great prudence, carefully guarding 1°. lest he interrogate about sins which probably were not committed, when the condition and capacity, etc., of the penitent have been considered; 2°. lest he interrogate about those things from which the penitent might learn to sin or suffer scandal, as the Roman Ritual warns, where after the words just reported it is added: "especially by imprudently questioning younger persons of either sex, or others, about that which they do not know, lest they suffer scandal and from it learn to sin"; 3°. nor let him interrogate too curiously or lightly even in those things about which one must interrogate, for example, immodestly about immodest things, etc. In one word, he must strive that in any interrogations there appear only gravity, piety, modesty, and paternal charity, just as the nature and dignity of this office require. Hence:

1°. The confessor must be very cautious in interrogating about the matter of luxury, especially with women, adolescents, and children, who can much more easily suffer scandal. But with married persons, without grave cause, let him never make mention of the conjugal debt; and it will be enough, where the matter demands, to ask a woman whether she has shown due fidelity and obedience to her husband in all things.

2°. The rule admitted by all must be carefully observed: In the matter of luxury it is much better in many things to fall short than in one thing to abound, by reason of the integrity of confession. Therefore in doubt whether in such a case you can or ought to interrogate, the negative part must always be stood by; for it is a lesser evil for the integrity of confession to be lacking than to incur the danger of losing a soul.

Rule III. Interrogation must be opportune, that is, it must be made at the time at which it is fitting; but certain interrogations are ordinarily to be made before confession, but few, lest the penitent be offended, for example: since what time has he not confessed? whether he was absolved? whether he fulfilled the penance? whether he is at peace concerning his past life? This last interrogation must be made only when the penitent has not confessed for a long time, or when a general confession is instituted from a determinate time. - The other questions concerning condition, state, age, etc., will more fittingly be made, when occasion is given, in the course of confession; thus on the one hand every suspicion of curiosity and levity will be avoided, and on the other the penitent will answer more easily, since his confidence in the confessor will have been more increased. - Cf. Berardi, vol. 1, *de Recidivis et Occasionariis*, dissertation 1. - Konings, nn. 1424 and following.

Question. What must the confessor do in doubt concerning the sincerity of the penitent?

Resp. There is a common rule, and as it were an accepted axiom: The penitent is to be believed, whether speaking for himself or against himself. The reason is because the penitent in the sacred tribunal is at once accused and witness, his own accuser and advocate, and besides, in doubt, he is always to be presumed truthful. Wherefore, after opportune interrogations, the confessor must absolve the penitent who denies. - But if the confessor knows certainly that some sin is being

concealed or denied by the penitent, then a distinction must be made and it must be resolved as follows:

1°. If he knows that sin from the confession of another, he must, lest the seal of confession be violated, only interrogate generally, just as otherwise he would have done or ought to have done; but if the penitent, having been questioned, denies, let him reply nothing, but, if he can do this without suspicion, let him merely exhort generally that the conscience be opened with all confidence. But whether the confessor must absolve such a penitent is controverted. - And if indeed it is admitted that it is then certain or evident to him that the penitent is lying and confessing sacrilegiously, you will not be able to absolve him, just as St. Alphonsus teaches, who, after reporting the opinions of others, concludes thus: "Lacroix thinks better, in my judgment, that in that case he should by no means absolve, but only pray something in order to conceal the denial of absolution." - Nevertheless grave authors are not lacking who deny the hypothesis, namely that such evidence or certitude can be had from the confession of others, and especially from the confession of one accomplice; and therefore they teach that in that case the penitent is to be absolved absolutely, or at least under condition. For, they say, in this tribunal the penitent must be believed in his own cause more than others. Other theologians add another reason, for they say that the knowledge which the confessor has from the confession of another must be regarded as nothing.

2°. But if the confessor knows that sin outside confession, of itself he must absolve the penitent who denies, because the penitent speaking for himself and against himself is to be believed; nor of itself can the report of another make greater faith than the declaration of the penitent himself; nor consequently is the confessor held to believe others more than the penitent himself. For if the penitent committed that sin, the confessor must presume that he either has forgotten his sin, or has confessed it to another, or has a just cause for concealing it, or that the reporters rather were deceived. - I said of itself; for if the confessor is altogether certain about the sin committed by the penitent because, for example, he himself saw him stealing, etc., or he knows it from the altogether certain report of others, for example, because the penitent is publicly known as a concubinary, he cannot absolve one denying, provided he is certain that he has not forgotten his sin and has no motive for concealing it; for this rule: The penitent is to be believed, etc., has force indeed in a less certain matter, but not in a matter evidently certain. Cf. St. Alphonsus, n. 631. - Lugo, disp. 22, n. 22. - Baller. note (a), p. 575; and note (a), p. 577.

I say 2°. Absolution must always and altogether be denied to a certainly indisposed penitent; but to him who certainly is disposed, it must of itself be granted from justice and under grave obligation. The reason of the first is because, if the certain indisposition of the penitent is supposed, sacrilege could not be avoided. But the reason of the second is both because in the very act of confession a certain quasi-contract has been entered upon, by virtue of which the penitent rightly confessed and disposed has a right to receive the sacrament; and because the end of the institution of this sacrament demands this; and finally because otherwise the penitent would be obliged either to put off the recovery of grace to another time with danger to eternal salvation, or to approach another confessor without being able besides to trust certainly that he will receive absolution from that new confessor. Therefore a priest denying absolution to a disposed penitent would act unjustly, would pervert the end of the sacrament itself, and would impose an intolerable burden.

Questions

Question 1. Whether it is expedient to use the remedy of deferring absolution for a sufficiently disposed penitent?

Resp. 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 (Can. 886).

Certainly the examples of the Lord and of the saints persuade that it would be better for the confessor to render an account of too much charity than of austerity. "With absolution deferred for these (attrite persons), they remain enemies of God, incapable of every merit and satisfaction; for their works according to St. Thomas, in 4, dist. 15, since they are done without charity, are not satisfactory. Therefore the prudent and benign practice, fortified by so many testimonies, of immediately absolving sinners whether attrite or contrite flourishes in the whole Catholic Church. ... Therefore the manner full of wisdom and charity is to rescue sinful souls most swiftly from the state of sin, according to the practice of the universal Church founded in the Gospel of Christ, so that they may quickly receive the first robe; and not to prolong, but, as far as can be done, to hasten the spirit of penance according to the form which the Council of Trent has most wholesomely prescribed, so that before reconciliation they may resolve, and after it, having been restored to the state of grace more securely and wholesomely, they may strive to make satisfaction." Instruction of the S. C. de Prop. F., 3 Oct. 1736. Collect. n. 321.

Question 2. Whether certitude concerning the disposition of the penitent is required so that he can be absolved?

Resp. Absolute certitude is not required, nor even strict moral certitude, such as is required in other sacraments, for example concerning the wine for the consecration of the Eucharist. The reason is because the sacrament of Penance scarcely admits a judgment of this sort with more certitude. But a prudent judgment or broad moral certitude is required and suffices, which, as St. Alphonsus says, is equivalent to prudent probability. For penitents commonly display only probability of disposition. Therefore the Catechism of the Council of Trent, n. 82, thus teaches: "If, after the confession has been heard, [the priest] shall have judged that neither diligence in enumerating sins nor sorrow in detesting them was altogether lacking to the penitent, he will be able to be absolved." - Cf. St. Alphonsus, n. 461. - Suarez, disp. 32, sect. 2, n. 1.

Question 3. What is the ordinary sign of sufficient disposition in a penitent, so that the confessor can safely absolve?

Resp. Speaking of itself, and unless something peculiar occurs on the part of the penitent which brings upon the confessor a prudent suspicion concerning his indisposition, confession made in the due manner is by itself alone the common and ordinary sign of sufficient disposition. For, as St. Alphonsus well says, "the penitent on the one hand is not to be presumed evil, so that he would wish to approach the sacrament indisposed; and on the other he is well presumed disposed while he confesses his sins, since spontaneous confession itself is a sign of contrition, unless some positive presumption to the contrary stands in the way; for all agree that sorrow is manifested through confession." - Cf. St. Alphonsus, n. 459. - Baller. note (b), p. 589.

Question 4. To whom properly is absolution to be denied?

Resp. Many classes of penitents to whom absolution is to be denied are enumerated by diverse authors; but it can be said more briefly and more generally: it is to be denied to all and only those who at least do not promise that they will satisfy some grave and certain obligation in that manner in which they ought. - Cf. Baller. note (a) and (b), p. 590.

§ II. On the Offices of the Confessor in Particular

The four aforesaid offices of father, physician, teacher, and judge must be exercised by the confessor toward all penitents, although not in the same degree nor in the same manner; but according to the diversity of penitents special difficulties can be present, to be resolved by him, and which consequently introduce special obligations. Here we shall treat especially of the manner of acting of the confessor 1°. toward those who are situated in an occasion of sin; 2°. toward habitual sinners and relapsers; 3°. toward pious and timorous penitents.

I. Concerning Occasionaries

An occasion of sin is generally defined as an external circumstance which, whether from its own nature or from the frailty of the man who is found in it, allures or induces to sinning. Hence it differs from the danger of sinning, under which appellation comes whatever impels to sin, whether it is intrinsic or extrinsic. - Occasion is distinguished manifoldly, namely proximate or remote; voluntary or necessary; present or not present. Therefore:

1°. A proximate occasion is that in which men commonly for the most part sin; but a remote occasion is that in which men commonly for the most part do not sin. But each is called either absolute or of itself, when of itself it thus much or little induces to sinning, so that it is such with respect to men taken commonly; or relative or by accident, when it is such only with respect to someone, his frailty being considered, if it is proximate; his firmness of soul, piety, or prudence being considered, if it is remote.

2°. A voluntary occasion is one which can easily be dismissed; but a necessary occasion is one which physically or morally cannot be removed, or at least one which can be dismissed only with great difficulty, that is, by undergoing notable temporal detriment in life, reputation, or fortune.

3°. A present occasion, or one *in esse*, is one which a person has with himself without actually seeking it, for example, if he keeps a concubine at home or is accustomed to sin with a maidservant; but a non-present occasion, or one not *in esse*, is one which a person indeed does not have in act, but easily finds, as a tavern is relative to a drunkard, a mistress with respect to a lover. - Cf. St. Alphonsus, n. 452.

I say. Absolution must never be denied to a penitent constituted in a remote occasion, even if he is unwilling to leave it; nevertheless it must be denied to one constituted in a proximate occasion if the occasion is at the same time voluntary; but if it is necessary, it cannot be denied, at least by force of that occasion. The reason of the first is both because a remote occasion does not induce a proximate danger of sin, and because otherwise we would have to depart from this world. But the reason of the second is because then the penitent is not sufficiently disposed. Besides, it is established from proposition 61 condemned by Innocent XI, which reads thus: "He can sometimes be absolved who is situated in a proximate occasion which he can and does not wish to omit; indeed, he directly and deliberately seeks it or thrusts himself into it." But the reason of the third is because, on the one

hand, no one is held to the impossible, whether that is physically impossible or only morally impossible; and on the other hand an occasion of sin of itself is not a formal sin. - I said at least by force of that occasion, because the other dispositions must be present, and especially a firm promise of applying remedies by which the danger of sinning formally may be removed. - Cf. St. Alphonsus, n. 455.

You Will Resolve. 1°. He can be absolved who does not wish to undergo notable temporal detriment in order to flee a proximate occasion, if otherwise he is found disposed, because then there would be moral impossibility of avoiding the occasion. But notable detriment is not the same for all, but is diverse according to the diversity of persons, and must be measured by the common estimation of timorous men.

2°. It is not always necessary that the penitent in fact leave a proximate and voluntary occasion before absolution is given, but often a sincere promise suffices. This must be said especially concerning the case in which the penitent gives extraordinary signs of sorrow, or some extrinsic cause is present impelling to the giving of absolution, for example, danger of incurring disgrace in omitting Communion, the desire of gaining an indulgence, etc., etc.

3°. Nevertheless, if the penitent is found in those circumstances which require some effort, for example, in fleeing some companion or not going, in certain circumstances of time, persons, etc., to some house; or if there is question of an occasion *in esse* which can easily and immediately be dismissed, then it will belong to the prudence of the confessor to weigh whether it is expedient that first the penitent conquer the difficulty and in fact leave the occasion, and afterward receive absolution. For that is commonly expedient.

II. Concerning Habitual Sinners and Relapsers

A habitual sinner is called one who, from frequency in a certain kind of sins, has contracted a habit or depraved inclination of committing those same sins. But what frequency is required and suffices for contracting a habit cannot be accurately defined, although it seems certain that a habit is more easily acquired in external sins committed uniformly than through an interrupted frequency of internal sins.

But a relapser, at least in the theological sense, is called that sinner who, having confessed many times, always relapses in the same way. Wherefore a relapser is almost always a habitual sinner, but not conversely. I said in the theological sense, because by force of the word a relapser simply is one who, after some sin once confessed, commits it again. - Cf. St. Alphonsus, n. 459. - Lehmkuhl, nn. 490 and following.

I say 1°. Every habitual sinner can always be absolved, although no amendment has preceded, provided he seriously proposes this and shows sufficient signs of contrition. The reason is because a depraved habit is not properly a sin, but a certain inclination and facility toward committing it, and consequently of itself it ought not to impede absolution from being given; otherwise those who have more vehement passions and a greater proclivity to evil ought not to be absolved, which certainly is absurd.

I say 2°. A relapser who gives no hope of amendment at all cannot be absolved; nor does the simple and bare fact of approaching confession ordinarily found that hope; and consequently it is false to

assert that a relapser can be absolved as often as he approaches the sacrament. The reason of the first is because only he gives no hope of amendment who here and now lacks an efficacious purpose and true contrition. But the reason of the second is because the presumption stands against the relapser who simply and barely performs confession in the very same way in which until now he had been accustomed to perform it; and the confessor, if he wishes to be prudent, cannot abstract from this presumption. Besides, it is established from proposition 60 condemned by Innocent XI, which reads thus: "To a penitent having a habit of sinning against the law of God, of nature, or of the Church, although no hope of amendment appears, absolution is neither to be denied nor deferred, provided he says with his mouth that he is sorry and proposes amendment." I said ordinarily, because cases can be given and truly are given in which the simple and bare petition of absolution after confession, performed with customary humility, can lead the confessor prudently to think that the relapsing penitent does not lack sufficient disposition, and to confer upon him the benefit of absolution, especially if some extrinsic reason for receiving Communion is added. But when this judgment can be made, the prudent confessor must gather from the circumstances.

I say 3°. A relapser who offers some special or extraordinary or new sign of sorrow can be absolved as often as this occurs. The reason is because in that case every prudent suspicion is removed which the preceding falls and confessions performed without any amendment could have induced; and consequently the confessor can prudently judge that the penitent is sufficiently disposed. - I said can be absolved, but not necessarily must be; for the confessor can defer absolution in this case if he judges that delay will be useful to the penitent, although ordinarily it is more expedient that it not be deferred. - Cf. Baller. note (a), pp. 602 and following.

Question. What are those special or extraordinary or new signs?

Resp. The following are commonly enumerated: 1°. if the penitent has applied a greater effort than before toward amending himself, or if he has been notably amended; *a fortiori* if he has already wholly changed his life for the better; 2°. if he confesses with great shame a sin long concealed; 3°. if he has more diligently used the remedies prescribed by the confessor; 4°. if he has undertaken a long journey for rightly performing confession; 5°. if he earnestly seeks to institute a general confession or wishes to repeat the greater part of the sins of his past life; 6°. if he has been induced to confess by an extraordinary motive, namely from having heard a sermon, from the death of some friend, etc.; 7°. if he confesses with great humility and words breathing forth compunction of heart, at least ordinarily; 8°. if he spontaneously asserts that he wishes altogether to avoid sin with every inconvenience, and *a fortiori* if he says that he would rather die than sin; 9°. if he sends forth sighs or groans, or pours out tears, at least ordinarily; 10°. not rarely even spontaneous confession can be had as an extraordinary sign of sorrow, especially in those youths and men who must conquer themselves and human fear in order to approach confession. - But these are brought forward as examples; the general rule can be that everything is to be held as an extraordinary sign which adds something to the common and ordinary sign, namely to confession made in a due or suitable manner, and therefore supplies a sufficient motive for removing the prudent suspicion which in the case is supposed to be had concerning the indisposition of the penitent.

Therefore it must be concluded that the confessor who is led by the Spirit of God and has true charity is scarcely ever obliged to deny absolution, because even from the most hardened relapsers he can

obtain not one, but several of the aforesaid signs by his persuasions and exhortations. - Cf. St. Alphonsus, nn. 460 and following. - Baller. note (a), pp. 613 and following.

III. Concerning Pious Penitents

I say. Although the confessor has been constituted primarily for the good of those who are bound by great bonds of sins, he must nevertheless devote his labor also to those who are pious and wish to be directed in the way of perfection. For to all confessors are to be applied the words which were once spoken to Jeremiah: "Behold, I have constituted you over the nations, that you may root out and destroy, build and plant." But that direction in the way of perfection may be done by a prudent manner, attention must be given to the following practical rules.

Rule I. Before all things let the confessor study to see through the intimate motions and condition of soul of penitents, so that he may be able to accommodate instruction to their capacity and nature; for not all are to be led by the same spirit, nor are all to be governed in one way.

Rule II. Let him lead penitents to perfection by degrees and in order, so that they first strive to attain the first degree of virtue before they contend for the highest; for example, let them first learn to act with a right intention and rightly perform ordinary actions before they think out higher things; let them first learn to bear light things patiently before they seek grave things; let them first learn to suffer with a calm soul before they wish to rejoice concerning adversities.

Rule III. Let him teach all that the perfection of each is situated in this: that they perform ordinary works well, for example, that they pray well, be present at Mass, exercise themselves in labors, take refreshment of the body in the manner in which it is fitting, converse inoffensively with their neighbor, and finally rightly carry out all things to which they are bound from office and state.

Rule IV. Let him opportunely test penitents professing devotion, so that he may notice by what spirit they are led, whether of God or of the world, of love or of fear; and what affection is predominant in them, which must first be mortified. Nevertheless not all are to be tested and treated in the same manner, but caution and discretion are necessary: thus those who are prone to sadness are to be received more benignly, lest they fall into dejection of soul; souls still tender, whom God first conciliates to himself, are to be treated more gently; but if the souls are nobler or stronger, or have extraordinary benefits of God, a certain severity must be joined to sweetness. But let the confessor beware lest the test be open; for otherwise it helps nothing.

Rule V. Let him not impose, indeed, where there is need, let him temper extraordinary penal practices; but let him so instruct souls that they themselves spontaneously request them; nor is their spirit to be believed when they are found eagerly to pursue extraordinary things, unless certain signs are present that they are led by divine impulse. If someone is noticed to be tenacious of his own judgment in doing things, he is to be corrected strongly and at the same time sweetly. - Cf. St. Alphonsus, *Prax. Confess.* nn. 90 and following.

Article II. On the Office of the Minister After Confession

§ I. On the Obligation of Correcting Defects Committed in Confession

I say 1°. An error concerning the value of the sacrament committed with grave fault or grave negligence, supposing grave harm of the penitent from the fact that, for example, he is about to die or

about to undertake a dangerous journey, must be repaired even with grave inconvenience of the confessor. The reason is because the confessor, from office and from the quasi-contract entered upon with the penitent, is held to administer the sacrament rightly to him; therefore, if from his own fault he does not administer it rightly, he is an unjust damager and is held to reparation, even with his own grave inconvenience. But if the error is inculpable or lightly culpable, the confessor is not obligated by reason of harm inflicted or of confession heard, but by reason of the necessity alone of the neighbor, whom indeed each person must assist from charity, but not with his own grave inconvenience. - Cf. St. Alphonsus, n. 619. - Baller. note (a), p. 624.

I say 2°. An error concerning the accidents of the sacrament, for example, concerning the integrity of confession, is not to be repaired outside confession if the confessor in this has conducted himself only negatively, although culpably. The reason is because the confessor is not held to procure the integrity of the sacrament and the utility of the penitent except in confession, as spiritual physician and minister of the sacrament. - But it must be repaired even outside confession if it was committed positively and with grave fault, provided this can be done without scandal and grave inconvenience of the confessor himself; because by natural law each person must remove a cause of violating a precept, even materially, which he positively and voluntarily placed for another, unless an inconvenience is present which of itself would suffice for excusing from the observance itself of the precept. - Cf. St. Alphonsus, n. 620.

You Will Resolve. 1°. If the confessor from malice or vincible ignorance or grave negligence unduly released the penitent from making restitution, he is held to correct the error; but if he does not correct it, or if the penitent, who otherwise would have made restitution, has meanwhile become unable for restitution, the confessor himself is held to restore in his place, because he violated the right of the creditor, namely by impeding the restitution due to him. - Likewise, if from malice or ignorance or grave negligence he obligated the penitent to undue restitution, he is held from justice to retract the error; and if the penitent has already restored, he himself is held to repair the harm of the penitent.

2°. But if inculpably or only from light negligence he unduly obligated the penitent or released him from obligation, he is indeed held from justice to correct the error, yet not with grave inconvenience. The reason is because, on the one hand, each person is held from justice to impede lest by his own action, even inculpable, he bring forth harm to another which he can easily forestall; and, on the other hand, from light fault or only material fault an obligation ordinarily does not arise with grave inconvenience. - Cf. St. Alphonsus, n. 621.

3°. But if in the aforesaid case the confessor neglects to correct the error by admonishing the penitent, when he easily can, he himself is held to making restitution. The reason is because, although he acted without fault, at least grave fault, when he gave the first decision, nevertheless he would sin gravely against justice if, since the matter is grave, he did not correct that first decision when he could easily perform this. Cf. St. Alphonsus, n. 622.

4°. The confessor who did not properly and positively release the penitent, but merely omitted to warn him concerning restitution to be made, is held to correct his error within confession with some inconvenience, if no fault or only light fault intervened; but with greater inconvenience if in the omission he sinned gravely. - But he is not held to restitution, at least according to the more probable opinion, even if by omitting the warning he sinned gravely. The reason is because the confessor could

not even be called a negative cooperator with relation to him to whom restitution is owed; for in order that someone be a negative cooperator, it is required that from justice he be held to impede harm; and the confessor certainly is not held to this, because he enters upon a quasi-contract with penitents alone. - Cf. St. Alphonsus, n. 621.

Question. Whether the confessor can speak outside confession with the penitent concerning a defect committed in confession without the penitent's permission?

Resp. Negatively, according to St. Alphonsus and Cardinal de Lugo, who says that the contrary is repugnant to the common sense of theologians. The reason is because that warning, made after the judgment has already been completed, now cannot be joined with it; therefore it will necessarily be a certain extrajudicial reproach of sin, very burdensome, and by its nature it would tend toward rendering confession odious. Nevertheless, if the confessor has not absolved, either because he forgot to give absolution or because he pronounced it badly, he certainly will be able, even without permission sought, to open his error, saying, for example, that he did not absolve; both because by this reason no reasonable offense of the penitent can be present, and because the preceding judgment, absolution being lacking, could not be completed. - Cf. St. Alphonsus, n. 622. - Lacroix, n. 1776.

§ II. On the Seal to be Preserved After Confession Has Been Heard

§ 1. The sacramental seal is inviolable; therefore let the confessor diligently beware lest by word or sign or in any other way and for any cause whatsoever he betray the sinner in any degree (Can. 889).

I. On the Obligation Itself of the Seal

I say. Hence there is given a most strict obligation of preserving inviolably the secret concerning all those things which have been heard in every and only sacramental confession, and which are referred to the very confession of sins. It is established 1°. from natural law, and indeed both by the title of justice, which demands that a secret committed by implicit pact be closely preserved and that nothing be done toward harming the reputation of the neighbor, and by the title of religion, which absolutely prescribes that nothing can ever be done which would render the sacrament odious. It is established 2°. from positive divine law, at least implicit, for from the institution of Christ confession must be secret. It is established 3°. from ecclesiastical law, as is clear from many places of canon law, especially from the Fourth Lateran Council, c. 21, where it is thus established: "But let [the confessor] altogether beware lest by word or sign or in any other way he betray the sinner in any degree; but if he needs more prudent counsel, let him cautiously seek it without any expression of the person." - Cf. St. Alphonsus, nn. 634 and following. - De Augustinis, part 2, Thesis 21, p. 266.

You Will Resolve. 1°. No exception can ever be imagined by which it would be lawful to reveal anything which is of the nature of sacramental confession; and therefore this secret is called by its own proper name, the seal. The reason is because if any exception could be given, men would always fear lest such a sin fall under that exception, and consequently the sacrament would become odious.

2°. In violation of the seal, at least direct violation, smallness of matter is not admitted, because even the very slightest matter would fall into hatred of the sacrament and consequently includes the whole nature of the precept. - I said at least direct, because if the danger of indirect revelation is very

remote or little probable, smallness of matter can be given; for then someone could be accused of imprudence, but not of violation of the seal. - Cf. St. Alphonsus, n. 635.

3°. In the matter of the seal it is not lawful to use probable opinions, because this also would necessarily render the sacrament odious, which is the whole reason of the seal. - Cf. St. Alphonsus, n. 633. - Baller. note (a), p. 629.

4°. Confession which knowingly is made to a layman or to a priest lacking jurisdiction does not induce the obligation of the seal, but only of natural secret. But it would have to be said otherwise if the priest is believed to be approved, because then the confession is truly sacramental on the part of the penitent, which suffices for the nature of the seal.

5°. If someone approaches a confessor with the intention of deceiving him, mocking him, drawing him into sin, extorting something from him, and consequently does not accuse himself in order to receive the sacrament, there is no obligation of the sacramental seal. Nevertheless it is required that such an intention be altogether known to the confessor, and besides that it not be changed while the accusation of sins is being made.

II. On the Subject of the Seal

I say. Primarily and of itself every confessor is held to the seal, whether true or fictitious and thought legitimate through error, as was just said and is clear of itself.

§ 2. By the obligation of preserving the sacramental seal there are also held the interpreter and all others to whom knowledge of confession shall in any way have come (Can. 889).

For if from the confession itself the matter accused has come to their knowledge, then the cause or occasion of this knowledge is already the same as that on account of which the obligation of the seal is directly imposed; and consequently the same reason for preserving the secret urges. But if from the means, then the hatred of the means would necessarily redound into the end itself. - Hence there are held to the seal 1°. interpreters spontaneously employed in performing confession; 2°. superiors, from whom outside the sacrament the faculty of absolving or of receiving absolution from a reserved case is sought; 3°. those who hear a sin while someone is confessing, whether deliberately or even inculpably, and likewise if some should perhaps hear it from these; 4°. all those to whom the confessor sacrilegiously or imprudently had manifested sins heard in confession. - Cf. St. Alphonsus, nn. 647 and 648.

You Will Resolve. 1°. The confessor is held to the seal in such a way that outside the sacred tribunal he cannot even converse with the penitent himself about his sins without the penitent's permission. I said outside the sacred tribunal, for it would have to be said otherwise if the penitent has not yet departed, even if absolution has already been given; indeed, even if he has departed and immediately returned, because the same judgment morally perseveres. The confessor can also speak in the very confession about past confessions, provided nevertheless that a grave reason is present and it is done discreetly, so that it does not appear that a vivid memory of sins already remitted is being preserved. - Cf. St. Alphonsus, n. 651. - Baller. note (a), p. 631.

2°. He who reads a paper on which the penitent wrote his confession is not of himself held to the seal, because the paper of itself alone is not an actual confession, but only preparation for it. - Therefore knowledge received from reading it, since it is had without any participation in the

sacramental act, does not of itself bring in the obligation of the sacramental seal, but only of natural secret, which of itself urges under grave obligation unless there is question of the very lightest faults. - I said of itself; for by accident the obligation of the seal can be present, namely if the paper actually served for confession or for performing those things which are of confession, for example, if it were directed to a superior on account of some reservation; likewise if it had already been offered or handed over to a priest by a mute person who would use it; but especially if you read it while it is in the hand of the confessor or is employed in the act of confession; indeed even, according to Cardinal de Lugo, if you read it after absolution, left in the confessional, because in these cases it pertains to confession. - Cf. St. Alphonsus, n. 650. - Lugo, disp. 23, n. 48.

3°. A doctor consulted by the penitent himself is not held to the seal if he is consulted concerning a confession to be made to another, because the obligation of the seal arises only from sacramental confession. - Nor should you say that from a revelation of this sort confession becomes odious; for St. Alphonsus answers that hatred then falls upon the consultation alone, but not upon confession. - I said nevertheless if he is consulted concerning a confession to be made to another; for if the penitent consults him concerning a confession to be made to him himself, the obligation of the seal urges, since this consultation must be held as an inchoate confession. - Cf. St. Alphonsus, n. 649. - Suarez, disp. 33, sect. 4.

4°. The penitent is not held by the seal with respect to the confessor, because the obligation of the seal is only in favor of the penitent. But he is held to natural secret concerning those things which he cannot reveal without unjust harm of the confessor, or against his reasonable will, or without injury and contempt of the sacrament. - Cf. St. Alphonsus, n. 647.

III. On the Object of the Seal

I say. The object of the seal is not only all sins confessed, as is clear of itself, but also both whatever pertains to the individual explanation of sins and whatever has been manifested in confession and the revelation of which would fall into burden for the penitent and into hatred of the sacrament. The reason of the first is not only because the explanation of sins constitutes one thing with the sins themselves, but also because, once the explanation has been received, one easily comes to knowledge of the sins themselves. But the reason of the second is because the seal has been introduced lest the faithful be drawn back from the sacrament of Penance by the burden which would come from revelation.

You Will Resolve. 1°. Under the seal of confession fall: 1°. all circumstances of sins, even declared after absolution; 2°. the sins of an accomplice, even if they had been revealed without necessity together with a sin, because they were said from the intrinsic occasion of confession; 3°. penances imposed, unless perhaps they are very light or from those which are usually imposed for the very lightest faults; 4°. defects manifested through confession for explaining the nature of a sin, for example, if the penitent says that he received sacred Orders with an irregularity because he is illegitimate, etc. - Cf. St. Alphonsus, n. 640.

2°. The virtues of the penitent and the other extraordinary gifts of God do not fall under the seal if they are manifested in confession so that the state of the soul may become known to the confessor; but it would have to be said otherwise if they were manifested for explaining some sin, for example, one's own ingratitude toward God. - Cf. St. Alphonsus, n. 641. - Lugo, disp. 23, n. 58.

3°. The scrupulosity of the penitent is certainly an object of the seal: 1°. when it is accused as a moral defect, insofar as the penitent prone to scruples has not striven to correct himself; 2°. when it becomes known to the confessor from the fact that the penitent, deceived by a false or scrupulous judgment, confesses many things as sins which are not such. On the contrary, scrupulosity certainly is not of itself matter of the seal if by this word you understand that the penitent has a delicate conscience, because this would rather fall to his praise, especially if he is a layman and occupied with secular affairs. But it is controverted whether scrupulosity falls under the seal insofar as it is a physical defect known in confession; namely, if you say that the penitent is prolix, produces weariness by his manner of speaking, and similar things. - Cf. St. Alphonsus, n. 641.

4°. Natural defects of the penitent, for example, that he is deaf, stammering, poor, ignorant, lame ... fall under the seal if the confessor knows such defects from the declaration of the penitent, or insofar as they were manifested for declaring sins and their revelation in some way would be burdensome or troublesome to the penitent; because then they both have a connection with confession and their declaration would render the sacrament odious. But it would have to be said otherwise if the confessor knew those defects only incidentally. - Cf. St. Alphonsus, n. 642.

5°. Sins committed in the confession itself, for example, of impatience or insult against the confessor, do not fall under the seal, because they are not accused, as is supposed; but by accident they are for the most part matter of the seal, because they furnish a probable judgment that the confessor either did not wish to absolve the penitent or more severely rebuked him on account of a graver fault, etc. But a theft committed by the penitent to the harm of the confessor himself at the time of confession would not fall under the seal. Indeed, if it were established that the thief had come to confess so that he might have an occasion of stealing, the sins accused by him would not be matter of confession, since such a confession would not be true but only simulated.

6°. The very approach to confessing is not matter of the seal, both because it is some fact public of itself and is recognized externally outside confession, and because of itself it is not something odious, but rather brings praise; and consequently he who says that he heard such a person in confession of himself in no way violates the seal. Note nevertheless that the confessor certainly is held to natural secret if he knows that someone secretly approached to confess; indeed sometimes by accident he can gravely violate the seal, namely by bringing upon others the suspicion of grave sin. - Cf. St. Alphonsus, n. 638.

7°. Almost the same thing must be said about the conferring of absolution, and consequently of itself he who says that he absolved such a person does not break the seal; for of itself such speech cannot be burdensome. Nevertheless, because saying this could in certain circumstances become burdensome to others concerning whom the same thing cannot be said, one must altogether abstain from such manifestation. Therefore parents, teachers, masters, asking about absolution given to children or subjects, are to be referred to the penitents themselves. Nuns occupied with the care of the sick in hospitals are accustomed to make similar questions, so that they may know whether they ought to prepare the things necessary for administering Viaticum; these likewise are to be referred to the sick, or better, permission should be sought from the sick person to warn the Nuns or others. But it will suffice to say to the sick person: I shall warn, etc.

IV. On the Various Modes of Violating the Seal

The seal can be violated in a twofold way: 1°. directly, by expressly revealing something pertaining to the secrets of confession, for example, if it is said: Titius did this, etc.; 2°. indirectly, by saying or doing something from which someone could know or suspect a sin or defect of the penitent known in confession alone, or from which shame, annoyance, disgrace, harm, or any burden whatsoever could arise for the penitent or for others, for example, accomplices. Direct revelation, God's providence so disposing, scarcely ever, or perhaps never, has place; but what certainly must be lamented, indirect revelation is not altogether rare. Hence:

I say. He indirectly violates the secret of confession:

1°. Who, praising one above others whom he has heard, says that he committed only venial sins; because others from this are easily led into suspicion of mortal fault.

2°. Who speaks with others, who know this from elsewhere, about the sin of a penitent known through confession alone, even if the hearers do not notice that it was received from confession.

3°. Who says that he did not absolve such a person, that he sent him back to such a time, or that he has not yet absolved him, or that the confession has not yet been completed.

4°. Who says of Titius, known as a thief, that he confessed his thefts to him with great contrition.

5°. Who rebukes a penitent in a loud voice or in another manner intelligible to those standing around; for this is both grave for the penitent and brings upon others the suspicion that he confessed grave sins; but *a fortiori* if by lifting his voice too much he should repeat the sins of the penitent or interrogate about their circumstances.

6°. Who speaks with another confessor about the sins of some penitent, even if that penitent confessed the same sins to each.

7°. Who, after hearing the confessions of a few, says that he heard such a sin, although he conceals the person; for individuals from that revelation suffer some suspicion against themselves.

8°. Who, narrating the sins of some person which he knew outside confession, adds some circumstance known from confession alone, or who uses knowledge of confession for determining or confirming the matter more.

9°. Who would say that he heard a grave sin in such a monastery, even if he did not name the person; because individual Religious of that convent suffer detriment. *A fortiori* he would violate the seal who would say that in that convent such sins are committed. - But otherwise if he said that he had heard a grave sin of some Religious in general, without naming his Order, because it is neither a revelation of the seal, nor does it redound to the burden of the penitent or of any Order, since among various Orders some less good Religious are not lacking.

10°. Who after confession looks at the penitent with a grim eye, does not speak to him as he was accustomed to do before, and shows by harsher words, gestures, or his whole manner of acting, that he remembers his sins, actually thinks about them, and makes less of him than before.

Nevertheless it must be noted here that often confessors can be excused at least from grave violation, indeed sometimes from any violation whatsoever of the seal, but they cannot be excused from scandal. Therefore, apart from the utility of instruction or of seeking counsel, one must abstain from

those narrations which, however they could be had with impunity if they are recalled to theological principles concerning violation of the seal, nevertheless beget scandal among lay hearers, especially simple ones. - Cf. Synod of the Diocese of Novara III, n. 67.

Questions

Question 1. Whether he breaks the seal who says that such a vice reigns in such a city or village, or that grave crimes are committed there?

Resp. Affirmatively, if the place is sufficiently narrow, for example, if it does not consist of about three thousand men. But otherwise it would have to be answered if the town is ample and public crimes are perpetrated there rather often. - Cf. St. Alphonsus, n. 654.

Question 2. Whether preachers can use knowledge of confession for speaking about those things about which they would not have thought unless they had heard confessions?

Resp. "There are not lacking ... sometimes ministers of this salutary sacrament who, although all things which could in any way betray the person of the penitent are kept silent, do not fear rashly to make speech, either in private conversations or in public sermons to the people (for the edification, as they say, of the hearers), concerning things submitted in sacramental confession to the power of the keys. But since in a matter of so great weight and moment it is necessary most studiously to avoid not only a perfect and consummated injury, but even every appearance and suspicion of injury, it is clear to all how much a custom of this sort is to be reproved. For although this may be done with the sacramental secret substantially saved, nevertheless it certainly cannot avoid offending the pious ears of the hearers and exciting distrust in their minds. And this indeed is altogether foreign to the nature of this sacrament, by which the most merciful God, most mercifully, by the pardon of his own goodness, entirely wipes away and altogether forgets the sins which we have committed through the frailty of human conversation." Thus the Sacred Congregation of the Holy Office, 9 June 1915.

Question 3. Whether a priest who knows from confession that snares are being prepared for him can flee or in another way forestall harm?

Resp. Affirmatively, if from such caution the sin accused is in no way manifested to others, nor any burden brought upon the penitent. - But it must be answered negatively if he cannot flee without in some way manifesting that some sin was accused by the penitent. The reason is because that flight would be an indirect revelation of the sin confessed; and although the confessor might feign flight from some pretext, nevertheless he would always furnish a reasonable suspicion of a sin declared. Yet Cardinal de Lugo here warns that experience shows that revelation, even indirect, is never necessary for escaping those dangers, since either from the permission of the penitent or by other modes these can be met without breaking the seal. - Cf. St. Alphonsus, n. 659. - Lugo, disp. 23, nn. 108 and following.

Question 4. Whether superiors can use knowledge of confession for external governance, if in no way it appears that they direct themselves from that knowledge?

Resp. § 1. The use of knowledge acquired from confession with burden to the penitent is altogether prohibited to the confessor, even every danger of revelation being excluded.

§ 2. Both Superiors existing for the time being and confessors who afterward have been appointed Superiors can in no way use knowledge which they have had concerning sins in confession for external governance (Can. 890).

Question 5. Whether at least sometimes, and when, the confessor can use knowledge of confession?

Resp. According to all theologians he can do this in the following cases: 1°. for praying for the penitent, or for acting more benignly toward him; 2°. for consulting books or wise men, yet prudently, the danger of revelation being excluded; 3°. for directing himself through experience acquired from confessions, for example, for tempering rigor and for directing himself from the confession of one person toward prudently interrogating or instructing others, giving no suspicion of the prior confession; 4°. for reforming his own morals, for correcting his own defects, or for better performing his office, for example, for putting off sluggishness, because each person is held to correct his own defects as soon as he notices them; nor can any penitent reasonably be offended because the confessor, on account of things heard in confession, changes his life for the better. - Cf. St. Alphonsus, n. 657.

Place of Confession — Question.

What is the proper place of confession?

Resp. The proper place of sacramental confession is a church or a public or semi-public oratory (Can. 908).

§ 1. The confessional seat for hearing the confessions of women is always to be placed in an open and conspicuous place, and generally in a church or public or semi-public oratory destined for women (Can. 909).

§ 1. Confessions of women are not to be heard outside the confessional seat, except from cause of infirmity or of some other true necessity, and with precautions employed which the Ordinary of the place has judged opportune.

§ 2. It is lawful to receive the confessions of men even in private houses (Can. 910).

Treatise XVI. On Extreme Unction

Chapter I. On the Nature and Effects of Extreme Unction

I. Extreme Unction is a sacrament of the New Law instituted by Christ the Lord for conferring the salvation of the soul, or even of the body, where it is expedient for the salvation of the soul, upon the sick person in danger of life, through the unction of blessed oil and the prayer of the priest.

II. Extreme Unction is a true sacrament of the New Law, as is established from the definition of the Council of Trent, sess. 14, can. 1, on Extreme Unction, where it is thus said: "If anyone shall have said that Extreme Unction is not truly and properly a sacrament instituted by Christ our Lord and promulgated by blessed James the Apostle, but only a rite received from the Fathers, or a human fiction, let him be anathema." - Cf. De Augustinis, Thesis 1, p. 354.

III. The effects of the sacrament of Extreme Unction are: 1°. sanctifying grace with the actual graces proper to the sacrament, which wondrously help toward recreating the sick person and strengthening him against the temptations of the devil; 2°. remission of all sins, both venial and also mortal, and indeed not by accident, but of itself, namely by force of its secondary institution, if the sick person has inculpably remained in the state of sin, provided he has elicited true attrition; 3°. the wiping away of the remains of sin, which are not only the penalties owed to sins but also anxieties of soul, weaknesses, languor toward good, dullness, fear, and other similar things which are contracted from sins; 4°. restoration sometimes of the health of the body, if it is expedient for the salvation of the soul; and consequently they err basely who do not receive this sacrament except when the disease has so prevailed that now they cannot be healed without a miracle. Therefore it can be said that this sacrament is, as it were, the complement of penance, and is referred to it in almost the same way as Confirmation is referred to Baptism. - Cf. Lehmkuhl, nn. 565 and 568.

The sacrament of Extreme Unction must be conferred through sacred unctions, with oil of olives duly blessed being employed, and through the words prescribed in the ritual books approved by the Church (Can. 937).

Chapter II. On the Matter of Extreme Unction

I say 1°. The remote matter of Extreme Unction is oil blessed by a Bishop; but it must be blessed, although not for validity, by the diocesan Bishop or, the see being vacant, by another neighboring Bishop, on the Lord's Supper, just as Chrism is, and it must be renewed each year. The first is established from the Council of Trent, sess. 14, on Extreme Unction, ch. 1, where it is thus said: "The Church has understood the matter [of this sacrament] to be oil blessed by a Bishop; for unction most aptly represents the grace of the Holy Spirit, by which the soul of the sick person is invisibly anointed." But the other is established both from the positive precept of Clement VII and from the perpetual practice of the Church and from the Roman Ritual, where it is said: Sacred oil is to be renewed each year on the Lord's Supper, the old having been burned.

I say 2°. The proximate matter is the unction of the sick person; outside the case of necessity the individual senses must be anointed; "but in a case of necessity a single unction suffices in one sense, or more rightly on the forehead, with the prescribed shorter form, with the obligation preserved of supplying the individual unctions when the danger ceases" (Can. 947, § 1). The reason of the first is drawn from Sacred Scripture: *anointing him with oil in the name of the Lord*. St. James v, 14; from the Council of Trent, sess. 14, on Extreme Unction, ch. 9, as in the preceding paragraph. The reason of the second is drawn from the Constitution *Exsultate Deo* of Eugene IV and from the Roman Ritual, tit. V, ch. 1: "But the five parts of the body chiefly must be anointed, which nature has given to man as the instruments of the senses, etc." The reason of the third is because then the man is truly anointed according to the Apostle and the sacrament is received.

By this canon the question concerning the sufficiency of one unction with the prescribed shorter formula has been decided. - Cf. Response of the S. C. of the Holy Office, 25 April 1906; 9 March 1917. For when the doubt had been proposed: "Whether, when the Sacrament of Extreme Unction has been administered in a case of necessity with one Unction employed on the forehead, through the words: Through this holy Unction may the Lord pardon you whatever you have committed. Amen, when the danger ceases, the individual Unctions, according to the tenor of the Decree of the day 31 January 1907, are to be supplied, to be employed under condition or not? Resp. Negatively to the first part: Affirmatively to the second. 9 March 1917."

The reason of the fourth is drawn from the response just brought forward and from the present canon 947, § 1; whence it is established that in every conferral of Extreme Unction there is an obligation of performing the individual unctions: all without the shorter method in ordinary cases, as is established from the second; all in extraordinary cases after the shorter method has been employed and the danger removed. Therefore the individual unctions must be supplied; now then, these Unctions are the very proximate matter of the sacrament ordinarily employed; they are truly sacramental actions; they are not something sacramental, for not even a word is had in the response of the Holy Office about the use of a sacramental, nor about a changed nature of the action which is the very matter of the sacrament. Therefore this supplying of the individual unctions, once the danger is removed, is a truly sacramental action more expressly signifying the grace of the sacrament; and this supplying is to be held either as a simple continuation, completion of the prior unction with which it forms one moral thing, which is according to the nature of this sacrament; or it is to be held

as a new sacrament. Nor does it matter that the sacrament of Extreme Unction cannot be repeated in the same danger, for the law concerning not repeating Extreme Unction comprehends the ordinary case, but not, as it seems, the case in which, on account of urgent danger, the individual unctions could not be given. Thus, saving better judgment.

Questions

Question 1. Whether the unction of the five senses is of the necessity of the sacrament?

Resp. Negatively, as is clear from Can. 947, § 1. Although this is true, outside the case of instant death such unction is necessary by necessity of precept, and indeed grave necessity; truly the Church names seven unctions. The Roman Ritual, according to the prescriptions of the Council of Florence, orders that the unctions be made on the eyes, ears, nostrils, mouth, hands, and feet.

Question 2. Whether the unction on the feet and loins is also, practically speaking, necessarily to be made?

Resp. § 2. The unction of the loins is always to be omitted.

§ 3. The unction of the feet can be omitted for any reasonable cause (Can. 947).

Question 3. Where and how must the other unctions be made?

Resp. § 1. The unctions are to be accurately performed with the words, order, and manner prescribed in the ritual books ...

§ 4. Outside the case of grave necessity, the unctions are to be made by the very hand of the minister and with no instrument employed (Can. 947).

They must be made: 1°. on the eyes or on the eyelids, the eyes being closed; 2°. on the ears, namely on the lower part and not inwardly; 3°. on the nostrils; 4°. on the mouth, the lips being pressed together, or, if this cannot be done because of the necessity of breathing, on the lower lip; 5°. on the hands, above for priests, below for laymen. - But these unctions must be made in the manner of a cross with the right thumb of the priest, who must pronounce the form at the same time. - Note nevertheless: 1°. that a doubled unction in paired organs is not required by necessity of the sacrament, because in one part the whole sense is had; 2°. that the aforesaid order among the different senses is not essential but only rubrical; but *a fortiori* it is not essential to begin from the right organ rather than from the left; 3°. that in a case of necessity, for example, in time of plague, the different unctions can be made by means of a brush, because in this sacrament no imposition of hands is required as in Confirmation, although, with physicians testifying, no danger is incurred if they are made with the finger; 4°. that one single drop of oil of itself suffices for making all the unctions, because oil is easily diffused; but in practice the extreme part of the thumb must be dipped before the individual unctions; 5°. that those who are deprived of some sense are to be anointed either on the organ itself, if it is present, or on the nearer part, because thus the practice of the Church bears and it is established by the Roman Ritual. - Cf. St. Alphonsus, n. 710. - O'Kane, nn. 894 and 928 and following. - Cappellman, *Pastoral Medicine*, p. 165.[1]

[1] Cf. Addenda, p. 1142, n. 109.

Question 4. Whether the precept of renewing the oil obliges under grave obligation?

Resp. Affirmatively, as it seems, because the matter appears sufficiently grave; but if new blessed oil cannot be had, it is lawful to use the old. Note besides that if within the year the blessed oil is going to fail, and no other can be had, another oil not blessed can be poured into the remaining oil, yet in lesser quantity. And this can be done rather often if necessity so requires on account of the abundance of the sick, although little by little a quantity is added far greater even than that which was consecrated by the Bishop at the beginning, provided nevertheless that in each mixture it is less than the other part into which it is poured. - Cf. St. Alphonsus, n. 708.

Question 5. Whether oil from olives is required by necessity of the sacrament?

Resp. Affirmatively, both because properly under the name of oil, by ecclesiastical use and sense, only oil of olives is understood, and because thus it is expressly had in the Decree of Eugene IV for the Armenians, where it is read: "The matter of which [Extreme Unction] is oil of olive." It is clear also from the whole tradition and the unanimous consent of Doctors. Cf. St. Alphonsus, n. 708.

Question 6. Whether this oil must necessarily have been blessed by a Bishop?

Resp. The oil of olives to be employed in the sacrament of extreme unction must have been blessed for this by a Bishop, or by a presbyter who has obtained the faculty of blessing it from the Apostolic See (Can. 945).

But if you ask whether it must be blessed in order to Extreme Unction, it is answered that there is not one opinion of theologians, and that the one which denies seems probable; because in the cited Declarations and other documents it is said only that episcopal blessing is required. But in practice the safer view must altogether be held, except in a case of necessity, in which this sacrament is to be administered under condition with another blessed oil, and afterward, if oil of the sick can be had, it is to be repeated. - Cf. St. Alphonsus, n. 709. - De Augustinis, Thesis 2, p. 369. - O'Kane, nn. 852 and following.

I said with another blessed oil; for a threefold holy oil is distinguished, which in the same ceremony on Thursday in the Lord's Supper is blessed by the Bishop, namely the oil of the sick, the oil of catechumens, and holy Chrism. The oil of the sick serves only for anointing the sick in danger of death and for the consecration of bells for the external unction; for Chrism is employed for the internal. The oil of catechumens is deputed for catechumens to be anointed on the breast and between the shoulders before Baptism, for consecrating the hands of new priests, and also for some other consecrations, for example, for the consecration of kings, etc. But Chrism, or oil mixed with balsam and blessed by the Bishop, is employed in the sacrament of Confirmation, in the ceremonies of Baptism after the ablution has been made, and for various consecrations, for example, of chalice, paten, altar, bell inwardly, etc. - Cf. the Roman Pontifical, where it treats of the ceremonies of Thursday in the Lord's Supper.

Question 7. Whether in a case of necessity it is lawful to employ oil blessed not by a Bishop but by a priest not having delegation of the Pope?

Resp. Negatively, as is established from the response of the Holy Office, 15 May 1899. "Oil blessed by a presbyter is matter altogether inept for confecting the Sacrament of Extreme Unction: and not even in extreme necessity can it be validly employed."

Chapter III. On the Form of Extreme Unction

I say. The form of Extreme Unction is contained in these words: "Through this holy unction and his most gracious mercy, may the Lord pardon you whatever you have committed through sight (while the eyes are anointed, and so concerning the others). Amen." It is established from the Council of Trent, sess. 14, ch. 1, on Extreme Unction, and from the Roman Ritual. - Note nevertheless that this form must be repeated integrally at the individual unctions; but when the organs are paired, it must be said only once.

Questions

Question 1. Whether for the validity of the sacrament the expression of each sense is required, through sight, through hearing, etc.?

Resp. Negatively, such expression, whether made generally or specifically, is not required: it is lacking in the Greek form, and in the form truly sufficient for the case of necessity approved according to the Holy Office. - Cf. Pesch, loc. cit.

Question 2. What is the sufficient form in the administration of the sacrament in a case of necessity?

Resp. "Through this holy unction may the Lord pardon you whatever you have committed. Amen." Thus the Holy Office, 25 April 1906. The words altogether essential are: "Through this unction may the Lord pardon you whatever you have committed."

Question 3. Whether for validity one form suffices for all the senses, if the individual senses are distinctly expressed and anointed?

Resp. Affirmatively, for integral matter and form are had. Indeed it must be answered affirmatively if the brief form is employed once while the individual senses are anointed.

Chapter IV. On the Minister of Extreme Unction

I say 1°. § 1. Every and only priest validly administers this sacrament (Can. 938).

It is established from the Council of Trent, sess. 14, on Extreme Unction, can. 4: "If anyone shall have said that the presbyters of the Church, whom blessed James exhorts to be brought in for anointing the sick person, are not priests ordained by a Bishop, but elders by age in any community, and for this reason that the proper minister of Extreme Unction is not the priest alone, let him be anathema."

I say 2°. § 2. With the prescription of can. 397, n. 3, 514, §§ 1-3, preserved, the ordinary minister is the pastor of the place in which the sick person dwells; but in a case of necessity, or with at least reasonably presumed permission of the same pastor or of the Ordinary of the place, any other priest can minister this sacrament (Can. 938).

Questions

Question 1. Whether any priest can minister this sacrament from the probably presumed consent of the Pastor?

Resp. Affirmatively, as is clear from Canon 938, § 2.

Question 2. Whether, or what kind, is the obligation of ministering Extreme Unction?

Resp. The ordinary minister is held from justice to administer this sacrament personally himself or through another; and in a case of necessity any priest is held from charity (Can. 939), to those dangerously sick.

I said to those dangerously sick, because the last article of death is not to be awaited. Thus canon 944 says: ... with all zeal and diligence care must be taken that the sick, while they are fully masters of themselves, receive it. Indeed theologians commonly teach that Pastors sin gravely who defer it until the sick person is deprived of the use of the senses and reason, because thus the sick person lacks the richer fruit which he would have perceived if he had received this sacrament while master of reason; besides, because he is deprived of spiritual strengths for resisting the demon and for bearing the inconveniences of disease; finally, because by virtue of this sacrament he could have obtained health of body if it had been conferred upon him at a fitting time. - Cf. St. Alphonsus, n. 729.

Question 3. Whether, and what kind of sin it is: 1°. to omit the prayers prescribed in the Ritual; 2°. to minister without sacred vestments; 3°. without light; 4°. to omit the sign of the cross in making the unctions; 5°. to employ no assisting minister?

Resp. To the first and second, that it is mortal, provided there is not question of a case of necessity; and the reason is because the matter is grave. - To the third and fourth, that it is only venial, and, when some cause intervenes, that there is no sin. - To the fifth, that probably there is no sin even outside a case of necessity. Yet certainly a woman is never to be employed for the office of minister; and if a cleric or layman cannot easily be found, let the priest alone perform all the ceremonies and himself respond to the prayers. - Cf. St. Alphonsus, nn. 824 and following.

Chapter V. On the Subject of Extreme Unction

I say. § 1. Extreme unction cannot be furnished except to a faithful person who, after having attained the use of reason, is situated in danger of death on account of infirmity or old age (Can. 940).

It is established 1°. from the words of St. James: "Is anyone sick among you? Let him bring in the presbyters of the Church," etc.; but the word *is sick* in Greek signifies a dangerous disease; 2°. from the definition of the Church, for thus in the Decree of union: "This sacrament ought not to be given except to a sick person concerning whose death there is fear"; 3°. from the Council of Trent, sess. 14, ch. 3. - Hence infants are not capable of this sacrament, nor the perpetually insane, because they have committed no actual sins.

But children, if they are masters of reason and are judged capable of deceit and fault, can and must be anointed, even if they have not yet received first communion and have not even once approached to perform confession.

"Altogether detestable is the abuse of not ministering Extreme Unction to children after the use of reason," says Pius X in the Decree *Quam singulari*. - Cf. Can. just cited 940, § 1.[1]

[1] Cf. Addenda, p. 1142, n. 111, n. 112.

Questions

Question 1. Whether Extreme Unction can be given to adult neoconverts immediately after Baptism absolutely and rightly received, if nevertheless true danger of death is present?

Resp. Affirmatively, and the reason is because the chief end of this sacrament is to strengthen the sick against the temptations of the devil, and to wipe away the remains of sins. But an adult recently baptized, otherwise than an infant, can suffer temptations and perhaps is subject to many remains of sins. - Cf. St. Alphonsus, n. 721. - Lehmkuhl, n. 576.

For thus the S. C. de Propaganda Fide says: The sacrament of Extreme Unction can be conferred upon adult pagans already baptized, sufficiently instructed and fully disposed, who are oppressed by grave infirmity (26 September 1821). To this should be added the response of the Holy Office: The Sacrament of Extreme Unction is not to be conferred upon a dying neophyte whom the missionary believed capable of Baptism, unless at least the same has some intention of receiving Sacred Unction ordered for the benefit of the soul for the time of death. 10 May 1703.

Question 2. Whether this sacrament can be conferred validly and licitly upon a sick person in doubtful or probable danger of death?

Resp. Affirmatively, with the common and true opinion; thus in the Roman Ritual, edition of the year 1913: "This sacrament must be furnished to the sick who labor so gravely that danger of death seems to be imminent." Note besides that the word imminent does not signify that death is now-now going to follow, but only that the sick person labors under a lethal disease. Therefore a sick person can be validly and licitly anointed who lies seized by hectic fever (consumption), although he is foreseen to live still for several months or even for an entire year. - Cf. St. Alphonsus, n. 714. - Konings, n. 1508, question 2, with note (29). Canon 941 is to be noted:

When it is doubted whether the sick person has attained the use of reason, whether he is actually situated in danger of death, or whether he is dead, this sacrament is to be ministered under condition (Can. 941). Let the illustrious Kern, *De Extrema Unctione*, pp. 296 and following, be compared.

Question 3. Whether this sacrament can be conferred upon those who are about to enter battle or a dangerous navigation, or upon the guilty who are immediately to be affected with the ultimate punishment?

Resp. Negatively, because these are not properly sick. Yet the case of a soldier already gravely wounded and still wishing to fight would have to be excepted, or of a guilty person who, after the sentence of death has been heard, would be seized by fever. - Women also who suffer extraordinary and dangerous labors in childbirth can be anointed. Likewise those who are altogether failing from old age, even if they were held by no other disease. - Cf. O'Kane, nn. 868 and 859.

Question 4. Whether, or when, this sacrament can be repeated?

Resp. § 2. In the same infirmity this sacrament cannot be repeated unless the sick person, after receiving unction, has recovered and fallen into another danger of life (Can. 940).

It can also be repeated in the same infirmity if it has been long-lasting, and the sick person has notably recovered, so that he seemed to have been rescued from the danger of death, and again has fallen into the same. The reason is because then there is truly a new danger of death. Let the Roman Ritual, edition of the year 1913, be consulted. "In the same infirmity this sacrament ought not to be repeated, unless it is long-lasting, as if, when the sick person has recovered, he again falls into danger of death." Indeed in the same long-lasting disease, if it is doubted whether the state of the disease has truly been changed, if namely a probable reason is present for judging that the sick person has gone out of the danger of death, this sacrament can more probably be repeated. - Cf. St. Alphonsus, n. 715. - O'Kane, nn. 878 and following.

Question 5. Whether there is a grave obligation of receiving this sacrament?

Resp. Negatively, probably; for neither from tradition nor from the Decrees of Councils is there established a precept of receiving this sacrament. But what St. James says, *let him bring in the presbyters* ..., can be received and explained as counsel. Nevertheless, as is asserted in the Code: although this sacrament of itself is not of necessity of means for salvation, nevertheless it is lawful for no one to neglect it (Can. 944). Truly by accident it can be the sole means, if someone in extremis is situated in the state of mortal sin, and cannot confess nor receive communion, and meanwhile is deprived of the senses. Besides, it is not lawful to neglect it; hence the negligent person sins. Certainly of itself he would not sin gravely "who therefore did not seek this sacrament because it was not a precept, or, as the Wurzburgers say, v. 10, p. 286: because from elsewhere he feels difficulty and repugnance. Therefore for grave contempt it is required that one esteem the sacrament and its fruit as little ... But if someone rejects this sacrament which he can easily receive, such contempt is deservedly presumed in him." - Cf. St. Alphonsus, n. 733. - Lehmkuhl, n. 578.

Question 6. What must the priest do if he approaches the sick person and finds him just now dead, as is commonly said?

Resp. The priest can and, as it seems to us, must absolve him and endow him with Extreme Unction, under condition. For as long as probable hope is present that life still remains and it is not certain

that death has truly entered, so long the sacraments which such a person perhaps needs can and must at least conditionally be conferred; but these are Penance and Extreme Unction. Now then, from the opinion of very many most learned physicians, it is probable that men in almost all cases, after the instant of death, as is commonly said, or after the last respiration, live internally for some time, for a shorter or longer time, according to the nature of the cause which induced death. In cases of death from diseases of slow progress it is probable that internal life endures for some moments, about six, or, according to some experts, one half hour; but in cases of sudden death internal life endures longer, perhaps not improbably, up to putrefaction. And therefore if the priest arrives morally at the same time at which death, whether from ordinary disease or from some sudden accident, is commonly thought to have entered, the priest can and, as it seems to us, must confer the aforesaid two sacraments conditionally. And we judge that the same must be held if in cases of sickness the priest has arrived before half an hour, and in cases of sudden accident before an hour, from the entrance of apparent death. But if nevertheless, in a case of sudden death, he has arrived one or another hour after the last respiration, but before corruption, he can administer the sacraments; but whether he must, I leave to wiser men to decide. It is to be noted: 1°. that those who are deprived of the senses and have not previously sought the sacraments are more securely assisted by Extreme Unction than by Penance; 2°. that the reverence owed to the sacraments is saved by the condition being added; 3°. that scandal of the faithful is forestalled by opportune instruction. - Cf. Gury-Ferreres, nn. 693bis-693ter; *Casus*, nn. 1192 and following. Alberti, *Theol. Pastoralis*, part 1, n. 18, VI. - Antonelli, *Medicina Pastoralis*, vol. 2, p. 260 and following. - Villada, *Casus*, vol. 3, p. 244. - Capellmann, *Medicina Pastoralis*, p. 178. - Lehmkuhl, *Linzer Quartalschrift*, vol. 57, p. 600. - *Amer. Eccl. Review*, vol. 33, p. 168 and following; 273 and following.

Question 7. Whether this sacrament can be given to those who are deprived of the senses in the act of sin?

Resp. A twofold opinion is given: the negative rests upon the words of the Ritual itself: This sacrament is not to be conferred upon those who, impenitent, contumaciously persevere in manifest mortal sin, tit. V, ch. 1, n. 10. The other opinion affirms that it can be given to them under condition according to the principle: "Concerning any faithful person about whom the contrary is not established, it must be presumed that he would have sought this sacrament if he had been able." - Benedict XIV, *de Syn. Dioec.*, l. 8, ch. 6, n. 5. - Lehmkuhl, v. 2, n. 274. - Piat, *Nouv. Rev. Theol.* v. 31, p. 481. Indeed such dying persons in the very state of destitution of the senses can often be changed, by the help of grace, and elicit an act of sorrow; and truly more securely provision will be made for them through unction than through conditional absolution. - Cf. *Dict. de Theol. Cath.* v. 5, col. 2019.

Question 8. Whether this sacrament can be given to those who refused to receive it and then have been deprived of the senses?

Resp. The matter is involved: in some cases refusal does not come from an evil will of rejecting the sacrament, but rather from some fear or judgment that they are not so sick. In these circumstances it does not seem to be denied to them. Indeed is there not hope in almost every case, at least of those who remained Catholics, of some changed will by force of grace in unconsciousness, by which, if they had been able, they would have sought it? Therefore I certainly would not condemn a priest who, under condition and with precautions employed lest scandal arise, would anoint these. - Piat, *Nouv. Rev. Theol.* v. 31, p. 482. - Genicot, n. 423. - Ball.-Palm. n. 32.

Question 9. To which adults is this sacrament to be denied?

Resp. This sacrament is not to be conferred upon those who, impenitent, contumaciously persevere in manifest mortal sin; but if this has been doubtful, let it be conferred under condition (Can. 942).

Question 10. How is the sacrament to be furnished to the sick who, when they were masters of their mind, sought it at least implicitly, or probably would have sought it, even if afterward they have lost the senses or the use of reason?

Resp. Let it be furnished absolutely: thus can. 943.

Question 11. How must the oil of the sick be kept?

Resp. Let the pastor diligently keep the oil of the sick in a neat and decently adorned place, in a silver or tin vessel; nor let him retain it at home except according to the norm of can. 735 (Can. 946).

Note 1°. - Concerning visitation of the sick, the following statute of the Baltimore Fathers must be kept before one's eyes: "According to the prescriptions and mind of the Roman Ritual, let the Pastor of souls be diligent in visiting the sick and agonizing even after they have received the last sacraments; and let him exhort, console, and help them; and, after a new act of confession and contrition has been elicited from them, if they can, let him again and again give new absolution." - Cf. Second Plenary Council of Baltimore, n. 116.

Note 2°. - Priests indeed are always held to carry prudence before them, but never so gravely as in visiting the sick, both with relation to the sick themselves and with relation to their blood relatives or friends and neighbors who perhaps have gathered at the home of the sick person. Cf. Konings, nn. 1509 and following.[1]

[1] Cf. Addenda, p. 1142, n. 111, n. 112.

Treatise XVII. On Order

Order from the institution of Christ distinguishes clerics from laymen in the Church for the rule of the faithful and the ministry of divine worship (Can. 948).

Chapter I. On the Nature and Division of the Sacrament of Order

I. Order can be defined: A sacrament of the New Law by which spiritual power is handed on, and grace is conferred for duly carrying out ecclesiastical duties; or, with St. Alphonsus after St. Thomas: "A certain seal of the Church, by which spiritual power is bestowed upon the ordained." - Cf. St. Alphonsus, n. 735. - Lehmkuhl, n. 584.

II. Order is truly and properly so called a sacrament of the New Law. It is established from the Council of Trent, sess. 23, can. 3, where it is thus read: "If anyone shall have said that Order ... is not truly and properly a sacrament instituted by Christ the Lord ... let him be anathema." - Cf. De Augustinis, Thesis 1, p. 7.

III. Seven Orders are numbered, namely the Presbyterate, Diaconate, Subdiaconate, Acolythate, Exorcistate, Lectorate, and Ostiariate. This is deduced from many Councils, especially from Trent, sess. 23, ch. 2, where after it had openly been said that speech is made in Sacred Letters about priests and deacons, it is added: "From the very beginning of the Church, the names of the following Orders and the proper ministries of each of them, namely of Subdeacon, Acolyte, Exorcist, Lector, and Ostiary, are known to have been in use." - Likewise, in can. 2, it is said: "If anyone shall have said that, besides the priesthood, there are not in the Catholic Church other Orders, both major and minor, through which, as through certain grades, one tends toward the priesthood, let him be anathema."

In the canons which follow, by the name of major or sacred orders are understood the presbyterate, diaconate, and subdiaconate; but by the name of minor orders are understood the acolythate, exorcistate, lectorate, and ostiariate (Can. 949).

In law the words: to ordain, order, ordination, sacred ordination, comprehend, besides episcopal consecration, the orders enumerated in can. 949 and the first tonsure itself, unless something else is drawn from the nature of the thing or from the context of the words (Can. 950). - Cf. De Augustinis, Thesis 2, p. 22.

IV. What spiritual power is annexed to each Order is indicated in the following:

1°. The Ostiariate is an Order by which there is conferred a special power of opening or closing the door of the church, of admitting the worthy, and excluding the unworthy.

2°. The Lectorate is an Order by which there is handed on a special power of reading psalms and lessons from the pulpit in church, and of catechizing or instructing the people in the things of faith.

3°. The Exorcistate is an Order by which there is conferred a special power of casting out demons through exorcisms instituted by the Church. - Nevertheless, today, for forestalling abuses, the faculty of exorcizing is reserved to presbyters alone, who can use it only by permission of the Ordinary.

4°. The Acolythate is an Order by which there is conferred a special power of serving the subdeacon during the solemnities of Mass, of lighting candles, and of preparing and presenting the cruets of wine and water.

5°. The Subdiaconate is an Order by which there is conferred a special power of serving the deacon in solemn Mass and of chanting the Epistle by solemn rite.

6°. The Diaconate is an Order by which there is conferred a special power of assisting the presbyter immediately in solemn Mass, of chanting the Gospel during the solemnities, of preaching and solemnly baptizing, if nevertheless a just cause intervenes. But that a deacon, so that he may preach at some time, needs the special permission of the Bishop, or the permission of the Superior in a clerical religion, is established from canons 1337, 1338, 1342.

7°. The Presbyterate is an Order by which there is conferred a special power of consecrating the Body and Blood of Christ in the celebration of Mass, of absolving from sins, and of feeding subjects by work and doctrine.

To these add the Episcopate and first tonsure, of which the former is the complement of the priesthood itself, but the latter is not an Order, but a disposition toward Orders, by which someone is named a cleric.

Chapter II. On the Matter and Form of the Sacrament of Order

I say. The matter and form of the sacrament of Order is varied according to the various Orders. But what in this matter is certain among theologians, or even more probable, is contained in the following:

I. As regards the minor Orders, the matter for the Ostiariate is the handing over of the keys of the church; indeed, according to the Response of the S. C. de Propaganda Fide to the Vicar Apostolic of Cochin-China, 22 March 1844, it is not required that they be the keys of the church; and according to another Response of the S. R. C., given on the day 11 March 1820, one key would suffice for validity. For the Lectorate, the matter is the handing over of the book of lessons; for the Exorcistate, the handing over of the book of exorcisms; and for the Acolythate, the handing over of the empty cruets, or at least of one, and of a candlestick with an extinguished candle. But the form proper to these Orders is contained in the words which the Bishop uses while he hands over the instruments themselves. - Cf. St. Alphonsus, n. 745.

II. As regards the Subdiaconate, among the Greeks the imposition of hands is reckoned as the matter; but among Latins it is controverted. According to some, the handing over of an empty chalice with an empty paten is its sole proximate matter. But others contend that the handing over of the book of Epistles is likewise essential matter of this Order. Consequently the form, according to the first, is contained only in these words: "See whose ministry is handed on to you; therefore I admonish you that you so exhibit yourselves that you may be able to please God"; according to the latter, the words by which the Bishop hands over the book of Epistles also would be required. - Cf. St. Alphonsus, n. 746.

III. As regards the Diaconate, a twofold matter is established, namely the imposition of the right hand of the Bishop and the handing over of the book of Gospels. Whether each of these, or only one, is necessary is in controversy. Some theologians reckon only the imposition of hands, others only the handing over of the book, and still others both as necessary. But as regards practice, this last opinion, as being safer, is to be held. Consequently a twofold form also is had. That which is added to the prior matter is this: "Receive the Holy Spirit, for strength, and for resisting the devil and his temptations. In the name of the Lord." - That which accompanies the latter matter is of this sort: "Receive [or: Receive, you all] the power of reading the Gospel in the Church of God, both for the living and for the dead. In the name of the Lord." - Cf. St. Alphonsus, n. 748.

IV. As regards the Presbyterate, its matter among the Greeks is situated in the imposition of hands alone; among the Latins it is greatly controverted, and there are three opinions. The first holds that the matter is the handing over of the instruments alone; but the form is the words which the Bishop pronounces in handing over the instruments, namely: "Receive the power of offering sacrifice to God, and of celebrating Masses both for the living and for the dead. In the name of the Lord." - The other opinion, besides the handing over of the instruments, by which only the power of sacrificing would be received, requires also that imposition of hands by which power over the mystical body is handed on through the words: "Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them, and whose sins you shall retain, they are retained." - Finally the third opinion, which is more

probable, holds that both the power of sacrificing and of absolving are handed on through the second imposition of hands, which is made by the Bishop together with the assisting presbyters, and consequently that this alone is the essential matter; but that the form is the prayer which the Bishop then says. - Cf. St. Alphonsus, n. 749. - De Augustinis, Thesis 7, p. 91.

Questions

Question 1. Whether physical touch of the instruments is required?

Resp. According to St. Alphonsus the affirmative opinion is probable and consequently in practice to be held as safer. - To some the negative opinion had seemed safe on account of a response given by the S. R. C. to a certain French Religious by the name of Ephrem Chasteau, but that response proves nothing; for in the proposed Doubt it was indeed said that the Religious Ephrem Chasteau had not touched the chalice, but no mention was made about physical touch of the paten. Besides, it could be said that the S. Congregation wished in some particular case to resolve a doubt of fact for removing a scruple, but not to decide a question of law. It must also be added that the C. S. O. on 19 August 1851 said that the imposition of hands in the ordination of a presbyter was to be supplied if it had been made without bodily touch. - Cf. St. Alphonsus, n. 743. - Baller. note (a), p. 666. - Konings, n. 1517.

Therefore, practically speaking, the one to be ordained must physically touch the instruments and proceed cautiously, but not entangle himself in scruples and anxieties, since for these there is generally no reasonable foundation. For in practice Bishops are accustomed to proceed in such a way that in a matter of such moment they always hold the safer way. Besides, the duty of watching over the rite to be observed in Ordination falls upon so many Ministers and Officials that moral certitude is had that all things were done rightly and validly.

Question 2. Whether the handing over of each species is necessarily required?

Resp. Affirmatively, more probably, because through the handing over of one species power over the whole Sacrifice is not handed on. - Cf. St. Alphonsus, n. 750.

Question 3. Whether he is validly ordained who touches the host, but not the paten; and he who touches the chalice and paten, but not the host?

Resp. Affirmatively to the first, with the common opinion, which seems most probable; and the reason is because the host and wine are the substantial matter of Order, by which principally power over the body of Christ is signified; and the chalice and paten are used from the precept of the Church for the sake of decency alone. Affirmatively also must be answered to the second, with the common and truer opinion, as St. Alphonsus says. The reason is both because then the host is touched by means of the paten, but immediate touch of the host is not prescribed by the Church, but only of the paten, as is clear from the Pontifical; and because wine in the chalice is never touched immediately: therefore neither is it required that the host be touched immediately. Moreover, in practice the safer part is to be held, and care is to be taken that the one to be ordained touch the chalice, the paten, and at the same time the host; and thus he will free himself from every scruple. - Cf. St. Alphonsus, n. 752. - Lehmkuhl, n. 591.

Chapter III. On the Minister of the Sacrament of Order

I say 1°. The ordinary minister of sacred ordination is a consecrated Bishop; the extraordinary minister is one who, although he lacks the episcopal character, has received from law or from the Apostolic See by a peculiar indult the power of conferring some orders (Can. 951).

It is established from many Councils, especially from the Florentine and Tridentine. For the Florentine in the Decree of Union says: "The ordinary Minister of this sacrament [of Order] is a Bishop"; and the Tridentine, sess. 23, can. 7, thus establishes: "If anyone shall have said that Bishops are not superior to presbyters, or do not have the power of confirming and ordaining, or that the power which they have is common to them with presbyters ... let him be anathema." - He is called ordinary because a simple priest, the Supreme Pontiff committing it, can be the extraordinary Minister of tonsure and of the four minor Orders. This is established from the Council of Trent, sess. 23, ch. 10, on Reform.

As regards the ordination of religious:

1°. A regular Abbot of rule, although without *nullius* territory, can confer first tonsure and minor orders, provided the one to be promoted is subject to him by force of profession at least simple, but he himself is a presbyter and has legitimately received the abbatial blessing. Outside these limits, the ordination conferred by the same, any contrary privilege being revoked, is invalid, unless the one ordaining is powerful with episcopal character (Can. 964). - Cf. St. Alphonsus, n. 762.

I say 2°. Only the proper Bishop, or another Bishop but from an express faculty received from the proper Bishop, can licitly ordain. It is established from Canon 955:

§ 1. Let each one be ordained by his own Bishop or with the legitimate dimissorial letters of the same.

§ 2. The proper Bishop, not impeded by a just cause, is to ordain his own subjects personally himself; but without apostolic indult he cannot licitly ordain a subject of an eastern rite (Can. 955).

Questions

Question 1. Who is considered the proper Bishop of the one to be ordained?

Resp. The proper Bishop, as regards the ordination of seculars, is only the Bishop of the diocese in which the one to be promoted has domicile together with origin, or simple domicile without origin; but in this second case the one to be promoted must confirm by oath his intention of remaining perpetually in the diocese, unless there is question of a cleric to be promoted to orders who has already been incardinated into the diocese through first tonsure, or of promoting an alumnus who is destined to the service of another diocese according to the norm of can. 969, § 2, or of promoting a professed religious, concerning whom in can. 964, n. 4 (Can. 956).

§ 1. The Vicar and Apostolic Prefect, an Abbot or Prelate *nullius*, if they are powerful with episcopal character, are equated to a diocesan Bishop as regards ordination.

§ 2. If they lack episcopal character, they nevertheless can, in their own territory and only while their office lasts, confer first tonsure and minor orders both upon their own secular subjects according to the norm of can. 956, and upon others who exhibit the dimissorial letters required by law; ordination performed by the same outside these limits is invalid (Can. 957).[1]

[1] Cf. Addenda, p. 1094, n. 27.

Question 2. By whom are dimissorial letters for secular clerics to be granted? By whom for religious?

Resp. § 1. Dimissorial letters for seculars can be given, as long as they retain jurisdiction in the territory:

1°. The proper Bishop, after he has legitimately taken possession of his diocese according to the norm of can. 334, § 3, although not yet consecrated;

2°. The Vicar General, yet by special mandate of the Bishop;

3°. With the consent of the Chapter, the Capitular Vicar after a year from the vacant see; but within the year only to those constrained by reason of a benefice received or to be received, or by reason of some certain office for which, on account of the necessity of the diocese, provision must be made without delay;

4°. A Vicar and Apostolic Prefect, an Abbot or Prelate *nullius*, although they lack episcopal character, even for major orders (Can. 958).

As regards the ordination of religious: ...

2°. Exempt religious can licitly be ordained by no Bishop without the dimissorial letters of their own major Superior;

3°. Superiors can grant dimissorial letters to professed members of simple vows, concerning whom in can. 574, only for first tonsure and minor orders;

4°. The ordination of all other alumni of any religion is governed by the law of seculars, any indult granted to Superiors of giving dimissorial letters to major orders for professed members from temporary vows being revoked (Can. 964).

Question 3. To whom can dimissorial letters be sent for secular clerics? To whom must they be sent for religious clerics?

Resp. 1°. The letters can be sent to any Bishop having communion with the Apostolic See, with only this exception, apart from an apostolic indult: a bishop of a rite diverse from the rite of the one to be ordained. - Cf. Can. 961.

2°. A religious Superior must send the letters to the Bishop of the diocese in which the house of the one to be promoted is situated. Cf. Can. 965. Nor can he send them to another bishop unless the diocesan Bishop has given permission, or is of another rite, or is absent, or is not going to have an ordination at the next legitimate time, or when the one ruling a vacant diocese is not marked with episcopal character; which things must be made known to the bishop about to ordain from the authentic testimony of the diocesan curia. - Cf. Can. 966. Religious superiors must beware lest in fraud of the law they send the subject elsewhere or grant letters only when the bishop is going to be absent or is not going to have ordinations. Cf. Can. 967. See the penalties in Canon 2410.

Question 4. Whether besides dimissorial letters testimonial letters are required?

Resp. Affirmatively, as is established in the following canons.

Seculars to be promoted, or religious who, as regards ordination, are governed by the law of seculars, are to bring:

1°. Testimony of the last ordination or, if there is question of first tonsure, of Baptism and Confirmation received;

2°. Testimony concerning studies completed, required for the individual orders according to the norm of can. 976;

3°. Testimony of the rector of the Seminary, or of the priest to whom the candidate outside the Seminary has been commended, concerning the good morals of the same candidate;

4°. Testimonial letters of the Ordinary of the place in which the one to be promoted has stayed for so much time that he could have contracted a canonical impediment there;

5°. Testimonial letters of the religious major Superior, if the one to be promoted has been enrolled in some religion (Can. 993).

§ 1. The time in which the one to be promoted could have contracted a canonical impediment is, regularly, for soldiers three months, for others six months after puberty; but the ordaining Bishop according to his prudence can require testimonial letters even because of a shorter time of stay, and also because of time which preceded puberty.

§ 2. If the Ordinary of the place neither by himself nor through others knows the one to be promoted sufficiently, so that he can testify that during the time in which he stayed in his territory he contracted no canonical impediment, or if the one to be promoted has wandered through so many dioceses that it becomes impossible or too difficult to seek all testimonial letters, let the Ordinary provide at least through a supplementary oath to be furnished by the one to be promoted.

§ 3. If after testimonial letters have been obtained and before the ordination has been completed, the one to be promoted again has stayed in the same territory for the aforesaid space of time, new testimonial letters of the Ordinary of the place are necessary (Can. 994).

§ 1. A religious Superior also in his dimissorial letters must testify not only that the one to be promoted has emitted religious profession and is of the family of a religious house subject to him, but also concerning the studies completed and concerning the other things required by law.

§ 2. The Bishop, after receiving these dimissorial letters, does not need other testimonial letters (Can. 995).

Question 5. What is the effect of these letters?

Resp. After legitimate dimissorial letters have been received, the Bishop can ordain another's subject, provided he cannot rightly doubt the genuine faith of them, with the prescription of 944, § 3, preserved. - Cf. Can. 962. Although the letters can be limited or revoked by the one granting them or by his successor, once granted they are not extinguished when the right of the giver is dissolved. - Cf. Can. 963.

Chapter IV. On the Subject of the Sacrament of Order

I say 1°. Only a baptized male validly receives sacred ordination ... (Can. 968, § 1, as below).

For women by divine institution are altogether incapable of any Order, both from Sacred Letters, especially I Timothy ii, 11 and 12; and I Corinthians xiv, 34; and from the perpetual practice of the Church and the unanimous consent of the Fathers and of all Doctors. It is required besides that the one to be ordained be baptized, because since Baptism is the gate of the Church, no sacrament can be validly received when it has not been received. Cf. St. Alphonsus, n. 781 and following.

I say 2°. § 1. Only a baptized male validly receives sacred ordination; but licitly, one who, according to the norm of the sacred canons, is endowed with the due qualities in the judgment of his proper Ordinary, and is held by no irregularity or other impediment.

§ 2. Those who are held by an irregularity or other impediment, although arising after ordination even without their own fault, are prohibited from exercising the orders received (Can. 968).

§ 1. That someone may licitly be ordained, there are required:

1°. Sacred confirmation received;

2°. Morals congruent with the order to be received;

3°. Canonical age;

4°. Due knowledge;

5°. Reception of the inferior orders;

6°. Observance of interstices;

7°. A canonical title, if there is question of major orders.

§ 2. As regards episcopal consecration, let the prescription of can. 331 be observed (Can. 974).

"A twofold vocation is customarily distinguished: one ordinary, which is made by God, or by God's institution, through the consent and cooperation of those men whom it concerns; in this way a Pastor is called from the consent of the Bishop, a Bishop from the consent of the Pontiff; the other extraordinary, which is made immediately by God; in this way Moses, the Prophets, and the Apostles were called." - Becanus, *Controv.* l. 1, c. 12, n. 4. "As regards their ordinary vocation (he is speaking about priests and bishops), almost the same things must be considered in it which are considered in the vocation of the Ministers of the Mosaic law: 1. Election or designation of a certain person. 2. Purification. 3. Consecration or Ordination. 4. Application to the use of the Ministry. Election is not made through natural propagation ... but through the vote and consent of the clergy, whose part it is to choose suitable persons for the Ecclesiastical Ministry. In this way ... the Bishop or his Vicar chooses Priests and Pastors for his diocese. Purification, if we precisely consider the divine law of the New Testament, is not necessarily external and ceremonial, as it was in the Mosaic law, but internal and spiritual; it consists especially in purity of soul, in probity of life, in doctrine of faith, and in other virtues which are required in the Ministers of the Church ... If we consider Ecclesiastical law, certain external purifications are required ... tonsure, etc. Consecration or Ordination must be made by a

Bishop through imposition of hands. Mission is also made by the Ministers of the Church ... for example, subjects are assigned." Ibid., nn. 24 and following.

Who, therefore, are those whom the Ministers of the Church choose? "The things which you have heard from me through many witnesses, commend these to faithful men who will be suitable also to teach others." II Timothy ii, 2. Therefore suitability must especially be considered in candidates. This natural and supernatural suitability is always necessary; it surely includes right intention in the subject himself concerning the choosing of his state. God could make known to anyone by revelation the state to be chosen by him. But since he has not done this, it is incumbent upon each one, according to the rules approved by reason itself and by the Church, freely to choose a state. The ordinary manner has already been described in the election of the state of religious life. The one about to choose wishes to increase the glory of God in the better manner in which he can; he knows that of himself he can do nothing; he wishes to gain souls for Christ; God will give grace; no natural impediments are present, or at least none difficult to overcome; he has a good, pious, strong character, sufficient knowledge; meanwhile he prays to God, whom reason dictates to him he will please if he becomes a priest: "I shall become one," he says: "I shall choose this life." He chooses securely as far as is from himself; but the whole matter does not depend upon himself. He does not have a right to ordination, although he has every suitability: "Since no one ought to be ordained who, in the judgment of his Bishop, is not useful or necessary to his churches, the holy synod, adhering to the footsteps of the sixth canon of the Council of Chalcedon, has established that no one in the future be ordained who is not assigned to that Church or pious place for whose necessity or utility he is taken up, where he may perform his duties, nor wander with uncertain seats." Council of Trent, sess. 23, c. 16. The priesthood pertains to the Ministry of the New Law; vocation to it pertains to those whom it concerns, that is, Bishops. It is theirs to choose suitable men, namely those who possess all the gifts of nature and grace by which they give hope that they will work with fruit in the vineyard of the Lord. These, when fitting studies have been finished, hear these words in ordination: "Until now you are free; it is lawful for you, according to your judgment, to pass over to secular vows. If it pleases you to persevere in the holy purpose, in the name of the Lord approach hither." Therefore vocation to the priesthood is election by God, through the Bishop, to priestly work. Thus the Catechism of Pius X: "Can each one enter Orders according to his own judgment? No one can enter Orders according to his own judgment, but he must be called by God through his own Bishop, that is, he must have the vocation with the virtues and with the aptitudes for the sacred ministry required by them." *Catechismo*, P. III, n. 403.

Behold the letter of Cardinal Merry del Val handing down the judgment of the Commission of Cardinals given 20 June 1912: "That the work of the distinguished man, Canon Joseph Lahitton, whose title is *La Vocation Sacerdotale*, is in no way to be reproved; indeed, insofar as it asserts: 1°. That no one ever has a right to ordination antecedently to the free election of the Bishop; 2°. That the condition which must be attended to on the part of the one to be ordained, and which is called priestly vocation, by no means consists, at least necessarily and by ordinary law, in some internal aspiration of the subject, or invitations of the Holy Spirit toward entering the priesthood; 3°. But on the contrary, that nothing more is required in the one to be ordained, so that he may rightly be called by the Bishop, than a right intention together with suitability placed in those gifts of grace and nature, and proved through probity of life and sufficiency of doctrine, which make founded hope that

he will be able rightly to fulfill the duties of the priesthood and holy to observe its obligations: is to be excellently praised." *Acta Apost. Sedis*: v. 4, p. 485. 2 July 1912.

This is the notion of priestly vocation properly so called; and it must altogether be distinguished from the rather usual notion of vocation accepted in a broader sense, of which a brilliant example is had in the same fascicle of the same Commentary, A. A. S. v. 4, p. 493, in the Circular Letters of the S. C. Consistorial concerning the Seminaries of Italy; various ordinances are given, among which is found also this one, n. 2: "Besides, the promiscuous mixing of students who are not called and of others who are called to the Ecclesiastical state always turns out fatal to these latter, and according to what experience has already demonstrated, causes the ruin of many vocations." Again by the S. Congregation of Bishops and Regulars concerning the same Seminaries, it is commended to the Rector at art. 30 that he watch over the sincerity and evolution of the priestly vocation of the students (18 January 1908), and at art. 86. - Cf. Leo XIII, 8 Sept. 1899. Pius IX, *Cum Romani*, 28 June 1853. Gregory XIII, *Quoniam divinae*, speaks about young men from England "who, led by the divine Spirit, will offer themselves," etc. 9 January 1580, and very many other places. - Cf. Lahitton, *La Vocation Sacerdotale*.

I say 3°. For licitly receiving the Subdiaconate there is required besides a title of honest support. But if after the Subdiaconate has been received the title perishes, one cannot ascend to a superior Order without a new title. It is established from the Council of Trent, sess. 21, ch. 2, on Reform. - Cf. Second Plenary Council of Baltimore, n. 323.

I say 4°. § 1. Let no one from among seculars be ordained who in the judgment of his proper Bishop is not necessary or useful to the churches of the diocese.

§ 2. Nevertheless a Bishop is not prohibited from promoting his own subject, who in the future, after previous legitimate excardination and incardination, is destined for the service of another diocese (Can. 969).

The clear reason of the prohibition is in this, lest those enrolled in the divine ministry beg, to the disgrace of the Order, or exercise some sordid gain: Council of Trent, sess. 21, c. 2; or lest being idle they entangle themselves in a secular manner of living and in worldly affairs. S. C. de Propaganda Fide, August 1827.

Questions

Question 1. How many kinds of title of honest support are distinguished?

Resp. § 1. For secular clerics the canonical title is the title of benefice; and this being lacking, of patrimony or of pension.

§ 2. This title must be both truly secure for the whole life of the ordained and truly sufficient for his fitting support, according to norms to be given by Ordinaries for the diverse necessities and circumstances of places and times (Can. 979).

§ 1. If not even one of the titles concerning which in can. 979, § 1, is at hand, it can be supplied by the title of service of the diocese, and, in places subject to the Sacred Congregation de Propaganda Fide, by the title of mission, yet in such a way that the one to be ordained, with an oath interposed,

devotes himself perpetually to the service of the diocese or mission, under the authority of the Ordinary of the place for the time being.

§ 2. The Ordinary must confer upon the presbyter whom he has promoted by the title of service of the church or of mission a benefice or office or subsidy sufficient for his fitting support (Can. 981).

§ 1. For regulars the canonical title is solemn religious profession, or the title, as it is called, of poverty.

§ 2. For religious of perpetual simple vows it is the title of common table, of the Congregation, or of another similar thing, according to the norm of the constitutions.

§ 3. Other religious, also as regards the title of ordination, are governed by the law of seculars (Can. 982).

Question 2. At what stage of studies are Orders licitly conferred?

Resp. § 1. No one, whether secular or religious, is to be promoted to first tonsure before the theological course has been begun.

§ 2. The prescription of can. 975 standing firm, the subdiaconate is not to be conferred except at the end of the third year of the theological course; the diaconate, except after the fourth year has begun; the presbyterate, except after the midpoint of the same fourth year.

§ 3. The theological course must have been completed not privately, but in schools instituted for this according to the plan of studies determined by can. 1365 (Can. 976).

The cited canon reads thus: § 1. Let students apply themselves to rational philosophy with related disciplines for at least a full biennium. § 2. The theological course is to be contained within at least a full quadriennium, and, besides dogmatic and moral theology, must especially include the study of Sacred Scripture, ecclesiastical history, canon law, liturgy, sacred eloquence, and ecclesiastical chant. § 3. Let there also be lessons on pastoral theology, with practical exercises added, especially concerning the manner of handing on the catechism to children or others, of hearing confessions, of visiting the sick, and of assisting the dying.

Question 3. What age is required for receiving Orders?

Resp. The subdiaconate is not to be conferred before the twenty-first year has been completed; the diaconate before the twenty-second has been completed; the presbyterate before the twenty-fourth has been completed (Can. 975).

A year is not assigned for receiving tonsure and minors, but the time is sufficiently clearly determined, as is clear from canon 976, § 1.

Question 4. At what time can Orders be conferred?

Resp. It must be distinguished thus:

§ 1. Episcopal consecration must be conferred within the solemnities of Masses, on a Sunday or on the birthday of the Apostles.

§ 2. Ordinations in sacred orders are to be celebrated within the solemnities of Masses on the Saturdays of the Ember Days, on the Saturday before Passion Sunday, and on Holy Saturday.

§ 3. Yet when a grave cause intervenes, the Bishop can have them also on any Sunday or feast of precept.

§ 4. First tonsure can be conferred on any day and hour; minor orders on individual Sundays and double feasts, yet in the morning.

§ 5. A custom contrary to the times of ordinations prescribed in the preceding paragraphs is reproved; and these are to be observed also when a Bishop of the Latin rite ordains, from apostolic indult, a cleric of an eastern rite, or the contrary (Can. 1006).

As often as an ordination is to be repeated or some rite supplied, whether absolutely or under condition, this can be done even outside the times and secretly (Can. 1007).

Question 5. What interstices are to be observed between the individual Orders?

Resp. § 1. In ordinations let the intervals of times be observed in which those promoted may exercise themselves in the orders received, according to the prescription of the Bishop.

§ 2. The interstices between first tonsure and the ostiariate, or between the individual minor orders, are committed to the prudent judgment of the Bishop; but an acolyte is not to be promoted to the subdiaconate, nor a subdeacon to the diaconate, nor a deacon to the presbyterate before the acolyte has spent at least one year, and the subdeacon and deacon each at least three months, in his own order, unless the necessity or utility of the Church, in the judgment of the Bishop, demands otherwise.

§ 3. Never, however, unless by peculiar permission of the Roman Pontiff, are minor orders with the subdiaconate, or two sacred orders, to be conferred on one and the same day, any contrary custom being reproved; indeed, neither is it lawful to confer first tonsure together with any one of the minor orders, nor all the minor orders together at once (Can. 978).

Question 6. Whether a cleric sins who, initiated in minors, marries?

Resp. Speaking of itself, it is certain that he does not sin gravely, indeed not even lightly if he does this for a just cause, for example, for quieting enmities or temptations of the flesh, for assisting a poor woman, etc. - Cf. Can. 132, § 2; 973, § 2.

Question 7. Whether it is required that the one to be ordained be confirmed?

Resp. Affirmatively, as is established from can. 974, § 1, 1; 993, 1.

Question 8. Whether he sins who receives some order without the intention of ascending to higher orders?

Resp. He sins gravely, for it is prohibited to a Bishop to ordain such a one, nor is it the mind of the Church that he be ordained.

§ 1. First tonsure and orders are to be conferred only upon those who have the purpose of ascending to the presbyterate, and whom it is deservedly lawful to conjecture will sometime be worthy presbyters.

§ 2. Nevertheless, one ordained who refuses to receive higher orders can neither be compelled by the Bishop to receive them, nor be prohibited from the exercise of the orders received, unless he is held

by a canonical impediment or some other grave cause, in the judgment of the Bishop, stands in the way.

§ 3. Let the Bishop confer sacred orders on no one unless from positive arguments he is morally certain concerning his canonical suitability; otherwise he not only sins most gravely, but also commits himself to the danger of communicating in the sins of others (Can. 973).

Question 9. Whether, or how, does an ordained man sin who omits the recitation of the prayers which after ordination are imposed by the Bishop in the manner of penance?

Resp. Theologians do not agree about this: for some say that he sins gravely, because the matter of the precept is grave; others hold that he does not sin at all, because the Bishop does not impose a precept; and still others reckon that an omission of this sort indeed is not free of fault, but does not exceed venial fault. This last opinion seems more probable. - Cf. St. Alphonsus, n. 829.

As regards these prayers, the S. C. of Rites has this, 27 June 1899: "By the Nocturn of such a day is to be understood the ferial nocturn, or the first of the Feast, or of the Sunday in the psalter, according as the Ordination was held on a feria, feast, or Sunday." Nor is it required that to this Nocturn the psalm *Venite, exsultemus*, the hymn, and the lessons be added, but the psalms with the respective antiphons pertaining to such a Nocturn suffice. S. C. R., 10 July 1903.

Question 10. Whether, or how, are new priests held to read the three Masses prescribed by the Bishop?

Resp. They are not held to apply them to the intention of the Bishop, and consequently they can accept a stipend for them. Nor does a grave obligation of celebrating those Masses appear; nor must they be said before non-impeded days arrive, since the Masses must be votive. - Cf. St. Alphonsus, n. 829.

Question 11. To what are priests held by force of the obedience which they promise to the Bishop in ordination?

Resp. Benedict XIV explains this obligation thus: "We acknowledge that by force of a promise of this sort the presbyter is held bound by this law among others, that he cannot depart from the service of the church to which he has been assigned without the permission of the Bishop." - This nevertheless cannot and ought not impede priests, even if they have care of souls, from being able to embrace the religious state, as something more perfect, even when the Bishop refuses, as is established from the Declarations of the same Benedict XIV. - The Baltimore Fathers in the Second Plenary Council agree; after they had established and declared that any priest who was ordained among us or duly coopted is bound to remain in the diocese for which he was ordained or coopted, they add: "Moreover by these statutes we do not wish to prevent those things from having to be observed which Benedict XIV lucidly teaches concerning priests who wish to pass over to some religious Order." - Except, nevertheless, those priests who, having been ordained under the title of the American Mission, promised by oath that they would enter no Religion, Society, or regular Congregation without special permission of the Apostolic See. Nor should you object that this oath is invalid as being opposed to a better good; for answer is made by the words of the Instruction of the S. Congregation de Propaganda Fide, n. 10: "It is necessary that the public good excel the private, namely by that reason by which it has been granted to some Orders that it is not lawful for their religious to pass over to a stricter one

without the permission of their superiors." - Cf. Third Plenary Council of Baltimore, Appendix, pp. 204 and following. - Cf. altogether Can. 542, n. 1, 2.

Question 12. What is established concerning the examination previous to ordination to be undergone?

Resp. § 1. Every one to be promoted, whether secular or religious, must undergo a previous and diligent examination concerning the very order to be received.

§ 2. But those to be promoted to sacred orders are to make trial in other treatises also of sacred theology.

§ 3. It belongs to the Bishops to establish by what method, before which examiners, and in which treatises of sacred theology those to be promoted must make trial (Can. 996).

§ 1. This examination, whether for secular clerics or for religious, is received by the Ordinary of the place who ordains by his own right or gives dimissorial letters; who nevertheless can also, from a just cause, commit it to the Bishop about to ordain, who is willing to take up that burden.

§ 2. The Bishop ordaining another's subject, whether secular or religious, with legitimate dimissorial letters by which it is asserted that the candidate was examined according to the norm of § 1 and found suitable, can acquiesce in this attestation, but is not held to do so; and if according to his conscience he judges that the candidate is not suitable, let him not promote him (Can. 997).[1]

[1] Cf. Addenda, p. 1090, n. 16.

Treatise XVIII. On Marriage

Chapter I. On the Betrothal Contract or on Betrothals

Article I. On the Nature of Betrothals

Betrothals are a fully deliberate, mutual promise, expressed by a sensible sign, of future Marriage between capable persons. - It is said 1°. fully deliberate, because a perfect and direct voluntary act is required, namely one proportioned to the grave obligation which is taken up; 2°. mutual, because the simple acceptance of a promise does not suffice, but a counter-promise is necessary; 3°. expressed by a sensible sign, because on the one hand no contract can be made without manifestation of consent, and on the other it is not required that this be manifested through words, since neither in the matrimonial contract itself is this necessary; 4°. of future Marriage, because this is the thing which is promised, but not perpetual love or another thing of this sort; 5°. between capable persons, namely those entangled by no diriment or impeding impediment. - Cf. Baller. note (a) and (b), p. 677; and note (a), p. 678.

On the Essential Form of Betrothals

§ 1. A promise of Marriage, whether unilateral or bilateral or sponsalitial, is invalid for each forum unless it has been made through writing signed by the parties and either by the pastor or the Ordinary of the place, or by at least two witnesses.

§ 2. If each party or either party does not know how or is unable to write, for validity this is to be noted in the writing itself, and another witness is to be added, who with the pastor or the Ordinary of the place, or the two witnesses concerning whom in § 1, signs the writing.

§ 3. But from a promise of marriage, although it is valid and no just cause excuses from fulfilling it, no action is given for seeking the celebration of marriage; yet one is given for the reparation of damages, if any is owed (Can. 1017).

I say 1°. (a) From these things it is clear that for making valid promises of marriage, whether unilateral or bilateral or betrothals, the formality of writing is required, namely in such a way that those promises alone are to be held as valid which are contracted through writing signed by the parties and either by the pastor or the Ordinary of the place or by two witnesses; or, when each party or either party does not know how or is unable to write, by the party knowing and able to write and by the pastor or Ordinary of the place and another special witness; or by the party able and knowing how to write and by two witnesses and another special witness. Besides, when each party or either party does not know how or is unable to write, for validity this fact must be noted.

(b) § 1. A pastor is a priest or moral person upon whom a parish has been conferred by title, with care of souls to be exercised under the authority of the Ordinary of the place.

§ 2. To pastors are equated, with all parochial rights and obligations, and they come in law under the name of pastors:

1°. Quasi-pastors, who rule quasi-parishes concerning which in Can. 216, § 3.

2°. Parochial vicars, if they have been endowed with full parochial power.

3°. Concerning chaplains of soldiers, whether major or minor, one must stand by the peculiar prescriptions of the Holy See (Can. 451).

(c) The Ordinary of the place is the Bishop of the diocese, the Vicar General, the Capitular Vicar, the Apostolic Vicar, the Apostolic Prefect, the Abbot *Nullius*, the Administrator, and, as is clear, he who is eminent over all these, the Roman Pontiff.

Therefore all these, pastors or Ordinaries, are authorizable witnesses of betrothals and marriages.

(d) From the declaration of the S. Congregation of the Council, 27 July 1908, for the validity of betrothals the date, or the inscription of the day, month, and year, must be placed in the writing.

(e) Witnesses can be whoever, having the use of reason, know how to write; and therefore whether Catholics or non-Catholics, whether men or women, whether blood relatives or strangers. In them nothing else is required except that by natural law they be suitable for making faith, and that they know how to write. But as regards liceity, heretics are not to be employed. (S. C. Inquis., 19 August 1891.)

Questions

Question 1. Are betrothals privately entered into without the prescribed form valid, at least in the internal forum?

Resp. Negatively, as is clearly established from Canon 1017, § 1: a promise is invalid for each forum, unless it has been made through writing signed, etc.

Question 2. Are private betrothals at least so confirmed by the addition of an oath that they are valid and cannot be rescinded without injury?

Resp. Negatively, because an oath cannot render valid contracts which positive law declares null and invalid on account of the common good. For those things which are invalidated in this manner are also deemed to be prohibited as contrary to good morals; therefore the oath would be contrary to the common good of society and an immoral bond, which God cannot sanction. But private betrothals are declared invalid on account of the common good. Cf. Ball.-Palm., vol. 2, n. 91; Gury, n. 791; Ojetti, loc. cit., n. 55. See Canon 1318, §§ 1, 2.

Question 3. Granted that private betrothals are invalid, is one who takes an oath bound to fulfill it?

Resp. Negatively, because a promissory oath follows the nature and conditions of the act to which it is added (Can. 1318, § 1). But private betrothals are of no value in either forum, and therefore are acts of no value. Therefore.

Question 4. "Whether betrothals can be celebrated only before the Ordinary or pastor of domicile or monthly residence, or also before any Ordinary or pastor?"

Resp. They can "be celebrated before any Ordinary or pastor, provided it is within the limits of the territory of the same Ordinary or pastor." Thus the Sacred Congregation of the Council, 28 March 1908. And therefore the qualified witness is the pastor or Ordinary of the place where the contract is entered; in other words, any pastor or Ordinary in whose territory the instrument is made can, by his signature, render authentic the instrument signed by the contracting parties. It is not required that

betrothals be celebrated before the proper pastor or Ordinary; neither the one nor the other, signing outside his own territory, is a qualified witness of the betrothal contract, even of his subjects.

Question 5. "Whether betrothals, besides before the Ordinary or pastor, can validly be celebrated also before one delegated by either of them?"

Resp. "Negatively." Thus the Sacred Congregation of the Council, 28 March 1908. Therefore the Ordinary or pastor cannot delegate someone to this end, that he perform the office of an authorizable witness in betrothals. For in this new law the substantial form of the betrothal contract is determined, which must be observed exactly under pain of nullity. Indeed, the faculty of delegating has been granted for marriage; but in the canon on betrothals no mention of such a faculty has been made. Therefore, since the principle is: "The legislator expressed what he willed; what he did not will, he passed over in silence," delegation is permitted for nuptials because the legislator expressed it; it must be denied for betrothals because he passed over the same in silence. Then, the office of authorizable witness, whose signature alone suffices for making authentic faith of the instrument, is joined to the quality of pastor. But by delegation the quality of pastor is not communicated; therefore neither is the office of authorizable witness joined by the law itself to this quality. Moreover, there is no necessity for this faculty, because another witness can easily be found who may sign the document together with the priest, and therefore the betrothals will be valid. It is to be noted that the Ordinary and pastor are prohibited from granting a special delegation to a priest for betrothals alone. But what if there are some who have been delegated for the universality of causes, as, for example, the steward of a vacant parish and the temporary administrator in the absence of the pastor? Can such persons be authorizable witnesses of betrothals? Certainly, because these in fact preside over the parish, and therefore they are equated with pastors.

Question 6. Must the witnesses be present when the betrothed parties sign?

Resp. Affirmatively. For they must be witnesses of the betrothal contract. But this contract is made through writing. Therefore they must be present so that they can immediately attest the signature of the betrothed parties.

Question 7. "Whether, for validly entering into betrothals, the parties are bound to sign the writing in one and the same act together with the pastor or Ordinary, or with two witnesses; or whether rather it suffices that the writing, signed by one party together with the pastor or with two witnesses, be sent to the other party, who in turn signs it with the pastor or with two witnesses?"

Resp. "Affirmatively to the first part, negatively to the second." Thus the S. Congregation of the Council, 27 July 1908. Therefore, when the betrothal act is drawn up, each party must be present.

Question 8. Is it required that the whole formula be written by the hand of the betrothed parties?

Resp. Negatively: namely, it is required and suffices that the parties sign the document by hand; and although this be printed in type, by the signature of the parties and witnesses it becomes valid. Cf. Gennari, *Il Mon. Eccles.* Sec. Ser. vol. 10, p. 87.

Question 9. Can betrothals be contracted through a procurator?

Resp. Affirmatively, because a procurator is always admitted when he is not expressly excluded; and since marriage itself, in places subject to *Tametsi*, could be entered into through a procurator, and now also with the New Code in force the same is permitted, authors commonly adhere to this affirmative

opinion. Cf. Gennari, loc. cit., p. 18; Vermeesch, loc. cit., n. 34; Ojetti, loc. cit., n. 44; Pezzani, loc. cit., n. 48. The conditions are: 1°. that he act himself in person; 2°. that he not be a procurator for the universality of causes; 3°. that he contract with a determinate person; 4°. that when he acts the mandate has not been revoked. But the witnesses must be present at the signing of the parties; otherwise they would not be witnesses of the contract, which for validity must be celebrated through writing.

Question 10. Does a promise of future marriage made by one party and accepted by the other without a counter-promise bind in conscience?

Resp. A promise of marriage, whether unilateral, or bilateral or sponsalitial, is invalid for each forum unless it has been made through signed writing, etc. Thus Canon 1017, § 3. Therefore, if it has been made in this manner through signed writing, it binds; otherwise, it does not.

Question 11. Are betrothals contracted from fear valid?

Resp. Negatively, more probably, if the fear is grave; and the reason is that Marriage contracted from such fear is null, as is established from canon law and will be explained below. Therefore by that very fact betrothals also ought to be null; otherwise these would oblige one to an act invalid of itself, which is absurd. But if the fear is slight, the betrothals will more probably be valid; for he who causes slight fear is not deemed to inflict grave injury upon another, since this other can easily disregard such fear, and therefore, even if he suffers some injury, he is deemed to have willed to suffer it spontaneously. Others, however, deny this, and, as it seems, probably, because even in the case of slight fear that absurd consequence would be verified, namely, that a right would arise from an injury. - Nor should you say that this controversy is useless, practically speaking, from the fact that all theologians hold that betrothals of this kind are rescindable; for the answer is that, in the ancient discipline, a diriment impediment would have arisen from these betrothals if it be admitted that they were only rescindable, but not if it be said that they were null from the beginning. - Cf. S. Alphonsus, n. 844; Baller. note (a), pp. 682 and following; Lehmkuhl, n. 658.

Question 12. Among those who have some impediment, are betrothals under the condition, if the Pope dispenses, valid?

Resp. Affirmatively, if the condition has been verified; nor then will it be necessary to renew consent. The reason is that then nothing is lacking from those things which by force of this contract are required. The negative opinion is probable: the S. C. C., 2 October 1857, responded: "that such betrothals are altogether null, even if it is a question of a violated blood-relative, to whom also a promise has been made of obtaining a dispensation, and therefore, once the dispensation has been obtained, a new consent is necessary, and meanwhile each contracting party is free to enter other betrothals, although it is not according to honor to fail in promises." D'Annibale, n. 508, note 26: "And in the forum this opinion has been more received." Wernz, n. 97.

You Will Resolve. - Betrothals are invalid:

1°. When they are not contracted through writing, although many witnesses of the mutual consent externally expressed are present;

2°. When the writing is not signed by the co-parties knowing how to write, or by the co-party knowing how to write in the case in which only one can write;

3°. When they are not contracted before the pastor (or Ordinary) or before at least two witnesses;

4°. When the writing is not signed either by the pastor or Ordinary of the place or by two witnesses;

5°. When the writing is signed by the pastor of the contracting parties but outside his territory;

6°. When the writing is signed by a pastor, but not by the pastor of the place in which it is contracted;

7°. When the signature of a special witness distinct from the others is not had in the case in which each party or either party does not know how to write;

8°. When each party or one party does not know how to write, if this fact is not noted;

9°. When the parties do not sign the writing in one and the same act together with the pastor or with two witnesses;

10°. When the date is not placed in the writing.

This Canon 1017 establishes the essential form of betrothals. And therefore, as regards the other things which were valid before it, the ancient discipline is in force. Although, therefore, it is very fitting that betrothals precede marriage, nevertheless no obligation is imposed. They can be dissolved.

I say 2°. Betrothals entered under a condition concerning the present are valid here and now, if the condition has been verified; but if they are contracted under a condition concerning the future, they will be valid as soon as the condition is fulfilled, without new consent of the contracting parties, provided neither party has revoked the consent previously given. Meanwhile, however, the contracting parties are bound to await the fulfillment of the condition for a reasonable space of time, if it is honorable.

Article II. On the Obligation and Effects of Betrothals

I say 1°. Betrothals introduce a grave obligation from justice to enter Marriage at the determined time, if any has been determined; but if no time has been fixed beforehand, as soon as one party reasonably demands it. The reason is that betrothals are a true bilateral contract concerning matter certainly grave. Cf. S. Alphonsus, n. 845.

I say 2°. Betrothals introduce no impediment. Indeed, by a promise of marriage, although it is valid and no just cause excuses from fulfilling the same, no action is given for seeking the celebration of marriage; yet one is given for the reparation of damages, if any is owed (Can. 1017, § 3). The reason is lest perhaps something worse happen from this, namely that someone marry such a one whom he holds in hatred; therefore the betrothed are to be admonished and led by all means to observe the faith given, but they are not to be compelled, because compulsions are accustomed to have difficult outcomes. But if they have suffered damages, an action is given to them for reparation, but not for seeking the celebration of marriage. This canon protects the due liberty of wedlock and, at the same time, the party faithful to the promise. Therefore, when a valid promise is had, the betrothed are indeed bound in the internal forum to stand by the promises, but no impediment any longer exists, whether impeding or diriment.

Questions

Question 1. If someone has contracted betrothals with two women and has sinned with the second, which one ought he to marry?

Resp. Certainly he ought to marry the first, if the second, when she contracted, was conscious of the prior betrothals, because then she could not give true consent; but if she was not conscious, then some theologians only probably say that Marriage must be contracted with the second, on account of the damage which otherwise would come to her. But this reason makes only some probability; and therefore, just as the first betrothed woman is to be induced, but not obliged, to yield concerning her right if the other is going to suffer grave damage from defloration, so the betrothed man who altogether wished to marry the second, when she was not conscious of the prior promise, could not certainly be obliged to marry the first. - Cf. S. Alphonsus, n. 848.

Question 2. Ought a betrothed woman to return gifts accepted from the betrothed man, if Marriage does not follow?

Resp. Negatively, if the gifts were given absolutely, for example, to conciliate benevolence or something else of this kind, because then their ownership was irrevocably transferred by the betrothed man. But if the gifts were accepted only conditionally, that is, in view of Marriage, then again one must answer negatively if the betrothals are dissolved through the fault of the betrothed man; but affirmatively, speaking of itself, if they are dissolved without his fault. The reason for the negation is that the betrothed man, by culpably withdrawing from the promise, is deservedly deemed to incur the loss of these gifts. But the reason for the affirmation is that, the condition not having been verified, the title by which those gifts can be retained fails. - I said speaking of itself, because if, considering the condition of the betrothed man, the gifts are of small importance, and he does not reclaim them, he is deemed to remit them. Gifts given in view of Marriage differ from earnest-money, insofar as these are a pledge of fulfilling the promised thing, but the former are conditional largesses; and therefore, once Marriage has followed, the earnest-money must indeed be restored, but not the gifts. - Cf. Baller. note (a), p. 689.

Question 3. Is the placement of some penalty by way of a fine against one withdrawing from betrothals licit and valid?

Resp. Negatively, if a penalty of this kind is placed against one withdrawing justly, because then it would of itself diminish the liberty of future Marriage, and therefore would be against natural right. But if this penalty is placed against one withdrawing unjustly, it is disputed among theologians. It is also disputed whether, if the penalty added has already been paid, the one who received the payment of the money is bound to restitution. - Cf. S. Alphonsus, n. 853.

Article III. On the Dissolution of Betrothals

I say. Betrothals, by the opinion of all, can be dissolved on account of just causes. But the principal causes are the following: 1°. mutual consent freely given; 2°. a supervening diriment impediment concerning which a dispensation cannot be given or in fact is never given, for otherwise, even if the innocent party is freed from the obligation of the betrothals, the party who induced the impediment is nevertheless bound to seek the dispensation; 3°. election of a more perfect state, for example, religious profession, reception of sacred Order, a vow of entering Religion, etc.; 4°. grave crime of the

other, for example, theft, homicide, fornication, especially if this is done by the woman; 5°. excessive delay of Marriage, especially if the time for contracting was determined: to this cause is added the departure of the betrothed man to a distant land, the betrothed woman not having been consulted; 6°. notable change of state, namely a circumstance which, if it had been known or foreseen, in the judgment of prudent persons would have deterred from the betrothals. Cf. S. Alphonsus, nn. 846 and following; Kenrick, nn. 17 and following; Baller. note (a), p. 691, and note (a), p. 708; Konings, n. 1531.

You Will Resolve. 1°. According to the common opinion, the betrothed man can withdraw if the betrothed woman has been violated by force after the betrothals. The reason is that the betrothed woman, through such violation, although without her own fault, is rendered notably lower in worth, and therefore the condition of things is notably changed. The same must be said even if she was deflowered by force before the betrothals, and only afterward that defect was detected. - Note, however, that the betrothed woman is not bound to manifest a defect of this kind before the betrothals, nor, once they have been contracted, before Marriage, because it is not substantial; but it would be a substantial defect, and therefore necessarily to be disclosed, if from the defloration she had become pregnant. - Cf. S. Alphonsus, nn. 861 and 864.

2°. The dissent of parents is also certainly a sufficient cause of withdrawing from betrothals, if it is just, for example, because the other party does not suit the family by reason of condition, honor, etc. But if it is unjust, then of itself it does not suffice, because otherwise the right of children would be injured. - I said of itself; for since often, even when parents dissent unjustly, great inconveniences would arise if Marriage were made, even unjust dissent could per accidens be a sufficient cause of withdrawing. - Cf. S. Alphonsus, n. 877; Kenrick, nn. 6 and 11.

3°. Probably betrothals are dissolved through subsequent Marriage, so that, once this has been dissolved, or the co-party has died, the betrothed man is not bound to marry her with whom he had first contracted. The reason is that, since Marriage is of itself something stable and affecting the whole life, by this very fact it annuls the preceding obligation made incompossible. Moreover, in practice the party unjustly abandoned will rarely require the unfaithful betrothed man, nor would a happy outcome of Marriage of this kind be hoped for. - Cf. Baller. note (b), p. 705.

4°. The Supreme Pontiff, from a just cause, can dissolve betrothals through dispensation. For he can dissolve the bond of a ratified and non-consummated marriage; therefore also a bond less firm. And in fact he dispenses repeatedly. - Cf. *A. S. Sedis*, vol. 1, p. 341; vol. 3, p. 461; Wernz, vol. 4, n. 118.

5°. The betrothed man is bound by natural law to manifest to his co-party occult defects injurious to her: such as defects which would render marriage null, a contagious or venereal disease, pregnancy from intercourse with another person, sterility, widowhood, another religion. But he is not likewise bound to disclose lesser defects or those which are not damaging. Cf. S. Alphonsus, n. 864.

6°. But disease, according as it is in a different degree, will be more or less or perhaps in no way pernicious: thus syphilis has, as it were, different states; and if it would bring grave damages to the betrothed woman herself, the betrothed man would be obliged to manifest his condition to the other. The principles in this question are the following: The Church alone on earth can establish impediments, whether diriment or impeding, of Christian marriage, and when she established these, she consulted excellently both for herself, for her own, and for the human race. Leprosy and any

other horrible and contagious infirmity, such as syphilis, epilepsy, which in this matter are equated with leprosy itself, are not impediments. In judging these, one must act according to the norm just brought forward. For either the disease is known to the betrothed parties before the betrothals, or it is not known; whence a known disease which will be injurious to the other is to be manifested to that one by the co-party under grave obligation. If it is known to both, they are not bound to enter the contract, although they can enter it if they wish. The Church does not prohibit it; and therefore, once it has been entered, it must be stood by. If one party did not know, that party can withdraw from the contract. Indeed, if a disease supervenes upon the betrothals, it is licit for each to rescind the pact; or if knowledge of the existence of the disease supervenes for each, the same must be said. And what we say here about disease is to be understood of the personal infirmity of one of the betrothed; for if a disease, say epilepsy, has infected another member of the family, for example, a blood-relative, and the marriageable betrothed woman has remained immune up to this time, it is licit for her to reveal the matter, but she is not bound; indeed it would not even be licit, unless the good name of the infirm blood-relative were preserved. Wernz, vol. 4, n. 254; *Nouv. Rev. Theol.*, vol. 45, p. 611; *Rev. du Clerge Francais*, vol. 75, p. 227.

7°. It is evident that wedlock is not of itself to be entered by those who are wholly unfit to bear its burdens, who are so dull in mind or so debilitated in body that they can scarcely beget or conceive, or provide for the education of children. - Cf. DeSmet, p. 418. But here also caution must be used; for if they are not impotent, it is licit for them to contract on account of the imminent danger of incontinence. Likewise it is certain that such persons who long for future nuptials ought to use every aid of medicine to cure the disease; indeed, also to spend so much time on this cure that there is a founded hope that the damage will be much diminished or will disappear entirely; and thus a minimum danger will be created for the co-party.

Chapter II. On the Proclamation of Marriage or on the Banns

Article I. On the Necessity of the Banns

I say. There exists, by necessity of an ecclesiastical precept, a grave obligation of proclaiming the banns before the celebration of Marriage.

It is established concerning the precept from the Lateran and Tridentine Councils and from the new Code: Let it be publicly announced by the pastor between whom marriage is to be contracted (Can. 1022). But the gravity of the obligation is deduced from this, that a general discipline prescribed by two general Councils and resting upon grave motives produces a grave obligation. It is said 1°. by necessity of precept, because it is certain that banns are not required by necessity of the sacrament, for the aforesaid Councils place no invalidating clause. It is said 2°. ecclesiastical, because although by natural law there exists an obligation of inquiring whether some impediment is present for the future Marriage, nevertheless there is not had an obligation of employing such a means.

Questions

Question 1. Whether the aforesaid obligation strictly urges in this region?

Resp. Affirmatively; for it is a universal law, again and again repeated by the Baltimore Fathers both in the First and in the Second Plenary Council and by very many diocesan statutes.

Question 2. Are all who are about to contract subject to the law of proclamation?

Resp. Affirmatively, because the law is altogether general. Nevertheless, by usage Princes are excepted, because their lineage is sufficiently known, and ordinarily their marriages are sufficiently public. Except also the case of necessity, for example, if someone near death should wish to marry a concubine in order to legitimate offspring, and there would be danger in delay. - Cf. Ferraris, under the words *Denuntiationes Matrimonii*.

Publications are not to be made for marriages which are contracted with dispensation from the impediment of disparity of cult or of mixed religion, unless the Ordinary of the place, according to his prudence, scandal having been removed, has judged it opportune to permit them, provided the apostolic dispensation has preceded and mention of the religion of the non-Catholic party is omitted (Can. 1026).

Question 3. Does a Pastor who omits the banns sin gravely, if he knows that no impediment is present?

Resp. Affirmatively, and the reason is: 1°. because with difficulty can the Pastor be altogether certain that no impediment of Marriage is present; 2°. because, even if no impediment appears before the proclamation of the banns, it can happen that, once they have been proclaimed, some impediment supervenes; 3°. because a law does not cease when its final cause ceases only in a particular case. - But it is probable that it is not a mortal sin if one denunciation, and perhaps even if two, are omitted. Cf. S. Alphonsus, nn. 990 and 991.

Question 4. What formula is to be used in making the proclamations?

Resp. Concerning this matter the Roman Ritual establishes thus: But the publications are to be made in this way. During the solemnities of Masses or during other divine offices, as above, the Pastor is to admonish the people in this sense in the vernacular speech:

> "Let it be known to all here present, that N., son of N., of the family N., of the parish of St. N., and N., daughter of N., of the family N., of the parish of St. N., intend to contract Marriage between themselves. Therefore we admonish all and singular persons that if anyone knows that some impediment of consanguinity or affinity or spiritual relationship, or any other impediment whatever, exists between them, which would impede the Marriage to be contracted between them, he ought to reveal it as soon as possible to the Pastor or to the Ordinary of the place; and this we admonish FIRST, if it is the first; or SECOND, if it is the second; or THIRD, if it is the third publication." Tit. VII, c. 1, n. 8.

Article II. On the Circumstances of the Banns

I. - Circumstance of Time

Publications are to be made on three continuous Sundays and other feast days of precept in the church during the solemnities of Masses, or during other divine offices to which the people come in frequency (Can. 1024).

It is said 1°. on feast days, that is, on days of precept at least in the place of the proclamations, and probably also on ferial days on which, from some cause, there would be a great gathering of the people in the church. - It is said 2°. continuous, that is, with no feast day omitted from the first proclamation to the last. But whether the proclamations can be made on feast days immediately succeeding one another, if they occur, is disputed; and there is a twofold probable opinion. It is also probable that it is not mortal if one or another feast day is interposed. - It is said 3°. during the solemnities of Masses, that is, in the parochial or conventual Mass, from the Decree of the S. C. of the Council. - Nevertheless it is licit to make these proclamations during other divine offices, provided there is a frequent gathering of the people to them.

The Ordinary of the place, for his territory, can substitute for publications a public affixing of the names of the contracting parties at the doors of the parochial church or of another church for the space of at least eight days, yet in such a way that, in this space, two feast days of precept are included (Can. 1025).

II. Circumstance of Place

§ 1. Publications of marriages must be made by the proper pastor.

§ 2. If a party has stayed in another place for six months after attaining puberty, the pastor is to explain the matter to the Ordinary, who according to his prudence is either to require publications to be made there, or to prescribe that other proofs or conjectures concerning the state of freedom be gathered.

§ 3. If there is some suspicion of a contracted impediment, even for a shorter stay the pastor is to consult the Ordinary, who is not to permit the marriage unless first the suspicion is removed according to the norm of § 2 (Can. 1023).

III. - Circumstance of Persons, Namely of Minors, Soldiers, and Wanderers

1°. Minors. Canon law establishes nothing concerning minors. Nevertheless, in some places, according to the norm of civil laws, it is the custom that their banns are not proclaimed unless by the express consent of parents or guardians.

2°. Soldiers. By common law soldiers are regarded as if they were wanderers or foreigners. Their banns are to be proclaimed: 1°. in the place where they are in garrisons; 2°. in the place where they resided before military service was taken up; because they have not acquired another domicile of law.

3°. Wanderers. Their banns, according to the common opinion, are to be published in the domicile of fact and in the place of origin, if they have not obtained a true domicile elsewhere, or at least in the place in which they stayed longer. Besides, authentic testimony concerning their free state is to be had, and they are not to be joined in Marriage without the permission of the Ordinary, as the Tridentine Council has it, sess. 24, cap. 7, *de Reform. Matrim.* Cf. Can. 1032.[1]

[1] Cf. Addenda, p. 1119, n. 72.

Article III. On Dispensation from the Banns

I say. For a just cause one can be dispensed from the law of banns. - It is established from the Council of Trent, sess. 24, cap. 1, *de Reform. Matrim.* But dispensation is more easily given from one or another proclamation than from all; for in order that dispensation be given from all, Benedict XIV requires a cause urgent, legitimate, most grave, and ineluctable.

§ 1. The proper Ordinary of the place, according to his prudent judgment, can dispense for a legitimate cause from publications, even those to be made in another diocese (Can. 1028).

The legitimate causes of dispensation are, according to theologians: 1°. lest the Marriage be maliciously impeded; 2°. grave damage, infamy, or scandal imminent from the delay of Marriage; 3°. fear lest the man abandon a defiled girl; 4°. if, Marriage already having been civilly contracted where the law of clandestinity is in force, the betrothed man is unwilling to consent to three proclamations. In these and similar cases, since it is a question of avoiding grave damage or of procuring a notable good, not only can the Bishop dispense, but he also ought to do so; but he can, although he ought not, whenever he judges this to be opportune, provided it is morally certain that no impediment is present. - Cf. S. Alphonsus, nn. 1005 and 1006; Baller. note (c), p. 712; Benedict XIV, Const. *Nimiam licentiam*, 18 May 1743.

Questions

Question 1. When the betrothed are from different dioceses, must dispensation be obtained from each Bishop?

Resp. § 2. If there are several proper Ordinaries, he has the right of dispensing in whose diocese the marriage is celebrated; but if the marriage is entered outside their proper dioceses, any proper Ordinary can dispense (Can. 1028).

Question 2. Can the Vicar General dispense from the proclamations of banns?

Resp. Affirmatively, provided the Bishop has not reserved this to himself or does not contradict it. The reason is that the New Code grants this faculty to the Ordinary; but under the name of Ordinary,

if the matter belongs to his office and he is not expressly excluded, there also comes the Vicar General, since he constitutes one tribunal with the Bishop. Therefore he will be able both to exercise this power and to subdelegate it to others. - Cf. S. Alphonsus, n. 1007, and *de Privilegiis*, n. 58; Baller. note (a), p. 713.

Article IV. On the Revelation of Impediments

I say. All the faithful are bound, before the celebration of marriage, to reveal impediments, if they know any, to the pastor or to the Ordinary of the place (Can. 1027).

But this obligation generally regards all the faithful of whatever sex, age, parish, or diocese, etc., and also blood-relatives and friends. The reason for the first is drawn from the motive of Religion and charity, and also from the precept itself of the banns. - But the reason for the second is that that law is borne in the name of the Church, to which all Christians are subject. Indeed, although, once Marriage has been celebrated, the positive law of denouncing ceases, nevertheless charity and Religion can, according to circumstances, require the said revelation. - I said of itself, because when grave inconvenience or detriment to you intervenes, or if the revelation would be altogether useless, you are not bound to the revelation. - Cf. S. Alphonsus, n. 995; Baller. note (a), p. 715.

Questions

Question 1. Must impediments known under a secret, even a committed secret, be revealed?

Resp. Affirmatively, probably, even if an oath of not revealing them has been added. The reason is that a natural secret, even committed and sworn, does not oblige when grave damage threatens the community or a third person.

Question 2. Are you bound to reveal an impediment if you alone know it and cannot prove it?

Resp. Affirmatively, and the reason is that in matter of this kind the testimony of one person can suffice. Thus the most common and truer opinion, says S. Alphonsus, n. 995.

Article V. On Certain Other Things to be Premised to the Celebration of Wedlock

Questions

Question 1. What is the obligation of the pastor in this matter concerning the instruction of the people?

Resp. He is bound prudently to instruct his people concerning the sacrament of marriage and its impediments. For if spouses duly fulfill their duties, there is had a most grave bulwark of the Church and of the republic. Discreet and priestly instruction concerning this great sacrament is of the highest importance, so that the betrothed may receive it worthily. Hence Canon 1018 admonishes pastors concerning the duty of their office of not omitting instruction about wedlock.

Besides, it is necessary to exhort minor children under paternal power not to contract marriage without their parents knowing and while they are reasonably unwilling; but if they refuse, he is not to assist at their nuptials unless the Ordinary of the place has first been consulted. - Cf. Can. 1034.

Question 2. What must first be established before marriage is celebrated?

Resp. It must be established that nothing obstructs its valid and licit celebration. But in danger of death, if other proofs cannot be had, it suffices, unless contrary indications are present, that the contracting parties swear an affirmation that they are baptized and entangled in no impediment. - Cf. Can. 1019.[1]

[1] Cf. Addenda, p. 1093, n. 26.

Question 3. What must the pastor furnish concerning the investigation before marriage is contracted?

Resp. § 1. The pastor who has the right of assisting at the marriage, at a suitable time beforehand, is diligently to investigate whether anything obstructs the marriage to be contracted.

§ 2. He is to question both the betrothed man and the betrothed woman, even separately and cautiously, whether they are held by any impediment, whether they give consent freely, especially the woman, and whether they have been sufficiently instructed in Christian doctrine, unless on account of the quality of the persons this last questioning appears useless.

§ 3. It belongs to the Ordinary of the place to give particular norms for an investigation of this kind by the pastor (Can. 1020).

Question 4. What does the law establish concerning testimony of baptism? And what concerning confirmation?

Resp. § 1. Unless baptism was conferred in his own territory, the pastor is to require testimony of baptism from each party, or from the Catholic party alone if it is a question of a marriage to be contracted with dispensation from the impediment of disparity of cult.

§ 2. Catholics who have not yet received the sacrament of confirmation are to receive it before they are admitted to marriage, if they can do this without grave inconvenience (Can. 1021).

Indeed, this prescription is most wise, and, duly observed, will drive away very many difficulties. In a word, baptism must always be established authentically. If it was conferred in one's own territory, it will be known from the proper book of baptisms. If it was conferred in another territory, either it is a question of the marriage of two Catholics, or of a Catholic and a baptized non-Catholic, or of a Catholic and an unbaptized person; testimony of baptism from this canon seems to be required from every baptized person: from two Catholics in the first case; from the two, a Catholic and a baptized non-Catholic, in the second case of mixed marriage; from the Catholic in the third case.

Confirmation also ought to be received beforehand. No one fails to see with how many graces one confirmed is heaped up and how fitting a preparation for his conjugal life the reception of confirmation would be.

Question 5. To what is another pastor bound who has carried out the investigation or publications?

Resp. He is bound, by an authentic document concerning their outcome, to render the pastor who must assist at the marriage more certain. - Cf. Can. 1029.

Question 6. When at last can the pastor licitly assist, once the investigations have been completed?

Resp. He ought not to assist before he has received all the documents, and, unless some other reasonable cause requires otherwise, three days have elapsed from the last publication. The reason is

that sufficiently ample time may be given for detecting an impediment and making it known to the pastor. - Cf. Can. 1030, § 1.

Question 7. Must the publications ever be repeated?

Resp. Affirmatively, if the nuptials are not contracted within six months, unless the Ordinary of the place has judged otherwise. - Cf. Can. 1030, § 2.

Question 8. When does the pastor licitly assist at the marriage of wanderers, namely of those who nowhere have a domicile or quasi-domicile?

Resp. Except in a case of necessity, he never assists licitly, unless, after the matter has been referred to the Ordinary of the place or to a priest delegated by him, he has obtained permission to assist.

Question 9. What is the special obligation of the pastor in relation to the instruction of the betrothed?

Resp. Let the pastor not omit, according to the diverse condition of persons, to teach the betrothed the sanctity of the sacrament of marriage, the mutual obligations of spouses, and the obligations of parents toward offspring; and let him vehemently exhort the same that before the celebration of marriage they diligently confess their sins and piously receive the most holy Eucharist (Can. 1033).

This obligation seems to us truly grave, at least as to the substantial part. Indeed it is a delicate matter, but no less weighty, to bring it about that the betrothed approach the sacrament fully prepared in heart and mind. It is not required that he descend to the smallest circumstances, but certainly he himself is bound to know that his subjects enter wedlock not ignorant of the character and properties of the matrimonial contract.

Question 10. What are the parts of the pastor when a doubt concerning an impediment has arisen? What when an impediment has been detected? What when none has been detected?

Resp. § 1. When a doubt has arisen concerning the existence of some impediment:

1°. The pastor is to investigate the matter more accurately by questioning under oath at least two witnesses worthy of faith, provided it is not a question of an impediment from knowledge of which infamy would arise for the parties, and, if it is necessary, the parties themselves also;

2°. He is to carry out or complete the publications, if the doubt has arisen before the publications have been begun or completed;

3°. He is not to assist at the Marriage without consulting the Ordinary, if he prudently judges that the doubt still remains.

§ 2. When a certain impediment has been detected:

1°. If the impediment is occult, the pastor is to carry out or complete the publications and refer the matter, withholding the names, to the Ordinary of the place or to the Sacred Penitentiary;

2°. If it is public and is detected before the publications have begun, the pastor is not to proceed further until the impediment is removed, even if he knows that a dispensation has been obtained only for the forum of conscience; if it is detected after the first or second publication, the pastor is to complete the publications and refer the matter to the Ordinary.

§ 3. Finally, if no impediment has been detected, neither doubtful nor certain, the pastor, once the publications have been completed, is to admit the parties to the celebration of marriage (Can. 1031).[1]

[1] Cf. Addenda, p. 1116, n. 65.

Chapter III. On the Nature and Properties of Marriage

Article I. On the Nature of Marriage

Marriage can be considered in two ways, namely as contract and as sacrament. Considered as contract, it is a covenant by which a man and a woman legitimately hand over to each other dominion over their bodies in order to acts apt of themselves for the generation of offspring, and oblige themselves to an undivided society of life. But considered as sacrament it is defined: a sacrament of the New Law conferring grace for sanctifying the legitimate union of man and woman and for piously receiving and holy educating offspring.

§ 1. The primary end of Marriage is the procreation and education of offspring; the secondary end is mutual assistance and the remedy of concupiscence (Can. 1013).

Marriage is divided in many ways, for it is:

1°. *In fieri* or *in facto esse*. - Marriage *in fieri* is said to be the actual contract itself, which is perfected by the mutual consent of man and woman. But the continuing wedlock in the bond which comes from the matrimonial contract is called *in facto esse*.

2°. § 1. A valid marriage of the baptized is called ratified, if it has not yet been completed by consummation; ratified and consummated, if between the spouses there has taken place the conjugal act to which by its nature the matrimonial contract is ordered and by which the spouses become one flesh.

§ 2. Once marriage has been celebrated, if the spouses have cohabited together, consummation is presumed until the contrary is proved.

§ 3. A marriage validly celebrated between non-baptized persons is called legitimate.

§ 4. An invalid marriage is called putative if it has been celebrated in good faith by at least one party, until each party becomes certain of its nullity (Can. 1015).

I say 1°. Marriage of Christians celebrated by a legitimate rite is a true sacrament, properly so called, of the New Law. It is established from Trent, sess. 24, can. 1, where it is said: "If anyone shall say that Marriage is not truly and properly one of the seven sacraments of the Evangelical Law instituted by Christ the Lord, but invented by men in the Church, and that it does not confer grace, let him be anathema."

And from Canon 1012:

§ 1. Christ the Lord raised the matrimonial contract itself between the baptized to the dignity of a sacrament.

§ 2. Wherefore, among the baptized there cannot exist a valid matrimonial contract without its being by that very fact a sacrament (Can. 1012).

I say 2°. § 1. The consent of the parties, legitimately manifested between persons capable by law, makes marriage; and this consent cannot be supplied by any human power.

§ 2. Matrimonial consent is an act of the will by which each party hands over and accepts the right over the body, perpetual and exclusive, in order to acts apt of themselves for the generation of offspring (Can. 1081).

C. 1, C. xxvii, q. 2: Intercourse does not make Marriage, but the will; C. 2, ibid.: Let the consent alone of those whose conjunctions are at issue suffice according to the laws. If this consent alone should perhaps be lacking in nuptials, all other things, even when celebrated with intercourse itself, are frustrated.

Every bilateral contract is constituted by the consent of parties capable of entering this contract. But marriage is a bilateral contract. Therefore marriage too is constituted by the consent of parties capable of entering it. Hence Eugene IV in the const. *Exultate Deo*: "The seventh is the Sacrament of Marriage, which is the sign of the conjunction of Christ and the Church according to the Apostle saying: this sacrament is great in Christ and in the Church. The efficient cause of marriage regularly is mutual consent, expressed by words concerning the present." And the error of the Armenians is condemned: "Also that among the Armenians there is no certain form of words expressing matrimonial consent between husband and wife; indeed many are compelled by parents and friends to come to the Church so that marriage may be made between them, and although one or both say that they do not wish to be matrimonially joined to each other, nevertheless marriage is made between them in the face of the Church." Thus Benedict XII to the Armenians, in the year 1341.

Besides, just as no contract can exist without consent, so neither can Marriage. Moreover, consent in every bilateral contract is an act of the will by which each party hands over and accepts that right which is proper to the contract. But the right proper to the matrimonial contract is the perpetual and exclusive right over the body in order to acts apt for generation. Therefore consent in marriage is an act of the will by which each party hands over and accepts a perpetual and exclusive right over the body in order to acts apt for generation. Consent must be mutual, perfectly deliberate, and manifested by external signs. The reason is that Marriage is a contract or covenant between a man and a woman, inducing a most grave obligation.

I say 3°. § 1. The internal consent of the mind is always presumed to be conformable to the words or signs employed in celebrating marriage.

§ 2. But if either party or each party by a positive act of the will excludes marriage itself, or every right to the conjugal act, or some essential property of marriage, he contracts invalidly (Can. 1086).

No one is to be judged to have said what he did not think in mind. The judge must take words according to their common signification; and even if the betrothed man proves that he had previously protested that he would not do the things which he says, nor wished to be understood according to the words, because he was going to speak fictitiously, he could recede from that will and express true consent into marriage; indeed he also seems to have acted thus according to that which he publicly did. Hence he is not believed, because interpretation must be made against him who employs deceit. Certainly in the forum of conscience one can believe him who accuses himself of fictitious consent; but in the external forum it is a question of administering justice according to assertions. Truly difficult is the proof of fictitious consent.

He enters a contract invalidly who excludes it by a positive act. Therefore he who by a positive act excludes every right to the conjugal act does not have matrimonial consent; but he who does not

have matrimonial consent does not enter a valid marriage. He who by a positive act excludes the unity of marriage does not hand over and accept an exclusive right over the body; but such a one does not have matrimonial consent. He who by a positive act of the will also excludes indissolubility does not hand over and accept a perpetual right; but he who does not hand over a perpetual right does not have matrimonial consent.

I say 4°. Marriage enjoys the favor of law; wherefore in doubt one must stand for the validity of marriage, until the contrary is proved, with the prescription of Can. 1127 preserved (Can. 1014).[1]

The marriage of the baptized is ruled not only by divine law, but also by canon law, with the competence of civil power preserved concerning the merely civil effects of the same marriage (Can. 1016).

[1] Cf. Addenda, p. 1129, n. 89.

Questions

Question 1. Must consent be expressed in words?

Resp. § 2. The betrothed are to express matrimonial consent in words; nor is it licit for them to employ equivalent signs, if they are able to speak (Can. 1088).

Words are to be employed for liceity; for the paragraph does not speak about validity.

Question 2. Does consent through a procurator suffice?

Resp. Affirmatively, provided the required conditions are present, because marriage has the whole nature of a contract; but any contract can be made through a procurator. Hence Canon 1088, § 1: For contracting marriage validly it is necessary that the contracting parties be present either by themselves or through a procurator; and the Roman Ritual, tit. VII, c. 2, n. 2: "Nor does the consent of one suffice, but it must be of both, and expressed by some visible sign, whether it is made by themselves or through a procurator." Personal presence now seems to be required except in the case of a procurator duly employed. But the conditions are declared in the following canon:

§ 1. With diocesan statutes added upon this matter remaining firm, in order that marriage through a procurator be entered validly, there is required a special mandate for contracting with a certain person, signed by the mandator and either by the pastor or Ordinary of the place in which the mandate is made, or by a priest delegated by either, or by at least two witnesses.

§ 2. If the mandator does not know how to write, this is to be noted in the mandate itself, and another witness is to be added who himself also signs the writing; otherwise the mandate is invalid.

§ 3. If, before the procurator has contracted in the name of the mandator, this latter has revoked the mandate or has fallen into insanity, the marriage is invalid, although either the procurator or the other contracting party was ignorant of these things.

§ 4. In order that the marriage be valid, the procurator must perform his office himself in person (Can. 1089).

Question 3. Is Marriage entered under a condition valid?

Resp. It is certain that it is valid if the condition is concerning the past or concerning the present and is verified. The reason is that that conditioned consent immediately passes into absolute consent, and

therefore nothing is lacking to the value of the sacrament. But if an honorable and possible condition concerning the future is added, then certainly the Marriage is not perfected until the condition is fulfilled; because the contract must transfer the mutual right over bodies concerning the present. But once the condition has been fulfilled, the Marriage is valid; since a conditioned contract, once the condition has been fulfilled, passes into absolute, and by that very fact is valid by reason of the sacrament, because among Christians the contract of Marriage cannot be separated from the sacrament. - Although Marriage is firm even if the condition is fulfilled while the contracting parties are ignorant, nevertheless they themselves cannot use marriage before receiving knowledge of this fulfillment; otherwise at least in will and intention they would commit fornication. - Cf. S. Alphonsus, n. 890; Baller. note (a) and (b), p. 719.

Question 4. Is marriage entered under a condition concerning a necessary or impossible or immoral future thing, but not against the substance of marriage, valid?

Resp. The marriage is valid, because such a condition is held as not added. - Cf. Can. 1092.

A condition once placed and not revoked:

1°. If it is concerning the future and is necessary or impossible or immoral, but not against the substance of marriage, let it be held as not added (Can. 1092).

Consent concerning a necessary future thing is held in law as equivalent to consent concerning the present; and hence, by the addition of a condition concerning a necessary future thing, marriage is neither suspended nor vitiated, but immediately begins to be valid as if it had been contracted purely and without any condition; for example, I contract with you if tomorrow the sun rises.

In the same way the contract is not suspended if it is concerning an impossible thing; for unless certain indications to the contrary are present, in so grave an affair the contracting parties are deemed truly and seriously to wish to do something and not playfully. And thus in the chapter which is called notable and much allegable, Gregory IX says: "If conditions against the substance of wedlock are inserted, if one says to the other: I contract with you if you avoid the generation of offspring, or until I find another more worthy in honor or resources; or if for gain you hand yourself over to adultery; the matrimonial contract, however favorable it may be, lacks effect. Although other conditions placed in marriage, if they were immoral or impossible, ought on account of its favor to be held as not added." C. 7, X, IV, 5.

Question 5. Is marriage entered under an immoral condition against the substance of marriage valid?

Resp. Negatively; thus the new Code decrees the matter: A condition once placed and not revoked, if it is concerning the future against the substance of marriage, renders it invalid (Can. 1092, 2°).

Because then consent in the substance of the contract, which is altogether required, is not had. Consent into a perpetual and exclusive right is not had; therefore neither consent into marriage. Therefore, when contracting is done truly with a condition against the essence of wedlock, certainly the marriage is null; as when by heretics a formula is employed under that explicit condition that this marriage can be dissolved in the case of adultery, then it can no longer happen that error concerning marriage has been absorbed by the general will of contracting according to the intention of Christ. For marriages between co-parties, say heretical ones, can be valid with a concomitant error

concerning its indissolubility, when, as very often happens, the will of contracting marriage according to the intention of Christ prevails, and that error is absorbed in this intention. But if it is certainly established that a condition has been added to the substance of marriage, and especially to indissolubility or perpetuity, such nuptials are invalid. Cf. S. Off., 18 Dec. 1872; 9 Dec. 1874; 2 Oct. 1860; 29 Nov. 1882.

It will have to be investigated whether a condition contrary to the perpetuity and indissolubility of the conjugal bond, in some manner, directly or indirectly, explicitly or implicitly, was brought into the pact by the contracting parties, or whether the marriage was contracted with a depraved will of not consenting to a perpetual bond.

Question 6. Is it licit to enter marriage through an interpreter?

Resp. Marriage can also be contracted through an interpreter (Can. 1090).

Just as in other contracts a notary and witnesses can be sufficiently informed through an interpreter, so in this case the pastor and witnesses are informed concerning consent through an interpreter.

Question 7. Is consent presumed to persevere?

Resp. Even if marriage has been entered invalidly by reason of an impediment, the consent given is presumed to persevere until its revocation has been established (Can. 1093).

Question 8. Is it licit for a pastor to assist at a marriage to be contracted through a procurator or interpreter without the permission of the Ordinary?

Resp. The pastor is not to assist at a marriage to be contracted through a procurator or through an interpreter, unless there is a just cause and it is in no way licit to doubt the authenticity of the mandate or the trustworthiness of the interpreter, and, if time allows, the permission of the Ordinary has been had (Can. 1091).

The reason for this canon is clear from the necessity of driving away every error in so grave a matter. Therefore the pastor, before he assists, must be certain concerning the just cause of this manner of contracting, concerning the authenticity of the mandate, and concerning the trustworthiness of the interpreter; nor ought he to assist without the permission of the Ordinary.

Question 9. What is that which the contracting parties must not be ignorant of?

Resp. § 1. In order that matrimonial consent can be had, it is necessary that the contracting parties at least not be ignorant that marriage is a permanent society between a man and a woman for procreating children.

§ 2. This ignorance is not presumed after puberty (Can. 1082).

For without an act of the will no consent is possible; but there is no desire of a thing unknown, nothing willed unless known; and therefore, in order that there can be consent, the one consenting must not be ignorant of that into which he consents. Thus Pirhing, book IV, title 1, sect. 1, n. 85, places among the things necessary for wedlock knowledge or the judgment of discretion, by which one understands what he does.

By law sufficient discretion is presumed in those who have arrived at puberty.

Article II. On the Properties of Marriage

§ 2. The essential properties of marriage are unity and indissolubility, which in Christian marriage obtain a peculiar firmness by reason of the sacrament (Can. 1013).

§ I. On the Unity of Marriage

The unity of Marriage is placed in this, that Marriage is the conjunction of one man with one woman. Moreover,

1°. It is certain that polyandry conflicts with the natural law, because it is opposed to the principal ends of Marriage, namely the generation of offspring and their good education.

2°. It is certain that simultaneous polygamy is prohibited in every case, at least by the positive divine law of the New Law, as is established from Luke xvi, 18: "Everyone who puts away his wife and marries another commits adultery." It is likewise established from the Council of Trent, sess. 24, can. 2.

3°. It is certain that second and further nuptials are licit both for the man and for the woman, even under the Evangelical law. It is established from the authority and practice of the Church, and also from sacred Scripture, I Cor. vii, 39: "A woman is bound to the law for as long a time as her husband lives; but if her husband has slept, she is freed: let her marry whom she wishes, only in the Lord." - Cf. De Augustinis, Thes. 7, p. 254. Although chaste widowhood is more honorable, nevertheless second and further nuptials are valid and licit, with the prescription of Can. 1069, § 2, remaining firm (Can. 1142).

§ II. On the Firmness of Marriage

Point I. On the Firmness of Marriage, Insofar as It Regards the Bond

I say 1°. Marriage is indissoluble, that is, once Marriage has been contracted, divorce as regards the bond cannot take place. It is established 1°. from the words of Christ, Matt. xix, 6: "And so now they are not two, but one flesh. What therefore God has joined together, let man not separate." It is established 2°. from the Council of Trent, sess. 24, can. 5. - It is established 3°. from prop. 67 of the Syllabus, which has itself thus: "By the law of nature the bond of Marriage is not indissoluble, and in various cases divorce properly so called can be sanctioned by civil authority." - Wherefore the Third Plenary Council of Baltimore established: "that the penalty of excommunication ... reserved to the Ordinary is incurred by the very fact by those who, after they have obtained civil divorce, shall have dared to attempt Marriage." - Cf. Third Plenary Council of Baltimore, n. 124.

I say 2°. A valid marriage, ratified and consummated, can be dissolved by no human power and by no cause except death (Can. 1118).

Nevertheless a threefold case is to be excepted, as follows:

1°. A ratified and non-consummated Marriage of Christians can be dissolved, for a grave cause, through dispensation of the Pope, by power divinely granted to him. This is clear from the fact that the Supreme Pontiffs have already used this power many times, as St. Gregory VII, Paul III, etc. Indeed, this faculty is to be extended also to Marriages consummated in infidelity, if the spouses after Baptism, by which properly the Marriage becomes ratified, have not consummated it again. - Cf.

Perrone, *de Matrimonio Christiano*, vol. 3, sect. 2, cap. 6, art. 4; S. Alphonsus, nn. 956 and 959; Baller. note (b), p. 728.

2°. A ratified and non-consummated Marriage can be dissolved through the solemn religious profession of one of the spouses, and this by a special privilege granted by Christ and declared by the Church. For thus the Council of Trent has it, sess. 24, can. 6: "If anyone shall say that a ratified non-consummated Marriage is not dissolved through the solemn profession of Religion of one of the spouses, let him be anathema." The things which are said here under nn. 1° and 2° are clear also from Canon 1119:

A non-consummated marriage between baptized persons, or between a baptized party and a non-baptized party, is dissolved both by the law itself through solemn religious profession, and through dispensation granted by the Apostolic See for a just cause, with each party requesting or either party, even if the other is unwilling (Can. 1119).[1]

3°. § 1. A legitimate marriage between non-baptized persons, although consummated, is dissolved in favor of the faith by the Pauline privilege (Can. 1120), when either of the spouses is converted through Baptism to the Christian faith, and the other refuses to cohabit peacefully with him or does not cohabit except with injury to the Creator and contempt of the Christian religion, or applies an effort to draw the faithful party into mortal sin. This divine concession is drawn from the words of the Apostle, I Cor. vii, 12, where it is said: "If any brother has an unbelieving wife and she consents to dwell with him, let him not put her away ...; but if the unbeliever departs, let him depart; for a brother or sister is not subject to servitude in such cases: but God has called us in peace." Innocent III explains the same more fully in cap. *Quanto* 7, *de divortiis*. - Cf. Third Plenary Council of Baltimore, n. 128; S. Alphonsus, n. 956; Lehmkuhl, nn. 721 and following; *Acta S. Sedis*, vol. 22, p. 745 and following; *Amer. Eccl. Rev.*, vol. 4, p. 1 and following, and vol. 16, p. 328 and following.

[1] Cf. Addenda, p. 1130, n. 90.

Questions

Question 1. Once a marriage has validly been contracted by dispensation between an unbeliever and a Catholic, can this latter use the Pauline privilege if the unbelieving party afterward departs or is unwilling to cohabit without injury to the Creator?

Resp. § 2. This privilege does not obtain in a marriage between a baptized party and a non-baptized party entered with dispensation from the impediment of disparity of cult (Can. 1120).

Question 2. To whom, and under what conditions, is it licit to use the privilege?

Resp. It is clear 1°. that this privilege belongs only to the true and legitimate husband with respect to a true and legitimate wife, and vice versa; it is clear 2°. that the converted spouse cannot enjoy this privilege except after Baptism has been received and after an interpellation has been duly made to the other spouse concerning embracing the evangelical truth and promising peaceful cohabitation; it is clear 3°. that there can be no place for this privilege if both spouses are converted to the faith at the same time.

§ 1. Before the converted and baptized spouse validly contracts a new marriage, with the prescription of Can. 1125 preserved, he must interpellate the non-baptized party:

1°. Whether that party also wishes to be converted and receive Baptism;

2°. Whether at least that party wishes to cohabit peacefully with him without contumely of the Creator.

§ 2. These interpellations must always be made, unless the Apostolic See has declared otherwise (Can. 1121).

Question 3. How must these interpellations be made?

Resp. § 1. Interpellations are to be made regularly, at least in summary and extrajudicial form, by the authority of the Ordinary of the converted spouse; by this Ordinary, delays for deliberating are also to be granted to the unbelieving spouse, if indeed that spouse has sought them, with this one nevertheless admonished that, once the delays have passed uselessly, the response will be presumed negative.

§ 2. Interpellations even made privately by the converted party himself are valid; indeed they are also licit if the form prescribed above cannot be observed. Nevertheless, in this case, for the external forum, the fact of them must be established by at least two witnesses or by another legitimate mode of proof (Can. 1122).

Question 4. When at last does the baptized party have the right of contracting new nuptials?

Resp. If the interpellations were omitted by declaration of the Apostolic See, or if the unbeliever has responded negatively to the same expressly or tacitly, the baptized party has the right of contracting new nuptials with a Catholic person, unless that party after Baptism has given to the non-baptized party a just cause for departing (Can. 1123).[1]

[1] Cf. Addenda, p. 1131, n. 91.

Question 5. Is the Pauline privilege valid also in the case in which, after the conversion of one, the unbelieving party consents to cohabit peacefully, and then, with counsel changed, tempts the faithful one or departs?

Resp. The faithful spouse, although after receiving Baptism he again has lived matrimonially with the unbelieving party, nevertheless does not lose the right of celebrating new nuptials with a Catholic person; and therefore he can use this right if the unbelieving spouse, with will changed, later departs without just cause, or now no longer cohabits peacefully without contumely of the Creator (Can. 1124).

Question 6. What must be said of a marriage entered after dispensation from interpellation when it becomes known that the unbelieving spouse could not declare his will and had been converted to the faith?

Resp. It is valid. This has been declared very many times. S. Off., 4 Feb. 1891; Gregory XIII, 25 Jan. 1585.

Those things which regard marriage in the constitutions of Paul III, *Altitudo*, 1 June 1537; of S. Pius V, *Romani Pontificis*, 2 Aug. 1571; of Gregory XIII, *Populis*, 25 Jan. 1585, and which were written for particular places, are extended also to other regions in the same circumstances (Can. 1125).[1]

[1] Cf. Addenda, p. 1131, n. 92.

Question 7. What is the force of that dispensation in that case, if the second marriage is valid?

Resp. Its force is to dissolve the bond of a ratified and non-consummated marriage of the faithful. For the co-parties of the first wedlock, at the time of the contract of the second marriage, were both baptized. Therefore, at the moment of Baptism received by each, that first wedlock became a ratified marriage; and since after the Baptism of each it had not been consummated, it was had as ratified and non-consummated. But the Supreme Pontiff can dissolve a marriage ratified and non-consummated. Therefore.

Question 8. Immediately after the Baptism of one and the departure of the other party, is the Marriage dissolved?

Resp. Negatively. According to the same divine privilege, the spouse converted to the faith, at the very point of conversion, is not understood to be loosed from the bond of the marriage contracted with an unbeliever still surviving; but then, if the unbelieving spouse refuses, he acquires the right of passing to other nuptials, nevertheless with a faithful spouse. S. Off., 11 July 1866. - Cp. *Si quis*, 28, q. 2; and Cp. *Gaudemus*, 8, *De Divortiis*: Crimes are loosed in Baptism, not marriages.

Question 9. Is the prior marriage dissolved by the very fact that the converted person has betaken himself to second nuptials?

Resp. The bond of the prior wedlock, contracted in infidelity, is dissolved only then when the faithful party has in fact validly entered new nuptials (Can. 1126).

Question 10. Can an unbelieving spouse validly enter a new Marriage, if after his departure the party converted to the faith has emitted religious profession, or received sacred Orders, or made a simple vow of chastity?

Resp. He can indeed in the case of religious profession, if the Marriage was not consummated after the reception of Baptism, because then it is dissolved by force of the other privilege declared by the Council of Trent, sess. 24, can. 6. - Not likewise in the case of reception of sacred Orders, or emission of a simple vow of chastity, because then the first matrimonial bond remains entire. But if the unbelieving spouse is converted, cohabitation is certainly not permitted to him if the co-party has received sacred Orders, and according to some also in the case of a simple vow of chastity, because the state assumed is incompossible with conjugal life. - Cf. Baller. note (c), p. 734.

Question 11. Is the Pauline privilege valid also in the case in which conversion is made through reception of Baptism in some non-Catholic sect?

Resp. Many think that then also it is valid, if nevertheless the other conditions are not lacking, because then too the substance of conversion is verified, namely reception of valid Baptism, as is supposed. - Cf. Baller. note (a), p. 736, at the end.

Question 12. How manyfold is the object concerning which interpellation is to be made?

Resp. As is established from what has been said, that object is twofold, unless an apostolic dispensation is given. Cf. S. Off., 20 June 1886; S. C. de Prop. F., 17 Jan. 1836; S. Off., 8 June 1836.

Question 13. What kind of departure suffices for the Pauline Privilege to enter?

Resp. The physical or moral departure of the unbelieving party itself suffices; nor is it required that the physical departure have been malicious.

> "Since the favor of the faith fights on the side of the converted spouse, he can use it from whatever cause, provided it is just, namely if he has not given to the other spouse a just and reasonable motive for departing, yet in such a way that only then is the yoke of the matrimonial bond with the unbeliever understood to be loosed, when the converted spouse (the other refusing after interpellation to be converted) passes to other vows with a faithful person."

And therefore it has place when the unbeliever departs from hatred of the faith or on account of discords or on account of another cause diverse from the faith (S. Off., 5 Aug. 1759), even when the unbeliever refuses to live with the faithful one without contumely of the Creator, or attempts to draw the faithful one to sin or to infidelity, or refuses to desist from concubinage. It enters also if the unbelieving party wishes to be converted, but in no way consents to live with the faithful one, provided the unbelieving party remains in infidelity; it enters if the unbelieving party cannot cohabit with the faithful one, because, for example, by force she has been taken away from the man so that there is no hope of recovering her, or if she wishes to be converted and indeed would wish to cohabit with him, but can neither practice the religion nor cohabit. It enters, I say, provided this party remains in infidelity. S. Off., 8 July 1891. Besides, dispensation from interpellation has not once only been given on account of the insanity of the unbelieving party herself, who could not be interpellated. Therefore physical departure, malicious or not malicious, and moral departure suffice for the privilege to enter.

Question 14. Was this interpellation also before the New Code necessary for the validity of the marriage of the faithful one who wished to use the privilege?

Resp. Affirmatively; there are so many cases in which marriages have been declared null which had been entered without interpellation, that the negative opinion must be held simply as not safe.

Such responses are: A neophyte had contracted wedlock with a Christian woman, saying nothing about the wedlock contracted in infidelity. What must be thought of the marriage of the said man with the Christian girl, contracted without interpellation and dispensation? Resp. From the things brought forward, the first marriage subsists. S. Off., 20 June 1858; S. Off., 17 Jan. 1900; 5 Aug. 1795. In a similar manner, in the Korean persecution it sometimes happened "that in the use of the privilege of faith the unbelieving spouse, converted and baptized, omitted interpellation toward the spouse remaining in infidelity, although in many cases this interpellation was perhaps necessary or at least of doubtful obligation." (Thus in the supplicatory petition.) It was answered: "But as regards marriages contracted without the interpellation of the unbelieving spouse having preceded in the accustomed manner, or a dispensation from it having been obtained, let the Apostolic Vicar, from the faculty which is granted to him, dispense from the interpellation to be made, and altogether procure that consent be renewed; but in those cases in which he judges that this renewal cannot be made for now, let him be silent, if the putative spouses are in good faith."

S. C. de Prop. F., 5 March 1816. Whether, for the effect of dissolving marriage according to the privilege in favor of the faith granted by Christ the Lord and promulgated by the Apostle, the interpellation of the party persevering in infidelity is of divine law, and therefore so necessary that, if

it is neglected, no place at all is had for dissolving the marriage; or whether it pertains only to judicial form, and is not required except so that the dissolution be made licitly, especially when otherwise it is established by morally certain indications that the other spouse wishes neither to embrace the faith nor to cohabit without contumely of the Creator? R. to 1. "There is no place for the dissolution of a marriage contracted in infidelity, unless interpellation has first been made, or unless, from legitimate causes, an Apostolic dispensation concerning the interpellation has been obtained."

Question 15. What are the causes on account of which the Holy See dispenses from interpellation?

Resp. A twofold case, ordinary and extraordinary, must be considered in the faculty of dispensing from interpellation. The ordinary case occurs then, namely, when all diligences have first been employed, even through public newspapers, for finding the place where the unbelieving spouse dwells, and these have fallen into vain result, and it is established at least summarily and extrajudicially that the absent spouse cannot legitimately be admonished or, having been admonished, has not signified his will within the time fixed beforehand. The other occurs when the unbelieving spouse can indeed be approached, but he cannot be interpellated concerning the co-party having become Christian without evident danger of grave damage to be brought upon that co-party or upon Christians; S. Off., 29 Nov. 1882; or if it is seriously doubted whether the neophyte truly took any of his women as wife. 8 June 1836.

Question 16. What must be said if the faithful party gave the cause of departure?

Resp. If the faithful party after conversion should furnish to the unbelieving party a just and reasonable cause of departing, say, through adultery, the privilege of faith would not remain entire. It is otherwise if the cause occurred before baptism, because this sacrament blots out the crime. Instr. S. C. de Prop. F., 30 Jan. 1807; S. O., 19 April 1899. - Cf. D'Annibale, vol. 3, n. 475.

Question 17. When is the interpellation to be made?

Resp. This interpellation is to be made after baptism, unless the Supreme Pontiff himself has otherwise granted the power of interpellating the unbelieving party before baptism. Indeed, the S. Off., 15 June 1850, affirms that it is of divine law, resolving a case in which an unbelieving woman responded that she wished to be converted and cohabit but was detained by a second husband or by a creditor who did not permit her to leave. Question: whether in this case the converted man can pass to other nuptials? "Affirmatively, namely, that the converted man concerning whom it is a question, if he has not legitimately been dispensed by the Apostolic See, is bound by divine precept to make in the present case an interpellation once to the other spouse; but he can do so several times from mere charity. But once this divinely enjoined condition has been fulfilled by the converted man, if the pagan wife has not returned to him within some just and reasonable space of time, the aforesaid converted man can licitly and validly enter other nuptials with a Christian woman, however, provided the man is not the cause of the impediment by which the woman is detained." Thus the S. Off.

1°. Practically in every case either interpellation is to be made, or pontifical dispensation from interpellation is to be obtained.

2°. But it is to be noted that second nuptials to be entered after interpellation or dispensation must be entered only with a faithful person, without permission of the Apostolic See.

3°. Neither divorce nor a second civil marriage exempts anyone from the obligation of making interpellation.

4°. But insofar as neither interpellation nor dispensation from the same has preceded, the first marriage will obstruct the second; but the Ordinary ought to suspend judgment and remit the case with all its circumstances to the Holy See, which will indicate to the Ordinary himself what must be done. S. C. de Prop. F., Instruction on ecclesiastical judgments concerning matrimonial causes, given in the year 1883.

In a doubtful matter the privilege of faith enjoys the favor of law (Can. 1127).[1]

[1] Cf. Addenda, p. 1134, n. 93.

Point II. On the Firmness of Marriage, Insofar as It Regards the Bed

I say. Spouses must preserve the communion of conjugal life, unless a just cause excuses them (Can. 1128), on account of which divorce from bed or habitation can take place, while nevertheless the conjugal bond remains, so that neither party can enter another Marriage before the death of the other. The first is drawn from the definition itself of Marriage. The other is established by the Council of Trent, sess. 24, can. 8: "If anyone shall say that the Church errs when, on account of many causes, she decrees that separation between spouses, as regards bed or as regards habitation, can take place for a determinate or indeterminate time, let him be anathema." But the causes rendering a divorce of this kind honorable are: mutual consent, grave danger of soul or body, and adultery of either party; which causes you will understand thus for practice.

1°. Mutual consent: namely, each spouse together can renounce his proper right as regards the bed, whether for a time or in perpetuity, provided danger of incontinence is absent. Likewise they can be separated also as regards habitation, whether for a time on account of affairs, or in perpetuity on account of desire for a more perfect life, for example, for entering Religion or receiving sacred Orders. - Cf. Baller. note (b), p. 741.

2°. § 1. On account of the adultery of a spouse, the other spouse, with the bond remaining, has the right of dissolving, even in perpetuity, the communion of life, unless he has consented to the crime, or has given cause for it, or has expressly or tacitly condoned it, or has also himself committed the same crime.

§ 2. Tacit condonation is had if the innocent spouse, after he has been made more certain concerning the crime of adultery, has freely lived with the other spouse with marital affection; but it is presumed unless within six months he has expelled or deserted the adulterous spouse, or has made a legitimate accusation (Can. 1129).

The innocent spouse, whether he has legitimately departed by sentence of the judge or by his own authority, is never bound by any obligation to admit again the adulterous spouse to the companionship of life; but he can admit or recall the same, unless from his consent that one has assumed a state contrary to marriage (Can. 1130).

It is clear from the words of Christ, Matt. v, 32: "He who puts away his wife, except for the cause of fornication, makes her commit adultery, etc." But if this is licit for the man, by the same reason it must also be licit for the wife.

It is helpful to notice that, according to the common opinion of doctors, here under the name of adultery there is understood any division of flesh, even that which is had through sodomy and bestiality. - Cf. S. Alphonsus, n. 962.

3°. § 1. If the other spouse has given his name to a non-Catholic sect; if he has educated the offspring non-Catholically; if he leads a criminal and ignominious life; if he brings about grave danger, whether of soul or of body, for the other; if by cruelties he renders common life too difficult, these and other things of this kind are so many legitimate causes of departing for the other spouse, by authority of the Ordinary of the place, and even by his own authority, if they are certainly established and there is danger in delay.

§ 2. In all these cases, when the cause of separation ceases, the custom of life is to be restored; but if the separation has been pronounced by the Ordinary for a determinate or indeterminate time, the innocent spouse is not bound to this unless by decree of the Ordinary or when the time has passed (Can. 1131).

Question. Is the man, once the adultery of his wife is known, bound to put her away?

Resp. It is certain that he is not bound by reason of the adultery, because divorce was conceded in favor of the innocent one, not for his punishment. Nevertheless the man can sometimes be bound to put away the adulterous wife by reason of fraternal correction or of avoiding scandal; but that case is rare, both because other means can be employed for correcting the wife or avoiding scandal, and because grave scandal to be feared from separation can excuse. From another side, the wife cast out would be exposed to greater danger, at least for the most part. - Cf. S. Alphonsus, n. 963.

Here it must be carefully noted that the confessor in this matter needs great prudence. Wherefore he should rarely permit divorce from bed made by private authority, and still more rarely if the crime is occult, even if it is certain. Let him beware besides lest he believe too easily the complaints of wives against husbands; and let him take pains to restrain them and turn them away from divorce insofar as it can be done. Cf. S. Alphonsus, n. 969.

It must also be noted that it is by no means licit for spouses to seek civil separation from bed and board without having consulted ecclesiastical authority. For thus speak the Fathers of the Third Plenary Council of Baltimore, n. 126: "We command all those who are joined in marriage not to approach civil tribunals to obtain separation from bed and board, without ecclesiastical authority having been consulted. But if anyone should attempt it, let him know that he incurs grave guilt and is to be punished according to the judgment of the Bishop."

Once separation has been instituted, the children are to be educated with the innocent spouse, and if one of the spouses 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 (Can. 1132).

Chapter IV. On the Matter and Form of Marriage

Concerning the matter and form of Marriage, these things are to be held:

I. The remote matter of the sacrament of Marriage is the bodies of the betrothed, to be handed over to each other in the contract of Marriage.

II. The proximate matter is the handing over itself of the bodies, which is perfected through words or signs expressing consent.

III. The form consists in the mutual acceptance of the contracting parties, expressed by words or signs.

Concerning all these things it is established both from the common doctrine of theologians and because today it ought to be beyond controversy that the sacrament of Marriage is nothing other than the matrimonial contract itself. Cf. de Augustinis, Thes. 4, p. 222, and especially the Apostolic Letter of Leo XIII, *Arcanum*, 10 Feb. 1880.

Chapter V. On the Minister and Subject of Marriage

Article I. On the Minister of the Sacrament of Marriage

I say. It is certain and Catholic doctrine that the Ministers of the sacrament of Marriage are the contracting parties themselves, and not the priest. The reason is that Eugene IV, in the Decree to the Armenians, wishing to hand down sound doctrine concerning the sacraments, established thus: "The efficient cause of Marriage regularly is mutual consent expressed by words concerning the present." Nor is it to be doubted that those words, efficient cause of Marriage, regard Marriage as a sacrament, since the seven sacraments are explained expressly in that Decree. - Nevertheless the Pastor is the Minister of the solemnity of Marriage, and the presence of him, or of the Ordinary, or of one delegated by either, is required for validity according to Can. 1094, with the exceptions contained in Can. 1098, 1099 preserved. Besides, the blessing is also to be bestowed upon those about to marry according to the rite described in the Roman Ritual.

Concerning the rite in the celebration of Marriage:

Outside the case of necessity, in the celebration of marriage the rites prescribed in ritual books approved by the Church, or received by laudable customs, are to be observed (Can. 1100). - Cf. Council of Trent, sess. 24, *de Reform. Matrim.*; Roman Ritual, *de Matrim.*; De Augustinis, Thes. 3, p. 197.

Questions

Question 1. What ought the pastor to do concerning marriages of those who have notoriously cast off the Catholic faith, although they have not passed over to a sect; or who are enrolled in condemned societies, and that notoriously; or who are public sinners or censured persons?

Resp. § 1. The faithful are also to be deterred from contracting marriage with those who have notoriously cast off the Catholic faith, even if they have not passed over to a non-Catholic sect, or are enrolled in societies condemned by the Church.

§ 2. The pastor is not to assist at the aforesaid nuptials unless the Ordinary has been consulted; after all the circumstances of the matter have been inspected, the Ordinary will be able to permit him to be present at the marriage, provided a grave cause urges and, according to his prudent judgment, the Ordinary judges that sufficient provision has been made for the Catholic education of all the offspring and for removing the danger of perversion of the other spouse (Can. 1065).

If a public sinner or one notoriously bound by censure has first refused to approach sacramental confession or to be reconciled with the Church, the pastor is not to assist at his marriage unless a grave cause urges, concerning which, if it can be done, he is to consult the Ordinary (Can. 1066).

Question 2. Can the nuptial blessing properly so called be separated from the celebration of Mass?

Resp. The rite of celebrating the sacrament of Marriage, by which the priest joins the betrothed and blesses the ring, and which is had expressed in the Roman Ritual, must be carefully distinguished from the nuptial blessing which is read in the Missal (*Mass for bridegroom and bride*) and pertains to the

solemnity of those same nuptials. Concerning the former, one must altogether affirm that it can, indeed must, in forbidden time, or when the solemnities of nuptials are prohibited, be separated from the celebration of Mass; for Marriage can be contracted at every time. But one must deny it as regards the nuptial blessing properly so called, as is established from Canon 1101, soon to be cited. This blessing consists in the Prayers which are had in the Missal, "Propitiare," etc., "Deus, qui," etc., to be said before "Libera nos," etc., and also the other, "Deus Abraham," etc., to be said before the blessing. Decr. Auth. n. 3789, ad 3.

Question 3. Is there any obligation of receiving the nuptial blessing?

Resp. Negatively, at least by common law.

§ 1. The pastor is to take care that the betrothed receive the solemn blessing, which can be given to them even after they have lived long in marriage, but only in Mass, with the special rubric observed and except in the closed time.

§ 2. Only that priest who can validly and licitly assist at the marriage can give the solemn blessing, either himself in person or through another (Can. 1101).

Concerning this matter, behold the words of the Third Plenary Council of Baltimore, n. 125: "Let [the Pastors of souls] inculcate frequently and with grave words that pious and laudable rite of the Church by which the faithful contract not at night but at the time of Mass, with the nuptial blessing. In this way they tacitly profess their Catholic faith and show before all how highly, as is fitting, and splendidly they think concerning the dignity and sanctity of marriage. And this indeed seems not only worthy of praise but almost necessary in these our times, when the enemies of religion leave nothing unattempted, so that from marriage, if it can be done, every appearance of sanctity, every appearance of sacrament, may be taken away and it may be esteemed as a merely civil contract."

Question 4. What must be said specially concerning the time and mode of giving this blessing, and concerning the Mass within which it must be given?

Resp. Concerning this matter, the following things are to be noticed:

1°. According to the decree of the S. R. U. Inq. given on 31 August 1881, the nuptial blessing is to be given, according to the rubrics however, namely within the celebration of Mass and outside the closed time, "to all those spouses who, in contracting Marriage, from whatever cause, did not obtain it; even if they ask after they have already lived long in Marriage, provided the woman, if she is a widow, has not received that blessing in other nuptials. - Besides, those same Catholic spouses who have not obtained the blessing of their Marriage are to be exhorted to seek it at the first available time. But it is to be signified to them, especially if they are neophytes or before conversion validly contracted from heresy, that the blessing itself pertains to the rite and solemnity, but not to the substance and validity of wedlock." - Cf. *Acta S. Sedis*, vol. 14, p. 513; Second Plenary Council of Baltimore, n. 333, and Appendix XIII, p. 310; *Amer. Eccl. Rev.*, vol. 2, pp. 120 and following.

2°. The nuptial blessing is to be omitted (1°) during the whole closed time, S. R. C., 31 Aug. 1839; (2°) if the woman is a widow and has already received this blessing in other nuptials; (3°) when the betrothed do not wish to receive the blessing within the celebration of Mass; (4°) in mixed marriages, even if they are contracted with dispensation of the Supreme Pontiff. Otherwise the woman is to be blessed; it is of no importance for the blessing whether the woman is a virgin or not.

3°. Whenever the nuptial blessing must be omitted, the votive Mass for bridegroom and bride is also prohibited, and likewise the commemoration for bridegroom and bride in the Mass of the day is inhibited. But whenever the woman is to be blessed, the votive Mass for the betrothed is also to be celebrated, except on Sundays, feasts of precept, doubles of the first or second class, days within the octaves of Epiphany, Easter, Pentecost, and Corpus Christi, and privileged ferias and vigils. With Christmas of the Lord and Easter excepted, in the Mass of the day there is to be made the commemoration of the votive Mass for the betrothed, which is always added under a distinct conclusion and in the first place after the prayers prescribed by the rubrics. - S. R. C., 20 April 1822; 15 June 1883.

4°. On licit days, when the Mass for bridegroom and bride is said, the second prayer will always be of the Office, and commemorations will be made of the proper day; in doubles a third prayer is not added (S. C. R., 24 May 1912). On days of inferior rite, the number at least triple is to be completed.

5°. The priest is not bound to apply the Mass for the betrothed unless he receives an alms from the same (S. C. Inq., 1 Sept. 1841).

6°. It is not required that the betrothed communicate within the Mass (n. 3922).

7°. The prohibition of the nuptial blessing in prohibited times must be understood of the Mass for bridegroom and bride and of the prayers in the Missal.

8°. When the blessing is to be given, the Mass for bridegroom and bride is to be said according to the things set forth, although it is not applied for them; nor can that Mass be said unless the blessing is given in the same.

9°. When nuptials have been celebrated in prohibited time and the spouses afterward have sought the nuptial blessing, it is not required that a day be chosen on which the votive Mass for the spouses can be said, but the nuptial blessing can be bestowed within Mass, for example of a double feast of the second class with the commemoration for the Spouses, according to the rubric placed at the head of the Mass for spouses. But the presence of both is necessary for bestowing the blessing. S. C. R., 27 May 1911.

10°. In the typical edition of the Roman Ritual published in the year 1925, Tit. VII, c. 1, n. 18, these things are found: "But let the Pastor beware that, when spouses have received the blessing in first nuptials, he not bless them in second nuptials, whether the woman or even the man passes to second nuptials. But where that custom prevails that, if the man alone has obtained this blessing at another time, the nuptials are blessed, it is to be observed; but a widowed woman, to whom the solemn blessing has once been given, cannot receive it again in subsequent nuptials, even if her husband has never taken a wife. Cf. below, Q. 10°." - S. R. C., 14 June 1918. Several marriages can be blessed at the same time in one Mass. S. Off., 1 Sept. 1841.

Question 5. In marriages between a Catholic party and a non-Catholic party, must questions concerning consent be made?

Resp. § 1. In marriages between a Catholic party and a non-Catholic party, questions concerning consent must be made according to the prescription of Can. 1095, § 1, n. 3.

§ 2. But all sacred rites are prohibited; but if graver evils are foreseen from this prohibition, the Ordinary can permit some one of the customary ecclesiastical ceremonies, always excluding the

celebration of Mass (Can. 1102).

Hence, for the validity of marriage, the consent of the contracting parties is to be required and received by the pastor or the Ordinary of the place, or by one delegated by either. Therefore it is clear that not only in marriages between Catholics, but also in marriages between a Catholic party and a non-Catholic party, Canon 1095, § 1, n. 3 exercises its whole force, which regards the very consent to be required and received. Then all sacred rites are prohibited in these marriages; but if graver evils are foreseen from this, the Ordinary can permit some one of the customary ceremonies, always excepting the celebration of Mass.[1]

[1] Cf. Addenda, p. 1090, n. 17; p. 1152, n. 128.

Question 6. Is it ever licit to celebrate a marriage of conscience?

Resp. Only from a most grave and most urgent cause, and by the Ordinary of the place himself, with the Vicar General excluded without a special mandate, can it be permitted that a marriage of conscience be entered, that is, that marriage be celebrated with the denunciations omitted and secretly, according to the norm of the canons which follow (Can. 1104).

Marriage pertains to the public order, and the whole security of the family is involved in the security itself of this Sacrament. And therefore it is to be entered publicly, nor is it easily to be permitted that it be contracted secretly. Hence a most grave cause is required in order that marriage without banns be celebrated secretly before the pastor and two confidential witnesses; and this is called a marriage of conscience, not because it is not a true marriage, but because it is occult and fortified by a true obligation of conscience, as any other wedlock. This Great Sacrament is, and it is unbecoming for it to be received occultly, unless ruling reasons excuse secrecy. An example can be that of a man and woman living publicly as spouses, concerning whom there is no suspicion of crime; in reality they are concubinarii. Indeed, it is a matter of great moment to permit such nuptials; wherefore the qualities of the betrothed and the freedom of their state are to be weighed, and a prudent minister is to be chosen.

Question 7. What obligation does the permission of such a Marriage carry with itself?

Resp. Thus Canon 1105:

The permission of the celebration of a marriage of conscience carries with itself the promise and grave obligation of preserving secrecy on the part of the assisting priest, the witnesses, the Ordinary and his successors, and also the other spouse, when the other does not consent to divulgation (Can. 1105).

Question 8. Does the obligation of secrecy extend itself to all cases?

Resp. The obligation of this promise on the part of the Ordinary is not extended to the case in which either some scandal or grave injury toward the sanctity of marriage threatens from the observance of secrecy, or the parents do not take care that children received from such a marriage be baptized, or they take care that those to be baptized are baptized with false names expressed, while meanwhile they do not furnish to the Ordinary within thirty days notice of the offspring received and baptized with a sincere indication of the parents, or they neglect the Christian education of the children (Can. 1106).

For the Church must defend the sanctity of wedlock and the rights of the woman and offspring equally with those of the man. Hence before such a marriage is celebrated, the betrothed are to be admonished concerning the various obligations toward each other, toward offspring, concerning announcing to the Ordinary himself the offspring born, and concerning procuring the Christian education of the same. If these conditions or obligations are not observed, the obligation of the Ordinary to be silent ceases. - Cf. Benedict XIV, Const. *Satis Vobis*.

Question 9. Is this Marriage to be noted in the book of marriages?

Resp. It is not to be noted in the customary book of marriages, but in a special book to be kept in the archive of the Curia, concerning which in Can. 379.

Question 10. At what time can Marriage be celebrated?

Resp. § 1. Marriage can be contracted at any time of the year.

§ 2. Only the solemn blessing of nuptials is forbidden from the first Sunday of Advent up to and including the day of the Nativity of the Lord, and from Ash Wednesday up to and including Easter Sunday.

§ 3. Nevertheless, Ordinaries of places can, with liturgical laws preserved, permit it even at the aforesaid times from a just cause, with the betrothed admonished to abstain from excessive pomp (Can. 1108).

Therefore it is established 1°. that nuptials can be celebrated at any part of the year, but not solemnly in forbidden time unless by permission of the Ordinary given from a just cause. - Cf. S. R. C., 14 June 1918.

Forbidden time is to be computed from the first Sunday of Advent up to and including the day of the Nativity of the Lord, and from Ash Wednesday up to and including Easter Sunday.[1]

[1] Cf. Addenda, p. 1135, n. 94.

Question 11. What is the proper place of the celebration of Marriage?

Resp. § 1. Marriage between Catholics is to be celebrated in the parochial church; but in another church or oratory, whether public or semi-public, it can be celebrated only by permission of the Ordinary of the place or of the pastor.

§ 2. The Ordinaries of places can permit marriage to be celebrated in private homes only in some extraordinary case and with a just and reasonable cause always acceding; but in churches or oratories, whether of a Seminary or of religious women, the Ordinaries are not to permit this unless necessity urges and suitable cautions have been employed.

§ 3. But marriages between a Catholic party and a non-Catholic party are to be celebrated outside a church; but if the Ordinary prudently judges that this cannot be observed without graver evils arising, it is committed to his prudent judgment to dispense concerning this matter, with the prescription of Can. 1102, § 2 remaining firm (Can. 1109).

Article II. On the Subject of Marriage

I say 1°. The subject of the sacrament of Marriage is every baptized human being, laboring under no impediment, whether natural or divine or canonical.

With this the Code harmonizes. All can contract marriage who are not prohibited by law (Can. 1035).

I said 1°. every baptized human being; for non-baptized persons are not capable of the sacraments of the Church, as is clear. - I said 2°. laboring under no impediment; for although of itself every baptized human being is a capable subject of the sacrament of Marriage, nevertheless per accidens many are barred from validly contracting Marriage on account of diverse impediments, both of natural law and of divine or ecclesiastical law, as will be said below in its place. Hence:

1°. The marriage of unbelievers, although it can be valid in the nature of a contract, nevertheless is not a sacrament. Indeed, the faithful person himself contracting Marriage with an unbeliever, even by dispensation of the Pope, according to many Doctors does not receive the sacrament. For the sign of the union of Christ with the Church, conferring sacramental grace, consists neither in the union of the man nor in the union of the woman, but in the union of both. Others, however, dissent, and say that the Marriage is then ratified and therefore has the nature of a sacrament on the part of the faithful person. - Cf. Baller. note (a), p. 749.

The Marriage of two unbelievers who are converted becomes a Sacrament when both are baptized, whether this happens successively or simultaneously. Namely, in that case the valid contract takes on the character or nature of a contract of one conjugal union among the faithful, which is a Sacrament; and at the moment of Baptism received by both, the marriage becomes efficacious of the grace itself. Thus with a better judgment preserved.

2°. Heretics and schismatics who, in entering Marriage, accurately and integrally observe the laws of the Church pertaining to the substance of the sacrament contract validly and are fortified by the sacrament, since there is nothing which can obstruct the value of this sacrament. The practice of the Church confirms this very thing, for she in no way compels them to renew consent if, coming to their senses, they return to the unity of the Catholic Church.

I say 2°. The betrothed contracting Marriage ought to be in the state of grace, because Marriage is a sacrament of the living. Those who contract while stained by mortal sin become guilty of sacrilege and do not perceive the sacramental graces necessary for spouses. Probably, however, those graces are only suspended, and, once the obstacle or mortal sin has been removed, they are applied to the soul. For practice, if no fruit is hoped from admonition, it will almost be better not to admonish the unworthy person concerning sacrilege, so that at least thus he sins less; and rather he will be induced to approach confession at least as soon as possible.

I say 3°. From a valid marriage there arises between the spouses a bond by its nature perpetual and exclusive; besides, Christian marriage confers grace on spouses not placing an obstacle (Can. 1110).

I say 4°. To each spouse from the beginning itself of marriage there belongs an equal right and office as regards the acts proper to conjugal life (Can. 1111).[1]

I say 5°. Unless something else has been provided by special law, the wife, concerning canonical effects, is made a participant of the status of the husband (Can. 1112).

The woman retains the domicile and honor of the man. Cf. C. 3, *de sepulturis*, III, 12, in VI°.

Namely, the woman is the companion of the man, neither a handmaid nor a maidservant nor a slave. Unless special law establishes something else, she simply obtains the very status of the husband.

[1] Cf. Addenda, p. 1096, n. 32.

Questions

Question 1. Ought the Pastor to require that confession be premised to Marriage, or that a certificate of confession be exhibited by the betrothed?

Resp. He cannot absolutely and of itself require this, unless the synodal law in each diocese or a precept of the Bishop establishes it. The reason is that, although the state of grace is required for receiving this sacrament, nevertheless confession is not necessarily required, since contrition can absolutely suffice for those who are in the state of mortal sin. From another side, it is for the most part not known to the Pastor that the betrothed are not in the state of grace. - Cf. Second Plenary Council of Baltimore, n. 329.

Question 2. Who are legitimate children?

Resp. Legitimate are children conceived or born from a valid or putative marriage, unless the use of the marriage previously contracted was prohibited to the parents at the time of conception on account of solemn religious profession or a sacred order received (Can. 1114).

Those conceived or born from a valid marriage entered without a diriment impediment, or from an invalid marriage which nevertheless was celebrated in good faith by at least one party and hence is called putative, are legitimate unless conception occurred at a time when, on account of solemn religious profession or sacred order, the use of Marriage was prohibited. Therefore offspring sacrilegiously conceived, because the parent is a solemnly professed religious or in Sacred Orders, is not legitimate.

Question 3. Who is to be held as father, and which children are presumed as legitimate?

Resp. § 1. The father is he whom just nuptials demonstrate, unless the contrary is proved by evident arguments.

§ 2. Children are presumed legitimate who were born at least after six months from the day of the celebrated marriage, or within ten months from the day of the dissolved conjugal life (Can. 1115).

The reason for each is found in the necessary protection of the family and of hereditary succession. The first sentence is taken from Roman Law. Nevertheless, it admits proof to the contrary. The other part, in a similar way, provides for offspring and gives a principle for settling controversies, taken from natural law.

Question 4. What offspring is legitimated through subsequent marriage?

Resp. Through the subsequent marriage of the parents, whether true or putative, whether newly contracted or convalidated, even non-consummated, offspring is made legitimate, provided the parents were capable of contracting marriage between themselves at the time of conception, or of pregnancy, or of nativity (Can. 1116).

The threefold time is to be noted, of conception, pregnancy, or nativity, in which the parents must be capable of contracting. Although they were incapable at the time of conception, provided they afterward became capable, the children are legitimated by the aforesaid subsequent marriage. Thus offspring born at a time when the parents were joined in marriage is legitimate, although at the time of conception they were incapable on account of some diriment impediment.[1]

Legitimated children, as far as concerns canonical effects, are in all things equated with legitimate children, unless something else has been expressly provided (Can. 1117). Thus, for example, such persons are capable for tonsure, minor and sacred orders, and dignities in the Church; but not for the Cardinalate or Episcopate. Therefore, excepting certain prelatures, those legitimated are simply assimilated to legitimate children.

[1] Cf. Addenda, p. 1117, n. 69.

Chapter VI. On the Impediments of Marriage

Article I. On Impeding Impediments of Marriage

I say 1°. § 1. An impeding impediment contains a grave prohibition of contracting marriage; which, however, is not rendered invalid if, notwithstanding the impediment, it is contracted.

§ 2. A diriment impediment both gravely prohibits the marriage to be contracted and prevents it from being contracted validly.

§ 3. Although the impediment has itself from one party only, nevertheless it renders marriage either illicit or invalid (Can. 1036).

An impeding impediment gravely prohibits, but the marriage is valid; a diriment impediment both gravely prohibits and obstructs it from being entered validly. And however the impediment has itself from one party, it makes the marriage either illicit only or also invalid. Catholic Titius and heretical Bertha enter marriage before the pastor of the place and witnesses; they sin gravely, but they enter validly. Catholic Theodore and non-baptized non-Catholic Bertina enter marriage before the pastor of the place and witnesses; they sin gravely and enter invalidly. In each case the pastor is deceived, who held all as Catholics. In the first case the marriage is illicit but valid. In the second case the marriage is illicit and invalid. In neither has dispensation been obtained.

I say 2°. An impediment is deemed public which can be proved in the external forum; otherwise it is occult (Can. 1037).

Public, namely, in this question is not only that which is known to many, but also that which can be brought into judgment and proved in whatever manner. It has been received by common jurisprudence that an impediment is to be held altogether public which, although it is actually occult, nevertheless can at some time be made known and proved. - Cf. *Anal. Juris. Pontif.*, year 1882, p. 116.

I. - Vow

§ 1. Marriage is impeded by a simple vow of virginity, of perfect chastity, of not marrying, of receiving sacred orders, and of embracing the religious state.

§ 2. No simple vow invalidates marriage, unless invalidation has been established for some by a special prescription of the Apostolic See (Can. 1058).

I. Vow of Virginity

A vow of virginity is a vow of integrity of flesh, and for its prohibited object has the first consummated carnal work, namely voluntary effusion of seed either through intercourse or through pollution. Whoever enters marriage while entangled by this vow sins gravely; for it is against the law of the Church, which constitutes this vow an impeding impediment; then such a person places himself in a state in which by law the vow is rendered impossible, for when the other spouse asks for the debt, he is bound to render it, and by consummating marriage he violates the vow. Until virginity has been lost, he cannot ask; once it has been lost, he can ask. He is bound to render to the co-party who has the matrimonial right, and it would be illicit to deny it.

II. Vow of Perfect Chastity

A vow of perfect chastity is a vow of abstaining from all external and internal acts contrary to the virtue of chastity; and whether it was temporary or perpetual, or was emitted by a Protestant before conversion, until it has ceased by lapse of time or dispensation or another mode, it renders marriage illicit. One entering with the intention of consummating it sins gravely. Once marriage has been contracted, the vow does not cease, and therefore it must be observed insofar as it can be, with the right of the other spouse preserved; hence he cannot ask, but he is bound to render to the one asking according to his right. But whether the obligation of observing the vow of chastity induces the burden of entering religion and of using the two months formerly conceded for ratified marriage, let Wernz, vol. 4, n. 566, Rosset, and Feije be consulted. Here "rightly," says Wernz, loc. cit., "he denies this obligation. For a vow does not oblige beyond the intention of the one vowing (chastity, not religion), and for the observation of a vow no one is bound to employ a means so extraordinary and difficult, indeed dangerous on account of doubtful vocation." Id., ibid. He must altogether abstain if the other consents or has lost the right. But if he can abstain only with difficulty, he must seek dispensation as soon as possible. If the other spouse dies, and the time for which the vow was emitted has not elapsed, the vow urges.

III. Vow of Not Marrying

1°. He who, once this vow has been emitted, contracts Marriage, sins gravely, as is manifest.

2°. Once Marriage has been contracted, he can render and also ask the debt, because the observation of the vow has now been made impossible.

3°. On account of the same reason, once the spouse has died, he can at least probably contract a new Marriage.

Note that often the vow of not marrying is taken for the vow of virginity, although a distinction is given, because virginity properly regards integrity of flesh, which is possible even after Marriage. Wherefore, if it is established that some girl has made a vow of virginity properly so called, it is not licit for her, once Marriage has been contracted, to ask for the first time.

In practice there is often doubt what someone has vowed, whether virginity, celibacy, or chastity; wherefore the penitent will have to be questioned concerning the end which he proposed to himself in vowing, and, the doubt persevering, that which is least is to be held. - Cf. Lacroix, book 3, part 1, n. 357; Lehmkuhl, n. 719.

IV. Vow of Embracing the Religious State

1°. He who emitted such a vow sins gravely by entering Marriage, both because he deceives the other and because he exposes himself to the danger of violating the vow.

2°. Before the consummation of Marriage he is bound to enter Religion; and therefore he sins mortally when he consummates the Marriage for the first time, whether by asking or by rendering the debt, because he must fulfill the vow when he can.

3°. After Marriage has been consummated, he can ask and render the debt, because execution of the vow has been made impossible, and the asking of the conjugal act is not against that vow, since he did not vow chastity but the religious State.

V. Vow of Receiving Orders

1°. He who emitted that vow sins gravely by entering Marriage, as is well known.

2°. He is bound to receive Orders if he can, for example, if he obtains the consent of the other. According to several, he is bound to enter Religion before the consummation of Marriage, even with the other unwilling, so that he may be able to fulfill the vow. But others more probably deny this.

3°. Once Marriage has been entered, he can consummate it if he is no longer able to fulfill the vow. - Cf. Heiss, § 18.

II. - Legal Kinship

In those regions where by civil law legal kinship, arising from adoption, renders nuptials illicit, by canon law also marriage is illicit (Can. 1059).

III. - Mixed Religion

I say 1°. The Church most severely prohibits everywhere that marriage be entered between two baptized persons, of whom one is Catholic, but the other enrolled in a heretical or schismatic sect; but if there is danger of perversion of the Catholic spouse and of offspring, wedlock is forbidden also by divine law itself (Can. 1060).

The Church has always turned the faithful away from these Marriages with the greatest solicitude; thus Benedict XIV, Const. *Matrimonia*, 4 Nov. 1741, calls these marriages detestable, which Holy Mother Church has perpetually condemned and interdicted. The Fathers of the Third Plenary Council of Baltimore testify this same thing, n. 130, in the following words: "The Church ... has always turned away from nuptials between Catholics and non-Catholics, both on account of flagitious communication in divine things and on account of the most grave danger either of the perversion of the Catholic party or of the depraved education of the offspring to be born."

I say 2°. § 1. The Church does not dispense over the impediment of mixed religion unless:

1°. Just and grave causes urge;

2°. The non-Catholic spouse has furnished a caution concerning removing from the Catholic spouse the danger of perversion, and each spouse concerning all offspring being baptized and educated Catholic;

3°. Moral certainty is had concerning the fulfillment of the cautions;

§ 2. The cautions are regularly to be required in writing (Can. 1061).

The Catholic spouse is held by the obligation of prudently taking care of the conversion of the non-Catholic spouse (Can. 1062).

Questions

Question 1. Why are cautions required?

Resp. These cautions are required and must be required so that the intrinsic dangers which are present in mixed marriages may be removed. - Cf. Encyclical Letter of the S. C. de Prop. Fide, 11

March 1868. Since natural and divine law demand these cautions, nuptials can never be permitted by any human authority without them. S. Off., 12 Dec. 1888.

Question 2. Why are cautions regularly required in writing?

Resp. For the sake of security, as a pledge of sincerity; the sincere will easily give the promise in writing, and thus the other party and the Church herself are rendered more secure against withdrawal by the non-Catholic party. But it is said regularly; for if in some extraordinary case such circumstances occur that the Bishop is able to obtain for himself moral certainty, and special reasons are altogether present which prevent the cautions from being given in the customary manner, the matter seems to be left to his conscience. S. Off., 10 Dec. 1902.

Question 3. Why are just and grave causes required?

Resp. In order that the faithful may be permitted to submit and expose themselves, even under suitable cautions, to grave dangers of faith and morals, it is necessary that some grave inconvenience, otherwise by no means avoidable, threaten.

Question 4. Why is moral certainty concerning the fulfillment of the cautions required?

Resp. If moral certainty is not had concerning the sincerity of the promises and their fulfillment, then the intrinsic dangers in these marriages are not said to be removed; and this is the very reason for the cautions. Hence dispensations are not given where that moral certainty is not had.

Question 5. Once dispensation has been obtained, is it licit for the betrothed to furnish consent before a non-Catholic minister as one devoted to sacred things?

Resp. § 1. Even if a dispensation over the impediment of mixed religion has been obtained from the Church, the spouses cannot, either before or after the marriage entered before the Church, also approach, whether by themselves or through a procurator, a non-Catholic minister as one devoted to sacred things, for furnishing or renewing matrimonial consent.

§ 2. If the pastor certainly knows that the betrothed are going to violate this law or have already violated it, he is not to assist at their marriage except from most grave causes, scandal having been removed and the Ordinary first consulted.

§ 3. Nevertheless, that is not disapproved which, civil law commanding, the spouses present themselves before a non-Catholic minister, performing only the office of a civil official, and this for completing only the civil act, for the sake of civil effects (Can. 1063).

As regards the first paragraph: The reason is that, by the fact that the minister would be employed for completing a certain religious ceremony and the Catholic party would associate himself with a heretical rite, there would arise a certain implicit adherence to heresy, and therefore communication with heretics in divine things would be held altogether illicit. Most certainly he would sin gravely who approached a non-Catholic minister in such a way as one performing the office of pastor.

As regards the second paragraph: If they are questioned, or if they certainly know that they are going to approach a heretical minister devoted to sacred things, pastors cannot be silent, but must admonish them concerning the most grave sin which they commit. In these circumstances, when they know what the betrothed are going to do, they are not to assist at their wedlocks. For preventing grave evils, if in some particular case the priest or pastor has not been asked by the betrothed

whether it is licit or not to approach a heretical or schismatic minister, and no explicit declaration is made by the same betrothed concerning approaching the same, yet he foresees that perhaps they will approach for furnishing or renewing matrimonial consent, and besides foresees that admonition will certainly not be profitable, indeed will be harmful, and that thereby a material sin would be turned into formal guilt, then let him be silent, scandal nevertheless having been removed, and provided the other conditions and cautions required by the Church have been duly placed. But among the conditions now required are numbered most grave causes, removal of scandal, and the counsel of the Bishop.

As regards the third paragraph: When civil law commands, when absolutely no non-Catholic profession of rite is had or can be gathered from this, it is licit to approach a heretical minister, because his act is only civil and political, and regards solely civil effects. S. Off., 12 Dec. 1888, nn. 7, 8.

Question 6. What are the obligations of pastors of souls in this matter?

Resp. Ordinaries and other pastors of souls:

1°. Are to deter the faithful from mixed nuptials as much as they can;

2°. If they are not able to impede them, they are to take care with every effort that they are not contracted against the laws of God and of the Church;

3°. Once mixed nuptials have been celebrated, whether in their own or in another territory, they are carefully to watch that the spouses faithfully fulfill the promises made;

4°. Those assisting at the marriage are to observe the prescription of Can. 1102 (Can. 1064).

This prescription regards the questions concerning consent according to Can. 1095, § 1, n. 3 and the prohibition of every sacred rite. The other dispositions in like manner import a grave obligation, continually imposed by the Supreme Pontiffs with ruling words upon the pastoral care of Bishops and pastors. For it is a question of removing constant danger of souls.

Article II. On Diriment Impediments

§ I. On Diriment Impediments in General

I say 1°. The Church has the power of constituting diriment and impeding impediments of Marriage. It is established from the definition of the Council of Trent, sess. 24, can. 4: "If anyone shall say that the Church could not constitute impediments diriment of Marriage, or erred in constituting them, let him be anathema." It is established also from theological reason; for the Church has the power of decreeing what is required for the right and decent administration of the sacraments.

"Therefore Christ, when He had renewed marriages to such and so great an excellence, entrusted and commended their whole discipline to the Church. To establish and prescribe concerning the Sacraments, by the will of Christ, the Church alone can and must do so, such that it is plainly absurd to wish even the smallest part of her power to have been transferred to the rulers of civil affairs." Leo XIII, Encyclical Epistle, *Arcanum*.

I say 2°. § 1. It belongs only to the supreme ecclesiastical authority to declare authentically when divine law impedes or invalidates marriage.

§ 2. To the same supreme authority belongs privately the right of constituting other impeding or diriment impediments of marriage for the baptized, by way of law either universal or particular (Can. 1038).

This is clear from the Council of Trent itself, sess. 24, can. 12, where it defined that matrimonial causes pertain to ecclesiastical judges. Indeed, since Marriage has been elevated by Christ to the dignity of a sacrament, it is necessarily subject to spiritual power alone. And although in it the nature of contract and the nature of sacrament are distinguished, nevertheless in reality they are one and the same thing, and therefore the whole of Marriage pertains to the Church alone.

Questions

Question 1. Does an invincibly unknown impediment invalidate Marriage contracted with it?

Resp. Affirmatively, as is expressly asserted in Canon 16, § 1:

No ignorance of invalidating or incapacitating laws excuses from the same, unless something else is expressly said.

Hence if, once Marriage has been contracted, a spouse certainly detects a diriment impediment by force of which there was no Marriage, he cannot ask the debt nor render it, even if he were compelled to this by threat of death, because the conjunction would be fornicary, which in no case is licit. Some except the case unless the woman should have herself merely passively, so that she would cooperate with such an act altogether materially; but neither should this be conceded, since it is a question of a thing intrinsically evil, unless, according to a probable opinion, the woman is compelled to this by fear of death, nevertheless with the danger of consent excluded.

Question 2. Are those impediments also incurred, although unknown, which seem to have the nature of penalty, such as the impediment of crime?

Resp. Affirmatively, as is established from Canon 16, § 1 cited above.

Question 3. Is it licit to contract Marriage with a doubtful or probable impediment?

Resp. In relation to ecclesiastical laws, the New Code says thus:

Even invalidating laws do not urge in a doubt of law; in a doubt of fact the Ordinary can dispense in them, provided it is a question of laws in which the Roman Pontiff is accustomed to dispense (Can. 15).

In a doubt of divine law the Church is accustomed to settle the matter. In a doubt of fact concerning the impediment of impotence, or of kinship in the first degree, or of bond, it belongs to the Church also to resolve the case. In the first impediment, the native right is deemed to prevail until the existence of the impediment is undoubtedly established: "It is publicly pernicious to prohibit men from marriage in such a doubtful matter"; thus D'Annibale. In the case of bond, the prior wedlock is in possession until it is broken off; and in the case of kinship, in a similar way it is not to be entered without consulting the Apostolic See. In reality, in doubtful impotence it ought not to be impeded, otherwise than in that doubtful kinship and bond. Cf. Can. 1068, § 2; Can. 1076, § 3.

Question 4. Is it licit for spouses to use marriage if after the nuptials have been entered a doubt concerning some impediment arises?

Resp. Negatively, until sufficient inquiry concerning the truth has been made. Nevertheless, if only one doubts, although he cannot ask the debt, nevertheless he must render it to the other asking in good faith. But otherwise one must speak if, after serious diligence has been employed for detecting the truth, the doubt still remains, because in doubt one must stand for the value of the act. - Cf. S. Alphonsus, nn. 903 and 904.

Question 5. Is Marriage contracted with an impediment thought to exist, but not existing, valid?

Resp. If the contracting party is not altogether certain concerning the impediment, but in some way doubts concerning it, the Marriage is valid. The reason is that he contracts at least conditionally, namely, insofar as I can, although he does not reflect upon that condition; therefore, the impediment not existing, consent is already present as absolute. - But if he contracts with certainty of the impediment, yet grieving over the impediment and not daring to disclose it lest the Marriage be impeded, or lest he be made infamous, or from some inadvertence, it is disputed; but more probably the Marriage is valid on account of the predominant will of contracting it. - Nevertheless, for caution in practice, he would have to be induced to renew consent. - Cf. Lacroix, n. 525; Heiss, § 12 and § 26, v.

Question 6. Are heretics bound by the matrimonial impediments of the Church?

Resp. Affirmatively, prescinding from clandestinity and disparity of cult, concerning which we will treat afterward. Those validly baptized, although by heretics, by force of the sacrament itself are made members of the Catholic Church. Besides, we have as established that "those baptized by heretics, if they come to that age in which they can by themselves discern good things from evil, and adhere to the errors of the one baptizing, are indeed repelled from the unity of the Church, but are not freed from her authority and laws. Let Anacletus be consulted, who, adhering to the aforesaid opinion, established that marriages entered by heretics are invalid if a diriment impediment sanctioned by the Church, either by universal law or by common custom which obtains the force of law, intervenes." Thus Benedict XIV, Const. *Singulari nobis*.

Question 7. Is it licit for the State to decree anything concerning the marriages of the faithful?

Resp. Affirmatively; the civil State can dispose the civil effects of marriage: "But by civil law," declared Leo XIII, *Arcanum*, "only those things can be ordered and administered which marriages bring forth of themselves in the civil order." Hence princes can rightly make law concerning taking care that legitimately entered wedlocks be inserted in the registers of the civil State; concerning dignities and honorific titles, concerning the right of the wife or offspring in participating in these, etc. But they cannot deny civil effects inseparably connected with the validity and liceity of a validly and licitly entered marriage on account of some violated civil law. They can punish the omission of civil prescriptions as regards separable effects by denying these effects. Since it is incumbent upon a Catholic man to obey just laws, it is not licit for him to neglect the prescriptions which the State establishes concerning civil effects according to its competence. - Cf. Card. Rauscher, *Instructio*; Wernz, vol. 4, n. 82 and following; Van de Burgt, p. 78; cf. Can. 1016.

Question 8. What is it not licit for the State to decree concerning the Marriages of the faithful?

Resp. Since Christ raised marriages to the nature of a Sacrament, He entrusted their whole discipline to the Church. Leo XIII, *Arcanum*. Therefore any law issued by civil power which would regard the

conjugal contract itself, by which the State would thrust itself into the administration of the Sacrament, which would impose conditions necessary for entering duly, which would determine whether the betrothed are capable and fit for contracting nuptials, or would establish the other circumstances by which marriage would be entered honorably and holily, validly and licitly, or which would dispose concerning effects which are essential to the contract and inseparable from it, such as the obligation of cohabitation of spouses, legitimacy of offspring, paternal authority, any such law, I say, is a sacrilegious usurpation of another's right. - Leo XIII, *Il divisamento*, 8 Feb. 1893. Then he recalls "the unjust and sacrilegious plan undertaken as regards the wedlocks of soldiers, by which, just as after they have entered nuptials conjugal separation is enjoined on them, so before they enter the same, nuptials are interdicted. And thus we seem to have returned to the old and savage barbarism which dared to deprive men of a right implanted by nature itself, and for the uprooting of which the Church labored so greatly." Besides, the State does not have the right of imposing virginity; for this gift of perfect continence is not granted to all, and according to the saying of the Apostle: it is better to marry than to burn. I Cor. vii, 9. Moreover, it belongs altogether to the Church to bring judgment concerning the moral law and morals, not otherwise than concerning the deposit of holy faith. "But to discern and judge whether in certain circumstances of affairs it is fitting to enter wedlock or rather to abstain from it is a matter which regards the moral law and the honesty of morals." Therefore all new laws concerning eugenic marriages passed among us violate the power itself of the Church and the right which any human being possesses as implanted in him by nature itself, and the exercise of which precedes the constitution of civil society. - Cf. Leo XIII in the same Epistle, 8 Feb. 1893.

The right of entering marriage belongs to man from the natural law itself, and therefore also the right of founding a family. Therefore the State cannot take away this right or impede him from using it, so long as the natural law permits. Hence neither can the State without sin against this law impede the object of this right, which is the generation and education of offspring; hence it cannot impede the generation or education of offspring: "nor can any human condition effect that man be deprived of those means which are necessary for procreating and educating the number of children which nature permits to be received." - Pottier, *De Jure et Justitia*, p. 169.

Therefore the State has no power of founding impediments of marriage, whether diriment or impeding. But to establish and prescribe concerning the sacraments, by the will of Christ, the Church alone can and must do so, such that it is absurd to wish even the smallest part of her power to have been transferred to the rulers of civil affairs. Leo XIII, *Arcanum*.

Question 9. Is it licit for the civil State to establish diriment impediments of the marriage of unbelieving subjects?

Resp. Negatively, altogether, if the question is of impediments to be established against natural and divine right itself by arbitrary means. Otherwise, it is much disputed; but the pleasing opinion of very many moderns is affirmative. The reason is that natural matrimonial right is neither complete nor determined on every side; therefore some power is required which determines and orders it authoritatively. But such a power is not the Church, which does not have jurisdiction over unbelievers; nor the family, which is indeed unsuitable; nor private persons, who are not legitimate arbiters in their own causes. Therefore only the civil State is left, which may settle the matter and rule subjects by coercion, judgment, and law. It is proved by authority: ancient theologians

commonly, and now very many, have embraced this opinion. - Suarez, *De Legibus*, L. 9, C. 21, nn. 5, 6; Schmalzgrueber, vol. 4, n. 367; D'Annibale, vol. 3, n. 425; Wernz, vol. 4, n. 75; Resemans, *De competentia civili in vinc. conj. infidelium*, passim; Gasparri, n. 290; Genicot, n. 467; Van de Burgt, n. 43a III; De Smet, n. 224, says: "the affirmative opinion is pleasing"; Noldin, n. 518; Aertnys, n. 454; Chabagno, "*Le Mariage des Infideles*," and others. Finally, the Sacred Congregation de Prop. F., 5 Dec. 1631, transmitted the following response to the Orator: Opinion of the theologians, etc.: "Polygamous Indians who with all their wives are converted to the faith and are baptized are bound to dismiss all wives except the first, who alone is the true wife, if no impediment of natural right or of positive right established by their prince intervened in that marriage"; concerning the authenticity of this response no doubt is raised, but it is transmitted as the opinion of the theologians. "An unbelieving man who had entered marriage with an unbelieving woman, with a certain ceremony omitted, whose omission according to the Tonkin registers is deemed a diriment impediment of marriage, departed from that woman and took another Christian wife; embracing the Christian faith, he seeks baptism." Concerning this cause it was asked: "In one word, does a diriment impediment sanctioned by an unbelieving Prince, or introduced among an unbelieving people by ancient and common custom, render void and invalid marriages contracted between unbelieving men and women with such an impediment?" R. "That the first and second marriage are null; that hence there is no place for interpellation, but there is place for a new marriage, with those things observed which must be observed, and let instruction be given." S. C. de Prop. F., 26 June 1820. Nevertheless it must be confessed that the matter is not certain on every side: "Since marriage is by its force, by its nature, sacred, it is fitting that it be ruled and tempered, not by the command of princes, but by the divine authority of the Church, which alone has the magisterium of sacred things." Leo XIII, "*Rerum Nov.*" Indeed, speaking of a certain peculiar note of marriage, he says: "Since marriage has God as author and was even from the beginning a certain foreshadowing of the Incarnation of the Word of God, therefore there is present in it something sacred and religious, not adventitious, but innate. ... Wherefore Innocent II and Honorius III, Our predecessors, were able to affirm, not unjustly nor rashly, that among the faithful and unbelievers there exists the sacrament of wedlock." "No law of men can take away from man the natural and primordial right of wedlock, or in any way circumscribe the principal cause of nuptials constituted by the authority of God." ... "Behold therefore the family or domestic society, very small indeed, but a true society, and the same older than every city, to which therefore there must be certain rights and duties of its own, which in no way depend upon the republic." *Rer. Nov.*

Besides, the affirmative opinion can be practically dangerous to the individual, the family, and the state. Indeed, in this question concerning the power of the state around various matters, we judge that the opinion of Pesch is to be followed: No power is to be attributed to the civil republic in private and religious matters which cannot be evidently proved. Vol. 7, p. 445. - Martin, *De matrimon.*, p. 11, page 184; Perrone, *De matrimon.*, II, 443 and following; Lehmkuhl, n. 951, note.

But if the Church granted a dispensation in disparity of cult so that a Catholic entered a matrimonial covenant with a non-baptized non-Catholic woman, and she was not yet in the eighteenth year of age, such a wedlock, duly entered before the Church, would be held as valid, although the State required that year for contracting validly. - Wernz holds the same, vol. 4, nn. 60, 77, note 221. Careful caution is to be used against the practical solution of cases according to some opinion not sanctioned by the Church, to whom alone it belongs to settle the matter.

Question 10. To whom alone does it belong authentically to declare when divine law impedes or invalidates marriage?

Resp. It belongs only to the supreme ecclesiastical authority to declare this authentically, because this alone is the infallible interpreter of divine law. - Cf. Can. 1038, § 1.

Question 11. Can Ordinaries of places prohibit marriages by a veto, or add an invalidating clause to a veto?

Resp. § 1. Ordinaries of places can prohibit marriages in a particular case to all actually staying in their territory and to their subjects even outside the limits of their territory, but only for a time, from a just cause and while it endures.

§ 2. The Apostolic See alone can add an invalidating clause to a veto (Can. 1039).

Question 12. Who can abrogate impediments, derogate from them, and dispense in them?

Resp. The Roman Pontiff alone, in whom alone there is supreme power. And just as it belongs to the supreme power alone to found them, whether diriment or impeding, so it belongs to him alone to abrogate them, etc., unless this has been conceded by common law or by special indult. Thus Canon 1040 of the Code established.

Apart from the Roman Pontiff, no one can abrogate impediments of ecclesiastical law, whether impeding or diriment, or derogate from them; likewise neither can anyone dispense in the same, unless by common law or by special indult from the Apostolic See this power has been conceded (Can. 1040).

Question 13. What is the force of custom concerning impediments?

Resp. Absolutely no force of custom belongs in this matter. Thus the Code: A custom inducing a new impediment or contrary to existing impediments is reprobated (Can. 1041).

The reason is that experience teaches that, on account of the multitude of prohibitions, marriages are many times contracted ignorantly in prohibited cases, in which dispensation is in no way or not without great scandal given. Council of Trent, sess. 24, *de ref. matrimonii*.

Question 14. Of how many degrees are impediments?

Resp. § 1. Some impediments are of lesser degree, others of greater.

§ 2. Impediments of lesser degree are:

1°. Consanguinity in the third degree of the collateral line;

2°. Affinity in the second degree of the collateral line;

3°. Public honesty in the second degree;

4°. Spiritual kinship;

5°. Crime from adultery with promise or attempted marriage, even through a civil act only.

§ 3. All others are impediments of greater degree (Can. 1042).[1]

[1] Cf. Addenda, p. 1123, n. 78.

§ II. On Impediments in Particular

Point I. On the Impediment of Age

§ 1. A man before the completed sixteenth year of age, a woman likewise before the completed fourteenth, cannot enter valid marriage.

§ 2. Although marriage contracted after the aforesaid age is valid, nevertheless pastors of souls should take care to turn young persons away from it before the age at which, according to the received customs of the region, marriage is usually entered (Can. 1067).

I say. Therefore in the new Code a notable change has been introduced; the age of puberty is no longer regarded, but the year is fixed absolutely before whose completion marriage cannot validly be entered: the sixteenth for a man, the fourteenth for a woman.

In the second paragraph, once it has been established that after the aforesaid age wedlock is valid, pastors are admonished to turn young persons away from entering this covenant before the civil legal age.

In all our States the age at which marriage can validly be contracted is the age of 21 years, except South Carolina, North Carolina, New Hampshire, Michigan, Idaho, in which it is the age of 18 years, and Tennessee, in which it is 14; this is established for men, and indeed without the consent of parents. For women, however, without the same consent, in many States the age is 18 years, except the States Florida, Kentucky, Louisiana, Pennsylvania, Porto Rico, Rhode Island, Virginia, West Virginia, Wyoming, in which it is 21; Maryland, New Hampshire, in which it is 16; Tennessee, in which it is 12. But the age with the consent of parents in many is 18 years for men; but in Alabama, Georgia, Kansas it is 17; in Arkansas, Iowa, North Carolina, Texas, Utah it is 16; in Kentucky, Louisiana, Maryland, Mississippi, New Hampshire, Virginia it is 14. For women with the consent of parents it is variable from the twelfth year in Virginia, Mississippi, Maryland, Kentucky, Louisiana; to the year 13 in New Hampshire; to the fourteenth year in Utah, Texas, South Carolina, Rhode Island, North Carolina, Maine, Iowa, Georgia, Arkansas, Arizona, Alabama; to the fifteenth year in Wisconsin, Washington, South Dakota, Oklahoma, North Dakota, Minnesota, Kansas, Hawaii, California; to the sixteenth year in Wyoming, West Virginia, Porto Rico, Oregon, Ohio, Nevada, Nebraska, Montana, Michigan, Massachusetts, Indiana, Illinois; and to the eighteenth year in Idaho. In Connecticut no provision is made in a special way for the age of matrimonial consent. New York has its own provisions in relation to this matrimonial consent.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point II. On the Impediment of Impotence

The impediment of impotence consists in incapacity for exercising carnal intercourse of itself apt for generation. But this incapacity is manifold, namely: 1°. certain or doubtful; 2°. antecedent or consequent, according as it precedes Marriage or follows it; 3°. temporal or perpetual, according as by lapse of time or by art it can be removed or cannot be removed; 4°. natural or accidental, according as it arises from an intrinsic defect or from an extrinsic cause, for example, a spell; 5°. absolute or respective, according as it exists between a man and all women, or between a man and some determinate woman, or conversely.

§ 1. Antecedent and perpetual impotence, whether on the part of the man or on the part of the woman, whether known to the other or not, whether absolute or relative, dirimently invalidates marriage by the law of nature itself.

§ 2. If the impediment of impotence is doubtful, whether by a doubt of law or by a doubt of fact, marriage is not to be impeded.

§ 3. Sterility neither dirimently invalidates nor impedes marriage (Can. 1068).

In the first paragraph the impediment is established because the object of the matrimonial contract is not had; in the second, the principle known in this matter is applied, that in these natural rights a man is not deprived of their exercise until it is clearly established that the right itself does not exist; in the third, sterility is affirmed to be neither an impeding nor a diriment impediment, for the object of the contract is present.

From this Canon, therefore, it is established: 1°. that consequent impotence and antecedent temporal impotence do not annul the contract; 2°. that marriage is not to be impeded when impotence is doubtful, whether by a doubt of law or by a doubt of fact; 3°. that sterility does not render the contract either invalid or illicit.

You Will Resolve. - 1°. Impotence is not to be confused with sterility, for sterile persons are not impotent for the conjugal act; hence old men who are able to consummate marriage contract validly; likewise women who can receive seed, even if they do not retain it. - Cf. S. Alphonsus, n. 1015.

2°. Eunuchs or castrated men deprived of both testicles, or who have them crushed, are reputed impotent, as is clear from the Declaration of Sixtus V, in the year 1587, which begins "Frequenter in istis regionibus." But otherwise if they lack only one, because then they can emit true seed. - Cf. Sanchez, lib. 7, disp. 104, p. 17.

3°. In doubt concerning antecedent impotence one must stand for the validity of Marriage, and the spouses must be permitted to try intercourse. Indeed, for this a triennium is conceded to them by canon law, notwithstanding greater probability for perpetual impotence. But for demonstrating impotence there is no need of this three-year experiment when safer means are available for rendering judgment. Safer means of this kind are the depositions of the spouse affirming the impotence of the other, confirmed by suitable testimonies, and the judgment of experts and obstetricians after a physical examination duly performed. - Cf. *Acta S. Sedis*, vol. 7, p. 118.

4°. In doubt concerning consequent impotence, likewise, it is licit for the spouses to try intercourse until they are altogether certain that it can in no way be completed. This certainty indeed can very rarely be had, for according to the principles now commonly received in the schools of physicians, although it is necessary that the man pour forth seminal fluid, nevertheless it is not required that he inject it all the way into the inner parts of the female organ; but it is enough that fluid of this kind be applied to the external surface and entrance of the vagina. Cf. Ballerini, note (a), p. 830. - Varceo, vol. 2, p. 357.

By the impediment of impotence is understood impotence of coition, or inability for having perfect carnal intercourse, which is effected by penetration of the female vessel and the pouring forth of seed in it. Thus Reiffenstuel, 1. IV, tit. XV, n. 1; and in nearly the same words Laymann, Schmalzgrueber, Sanchez, Lacroix, Palaus, Pirhing, Tamburini. "The faculty of coition, such as it is conceived in canon

law," says Tarquini, "and is held sufficient for marriage, is completed by that act by which seeds are mingled in the natural vessel. For from this the spouses become one flesh, and attain the secondary end of marriage, which is the quieting of concupiscence. But now all these things, the quieting of concupiscence, the mingling of seeds, and conjunction into one flesh, are completed in the vagina itself, so that there is no necessity of penetrating the uterus. Therefore, though the uterus is closed, provided that the vagina is free, the faculty of coition, insofar as it is conceived as separated of itself from the faculty of generation, remains whole." *Analecta Ecclesiastica*, year 1900, p. 260.

These things having been said, whatever is in no way removable, or removable only with the greatest difficulty, and whether on the part of the man or on the part of the woman renders perfect intercourse impossible, renders the man or woman impotent. But a woman whose ovaries or uterus have been cut out is not unable for perfect carnal intercourse. For her vessel can be penetrated, and seed can be poured forth in it. Therefore, since she is not unable for perfect carnal intercourse, she is not impotent. Moreover the normal scope and function of intercourse is to place male seed in the woman's vessel; for this function the presence of an ovule is not required. The production of an ovule is accomplished independently of coitus, and the production of sperm is made independently of the ovule. Therefore intercourse takes place, whether there is or is not an ovule; this arises from nature, that from free will. It is not within the woman's power to produce an ovum as she wills. In marriage the spouses oblige themselves to an act, that is, to perfect intercourse, which according to the named authors is effected by penetration of the female vessel and the pouring forth of seed in it. If nature completes the rest, by that very fact there will be conception. It is not impotence of generating, but impotence of coition, which dirimently invalidates marriage. The contracting parties mutually hand over to themselves the right to intercourse itself. A woman who has been cut hands over this right just as a woman not cut. Therefore she is not impotent. Besson explains this argument beautifully in *Nouv. Rev. Theol.*, v. 42, p. 193. Add that the parts of a woman in undergoing intercourse consist only in this, that she receives seed in the vessel; by this reception the human act is terminated, whether in one cut or not cut. Intercourse itself is posited in the same way by either woman. Someone says, generation will not follow; to whom you may reply, nor is it required that it follow. Finally, on 3 Feb. 1887, when the doubt had been posed to the Holy Office, "Whether a woman rendered sterile by defect from the cutting out of both ovaries can and may be permitted to enter marriage, or not?" it responded: "The matter maturely and long considered, that the marriage of the woman concerning whom in the case there is question is not to be impeded." "Not to be impeded," it responded on 23 July 1890, even if the uterus also had been removed; again on 31 July 1895; but especially on 2 Apr. 1909, when a response was given repeating the decision of 23 July 1890; which last response the distinguished Ferreres, after his custom, examines most acutely in *Razon y Fe*, v. 26, pp. 101 sqq. The negative opinion is safe: Eschbach, *Disp. Phys. Theol.*, d. 2, p. 2, c. 3. - D'Annibale, n. 431, note 9. - Genicot, 503. - De Smet, p. 337. - Van de Burgt-Schaepman, p. 241, and others. But the other opinion also has very weighty supporters, who say: Perfect carnal intercourse is intercourse of itself apt for generation; but such intercourse is not had in the case. Therefore it is not perfect intercourse; therefore that woman is unable for such intercourse and consequently is impotent. This is the opinion of Antonelli, *De Conceptu Impotentiae*. - Bucceroni, n. 994. - Noldin, n. 577. - Sebastiani, n. 561, note. - Bulot, n. 837, and others.

Question. Must he now be called impotent who has undergone double vasectomy?

Resp. It is all but certain that the impediment is present, but it is not certain. Several grave authors adhere to the affirmative opinion, whose reason is very pressing: he who labors under antecedent and perpetual impotence, absolute or relative to this bride, is unable validly to contract marriage; but the vasectomized man labors under such impotence. For he is impotent for perfect carnal intercourse, which is effected by penetration of the female vessel and the pouring forth of seed in it, because he cannot ejaculate true seed, and he has been cut for inducing this inability.

The negative opinion is proved. In order that there be a diriment impediment, impotence must be perpetual. But it is not certainly established that it is perpetual in the case. For surgeons themselves vary, and there are those who affirm that the cut parts can be joined together and the function probably restored. Moreover, to use the words of Cardinal D'Annibale: it is publicly pernicious to prohibit men from marriages in such a doubtful matter. v. 3, n. 447. If the case occurs, let the confessor refer the matter to the Ordinary.

Note. - Let the confessor most greatly beware lest, in a matter of such grave moment and subject to so many difficulties, he proceed rashly or decide anything by his own authority; but let him refer the case, duly examined with all its circumstances, to the Ordinary, whose role it will then be to establish and determine what must be done in a similar business. Indeed, a prudent and discreet confessor will not question spouses concerning impotence, nor even forewarn those whom he believes impotent; nor will he respond finally to those consulting him on that matter, unless he himself first has consulted the Bishop.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point III. On the Impediment of Bond

I say. Bond, namely the bond of Marriage by which spouses are bound between themselves as long as they live, certainly by divine law dirimently invalidates any other Marriage which one of the spouses would attempt. The reason is that Marriage is, at least by positive divine law, one and indissoluble.

§ 1. He invalidly attempts marriage who is held by the bond of a prior marriage, although not consummated, with the privilege of faith saved.

§ 2. Although a prior marriage is invalid or dissolved from any cause whatever, it is not therefore licit to contract another before the nullity or dissolution of the prior has been established legitimately and certainly (Can. 1069).

You Will Resolve. - 1°. He who in good faith believes that his spouse is dead, while in fact she is living, and hastens to other nuptials, does not indeed sin, but contracts invalidly and is bound to return to the prior spouse when she appears.

2°. For entering a new Marriage, the mere absence of the spouse, however great it may be, is not sufficient; but arguments of death are required which make true moral certitude.

3°. This moral certitude required by law is not had through rumor, even public rumor, unless it is supported by some positive argument, nor through one single witness, unless other conjectures are present, concerning which it belongs to the Bishop alone to judge. - Hence in doubt one must always have recourse to the Bishop; but he, while the doubt remains, cannot permit the celebration of Marriage, but must transmit the whole cause, insofar as there is need, to the Holy See.

4°. By special law and reason, especially among us, recourse must be had to the Ordinary when it is a question of Marriage to be entered by wanderers and foreigners. - Cf. Council of Trent, sess. 24, cap. 7. - Kenrick, n. 193.[1]

Note. - What must be done when a woman desires to enter new nuptials from the fact that her husband gave his name to the military and has not returned, you may see in the Second Plenary Council of Baltimore, n. 328. Consult also the Instruction given for proving the death of a spouse in the Third Plenary Council of Baltimore, Appendix p. 258.[2]

[1] Cf. Addenda, p. 1120, n. 75.

[2] Cf. Addenda, p. 1117, n. 70.

Point IV. On the Impediment of Disparity of Cult

§ 1. A marriage contracted by a non-baptized person with a person baptized in the Catholic Church or converted to it from heresy or schism is null.

§ 2. If the party at the time of the contracted marriage was commonly held as baptized, or his baptism was doubtful, one must stand, according to the norm of can. 1014, for the validity of the marriage, until it is certainly proved that one party was baptized, but the other was not baptized (Can. 1070).

In this impediment it is supposed that one party has not been baptized, and that the other either has been baptized in the Catholic Church or has been converted to it from heresy or schism; therefore the extension of this impediment is greatly diminished. From the second paragraph a particular question is decided: when marriage was contracted, the party was commonly held to be baptized, and the other party also was held to be baptized; now a doubt arises, because one party for a not altogether slight reason doubts concerning baptism. One must stand for the validity of the marriage until it is certainly proved that the one party was baptized, and that the other was not baptized. There is no impediment between a person baptized in heresy and not converted to the faith and a non-baptized person. There is no impediment between two persons baptized in heresy. In other words, it is a question of an impediment dirimently invalidating the matrimonial contract itself, not of dissolving a marriage already validly entered. By reason of this impediment the persons concerning whom the question is had are a non-baptized person and a person either baptized in the Catholic Church or converted to it from heresy; in this case the marriage which is entered between them is invalid. It is not a question of non-Catholics contracting marriage. Again, in contracting this impediment, one party is supposed baptized in the Catholic Church, or converted from heresy or from schism. The other party is not baptized. Baptism in the Catholic Church, or conversion to it from schism or heresy, is had on one side; on the other, no baptism. When these adjuncts occur, the impediment enters. Titius and Bertha, heretics, enter marriage; the baptism of both is doubtful; Bertha is found not to be baptized. No impediment is present, because there is not had a party baptized in the Catholic Church or converted to it entering with another not baptized.[1]

Those things which have been prescribed concerning mixed nuptials in Canons 1060-1064 must also be applied to marriages to which the impediment of disparity of cult is opposed (Can. 1071). Therefore cautions are altogether required for entering marriage in the case, so that not even a dispensation can be given if they are not given.

[1] Cf. Addenda, p. 1122, n. 77; p. 1135, n. 95.

Questions

Question 1. From what law does this impediment proceed?

Resp. It is certain that the impediment of disparity of cult, insofar as it is diriment, depends on ecclesiastical law alone. For in the first centuries of the Church this impediment did not exist, and several Marriages of this kind are read as having been approved in ecclesiastical history, as the Marriage of St. Monica with Patricius, of St. Cecilia with Valerian, of St. Chlotildis with Clovis while still pagan, etc. ... But the impediment of mixed religion, and also of disparity of cult insofar as it is impeding, proceeds both from natural and divine law and from ecclesiastical law. Second Plenary Council of Baltimore, Appendix p. 311. - Third Plenary Council of Baltimore, p. 130. - *Acta S. Sedis*, vol. 6, p. 456. - Sanchez, lib. 7, disp. 71, n. 7.

Question 2. What does an appropriate caution, taken accurately and most strictly, signify?

Resp. It signifies "such a promise which, having been brought into a pact, furnishes a moral foundation concerning the truth of execution, so that such execution can prudently be expected." Thus the Holy Office, 30 June 1842.

Question 3. Whether a dispensation concerning the impediment of disparity of cult imparted by one having power from the Holy See, when the prescribed cautions were not required or were denied, must be held valid?

Resp. "That a dispensation imparted as it is set forth is null." Holy Office, 21 June 1912.

Question 4. How were the words of Formula D, n. 3, to be understood: "except, however, the case of marriage with a Jewish man or woman"?

Resp. They were to be understood in this sense, that by force of this Faculty our Bishops were able to dispense with all, even Jews, except only non-reformed Jews; indeed, they were able to dispense even with these if there had been danger in delay. Cf. *Zeitschrift fur Kath. Theol.*, Innsbruck, v. 15, p. 390. - Holy Office, 12 June 1882; 3 Aug. 1889. - Wernz, v. 4, n. 510, note 35.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point V. On the Impediment of Vow and Order

The vow dirimently invalidating Marriage is only the solemn vow of chastity, emitted by profession in an approved Religion. But the Order dirimently invalidating Marriage is sacred Order, namely the presbyterate, diaconate, and subdiaconate.

I say 1°. The solemn vow of chastity and sacred Order dirimently invalidate Marriage by ecclesiastical law. This is established from the First and Second Lateran Councils, and also from the Council of Trent, sess. 24, can. 9, where it is said: "If anyone shall say that Clerics constituted in sacred Orders, or Regulars who have solemnly professed chastity, can contract Marriage, and that the one contracted is valid notwithstanding ecclesiastical law or vow, let him be anathema."

Likewise religious who have professed solemn vows invalidly attempt marriage, or simple vows to which, by special prescription of the Apostolic See, the force of invalidating nuptials has been added (Can. 1073).

I say 2°. Clerics constituted in sacred orders invalidly attempt marriage (Can. 1072).

We declare Marriage contracted even after the recited Orders (subdiaconate, diaconate, presbyterate) null and invalid: thus Benedict XIV, *Etsi Pastoralis*, Par. VII, n. 27; Council of Trent, sess. 24, *de matr.*, can. 7. - I said by ecclesiastical law, for nothing is had from the Scriptures or tradition, or even from the law of nature, by which it is indicated that sacred Order is repugnant to the conjugal state; and elsewhere the common opinion of theologians holds that Order dirimently invalidates Marriage by force of the vow which is annexed to it from the sole will of the Church. - But the vow of chastity therefore dirimently invalidates Marriage because it is solemn; but solemnity is of ecclesiastical law; therefore, etc. Cf. Sanchez, lib. 8, n. 7. - S. Alphonsus, n. 1059. - Heiss, §§ 34 and 35.

By a special privilege conceded by Gregory XIII, in the Constitution *Ascendente Domino*, the vow of chastity which members of the Society of Jesus emit after two years of novitiate, although simple, likewise dirimently invalidates Marriage. This is established from the very words of the Supreme Pontiff, who speaks thus: "Indeed, all those [members of the Society of Jesus] are incapable of contracting [Marriage], and contracts of this kind are null and invalid, just as we make them invalid and annul them." - But concerning these things the following are to be observed:

1°. This special concession is not to be understood as if the emission of the simple vows of members of the Society of Jesus were equivalent to religious profession, so that it would annul a ratified Marriage perhaps contracted by them beforehand; for although this had been asserted by some canonists, nevertheless the Society of Jesus itself, as Ballerini says, never either learned of it or thought of it.

2°. Since by the law laid down by Pius IX even in other Religious Orders strictly so called profession is no longer made immediately after the novitiate, but then only simple vows are emitted, and one must remain in these for at least a triennium, now it can and must be said that those religious are compared to the Scholastics of the Society of Jesus. Nevertheless the special privilege of the vow of chastity in relation to Marriage cannot be extended to them. - Cf. Ballerini, note (a), p. 733; and note (b), p. 777. - Lehmkuhl, nn. 749 and following.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point VI. On the Impediment of Abduction

I say. Abduction, namely the violent carrying away of a woman from a safe place to another, where she is detained under the power of the abductor for the sake of entering Marriage, dirimently invalidates by ecclesiastical law Marriage between the abducted woman and the abductor, whether he carries away the woman by himself or through others. This is established from the Council of Trent, sess. 24, cap. 6, and from Canon 1074:

§ 1. Between a male abductor and a woman abducted with a view to marriage, as long as she has remained in the power of the abductor, no marriage can stand.

§ 2. But if the abducted woman, separated from the abductor and placed in a safe and free place, has consented to have him as husband, the impediment ceases.

§ 3. As regards the nullity of marriage, violent retention of a woman is held equal to abduction, namely when a man violently detains a woman with a view to marriage in a place where she is staying or to which she freely came (Can. 1074).

From the third paragraph, violent retention of a woman in the place in which she is staying, or to which she freely came, is held equal to abduction.

Questions

Question 1. Does abduction of seduction induce the impediment, or when a woman is induced by gifts, flatteries, etc., to follow the abductor?

Resp. Negatively, because through the impediment of abduction the Church intends only to consult for the liberty of Marriage, which is not injured when a consenting woman is carried away, even when the parents are unwilling. Except nevertheless, unless deceit and fraud intervene in bestowing and promising gifts, as perhaps some Declarations of the Sacred Congregation of the Council suppose, on which the patrons of the affirmative opinion rely. - Cf. S. Alphonsus, n. 1107. - *Analecta Juris Pontificii*, vol. 4, pp. 1848 and following.

Question 2. Is the impediment incurred if Marriage takes place after the woman has been liberated from the power of the abductor?

Resp. Negatively, and the reason is that, the woman having become of her own right and violence having ceased, actual abduction is no longer had, as is required by the Council of Trent. It must be noted, however, that this impediment exists if the woman contracted Marriage while she remains under the power of the abductor, even if she consents altogether freely. Cf. S. Alphonsus, n. 1032. - *Acta S. Sedis*, vol. 1, pp. 15 and following.

Question 3. Do those who carry out abduction for another incur this impediment?

Resp. Negatively, because they are not properly abductors, although they can incur the penalties laid against abductors. - Cf. Varceno, vol. 2, p. 362. - Ballerini, note (a), p. 832. - *Acta S. Sedis*, vol. 9, p. 519.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point VII. On the Impediment of Crime

Crime, insofar as it is a diriment impediment of Marriage, is threefold, namely: 1°. adultery; 2°. both at once, provided certain conditions concur which we set beneath; 3°. homicide of the spouse, provided, etc.

They cannot validly contract marriage:

1°. Those who, while the same legitimate marriage endures, have consummated adultery between themselves and have given faith to each other mutually concerning marriage to be entered, or have attempted marriage itself, even through a civil act only;

2°. Those who, while likewise the same legitimate marriage endures, have consummated adultery between themselves, and one of them has perpetrated conjugicide;

3°. Those who by mutual physical or moral work, even without adultery, have brought death upon the spouse (Can. 1075).

I. - Adultery Alone

For the impediment to be incurred from this head, it is required:

1°. That the adultery be true, formal, consummated. And first indeed true, that is, that at least one or the other fornicator be joined in Marriage not merely putative, but legitimate and valid, even if perhaps not consummated. Then formal, and indeed on each side, that is, that each know that one or the other is married. For the impediment arises on account of injury inflicted on one and the same marriage. Finally consummated, with perfect carnal intercourse intervening.

2°. That there be present a promise of future Marriage to be contracted, namely after the death of the spouse. This promise, although it is not restricted to any time, but can precede, accompany, or follow adultery, provided that, if it preceded, it was not retracted before the adultery, nevertheless must be true, absolute, and mutually given to each other, as is clear from the clear declaration of the canon. But if a promise of future Marriage is not present, but the accomplices have attempted it in the present in any way, even clandestinely, this suffices for inducing the impediment.

3°. That both the promise of Marriage and the adultery take place while the prior spouse is living, or while the same Marriage stands. - Thus from many places of canon law, for example, from cap. *Si quis vivente* 5, caus. 31, q. 1. Likewise from cap. *Propositum* 1, *de eo qui duxit*, etc. Cf. S. Alphonsus, nn. 1036 and following. - Ballerini, notes (a), (b), (c), etc., pp. 796 and 797.

You Will Resolve. - 1°. If an unmarried man lies with a woman whom he does not know to be married, formal injury to one and the same wedlock is not made on both sides, and therefore neither is adultery had which is required in this impediment. A married man and a married woman have relations, but just as the woman wholly does not know that the man is bound by marriage, so also the man does not know that the woman is married; therefore the man bears injury to his own marriage, not to the woman's, likewise the woman to her own, not to the man's; therefore the adultery on both sides is not formally injurious to one and the same marriage; hence neither does the impediment exist. On the contrary, however, if each knew of the other's marriage, a double impediment arises.

2°. Pius X established, lest marriages be exposed to danger of nullity, that for the future a dispensation from the impediment arising from adultery with attempted marriage should be judged granted through a dispensation given by the Holy See, whether over a ratified and non-consummated marriage, or through permission of passage to other nuptials. S. C. Sacr., 3 June 1912. - Cf. Can. 1053.

II. - Both At Once

When the crimes of adultery and conjugicide are found joined, mutual conspiracy toward conjugicide is not required, nor a promise of Marriage, but these three things suffice: 1°. Adultery, such as was explained above, which precedes the conjugicide; nevertheless it is not necessary that it precede the machination of death. 2°. Machination of death by one of the adulterers from the intention of Marriage; but it suffices that this intention be had by one, although S. Alphonsus besides requires as more probable that this intention be manifested to the other in the same way as will be said below. 3°. Death following from the machination of one of the adulterers, in the same way as will be said below concerning homicide alone. Thus from the same law. - Cf. S. Alphonsus, n. 1036. - Gousset, n. 824. - Carriere, n. 739.

In this species it is required that on the part of each the adultery be formal with respect to the spouse killed, and therefore tend to the injury of that spouse. Thus Bertha does not know that Titius is

married; she commits adultery with him. That adultery was not injurious on each side to the wedlock of Titius. But he knows that Bertha is married. Bertha's husband dies; Titius now kills his own wife. The adultery was not formal on each side with respect to the spouse killed. Wherefore neither is the impediment present. - Cf. Ballerini-Palmieri, n. 1031. - Schmalzgrueber, l. IV, t. 7, n. 49.

This impediment, which because of the double crime united is called both at once, constitutes one single impediment. But, on the contrary, if both adultery and homicide have their own proper conditions separately, as they are explained here in I and III, they introduce a double impediment.

III. - Homicide Alone

Three conditions are required so that an impediment may proceed from this.

1°. Mutual conspiracy; whence it does not suffice that a spouse kill his own spouse if the person with whom he is going to enter Marriage is ignorant of this action, or contradicts it, or finally, although he knows it, does not properly participate in it. Thus theologians commonly, from cap. *Laudabilem* 1, *de Conv. infidel.* - Cf. S. Alphonsus, n. 1033. 2°. Intention of Marriage. Thus commonly, although it is not expressed in the law. The reason is that the end of the law is lest someone kill his own or another's spouse in hope of Marriage. But it is enough that Marriage be intended by only one of the accomplices. Some require that that intention have in some way been manifested to the other; but S. Alphonsus says that it suffices that certain indications of this intention had preceded, for example, familiarities, love letters, etc. Otherwise, in the external forum, when machination or common work toward killing has been supposed, the intention of Marriage is always presumed. - Cf. Ballerini, note (b), p. 798. 3°. Death really following from the physical or moral action of one or the other accomplice. This is clear from canon law. - Cf. S. Alphonsus, nn. 1033 and following.

Hold all these things in memory thus in fewer words:

1°. Adultery with a promise of Marriage mutually given and accepted.

2°. Homicide from common conspiracy and with the intention of contracting, had and manifested at least by one.

3°. Both at once with a view to Marriage, but without conspiracy and promise of Marriage. - Since this impediment of crime is of ecclesiastical law, it has no place among unbelievers, as S. Alphonsus, n. 1037, indicates from common doctrine, even if afterward they come to the faith. But, on the contrary, a faithful person who has an unbelieving accomplice contracts it and communicates it to the unbeliever, and therefore cannot enter Marriage with that same one converted to the faith. This is established from cap. *Laudabilem* 1, *de Convers. infidel.* - There is added the resolution given by the Sacred Congregation de Prop. Fide, 23 Aug. 1852, in Cretoni, vol. 2, p. 459.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point VIII. On the Impediment of Kinship

Kinship is distinguished as of three kinds, namely: 1°. natural; 2°. spiritual; 3°. legal. A few things will be said concerning each for practice.

I. - On Natural Kinship

Natural kinship, or consanguinity, is the bond of persons descending from the same nearest stock through carnal generation, or the bond which arises from participation of the same blood within certain limits.

In consanguinity three things must be distinguished, namely: 1°. the stock, or the person from whom the others draw origin; 2°. the degree, or the measure of the distance of one person from another; 3°. the line, or series of persons descending from the same stock. But the line is twofold: one direct, and the other collateral or transverse. The former is the series of persons of whom some descend from others, either immediately, as children from parents, or mediately, as grandchildren from grandparents or from great-grandparents, etc. But the latter is the series of persons who, although they have a common stock, nevertheless do not descend one from another, as brothers, cousins, etc. Besides, this is equal or unequal according as blood-relatives are equally or not equally distant from the common stock.

I say 1°. § 1. In the direct line of consanguinity, marriage is invalid among all ascendants and descendants, both legitimate and natural (Can. 1076), at least by positive law. - I said at least by positive law, because although it is certain that Marriage in the first degree of the direct line is null by the law of nature itself, nevertheless it is disputed among theologians whether it is dirimently invalidated by the same law in other degrees. - Cf. S. Alphonsus, *de Sacram. Paenit.*, n. 470. - Schmalzgrueber, lib. 4, tit. 14, n. 30.

I say 2°. § 2. In the collateral line it is invalid up to the third degree inclusive, yet in such a way that the impediment of marriage is multiplied only as often as the common stock is multiplied (Can. 1076). But concerning the law of this impediment it must be said that it is from a positive ecclesiastical statute, as is deduced from the practice of the Church, which dispenses from it, except in the first degree, concerning which it is disputed whether it dirimently invalidates by ecclesiastical or natural law, or at least by positive divine law, since the Church never dispenses so that brothers and sisters may be joined, and unbelievers themselves detest nuptials of this kind. - Cf. Schmalzgrueber, loc. cit., nn. 45 and 46. - Ballerini, notes (a) and (b), p. 786.

I say 3°. § 3. Marriage is never to be permitted if there is any doubt whether the parties are blood-relatives in some degree of the direct line or in the first degree of the collateral line (Can. 1076).

But that the diversity of the degree of consanguinity may be computed, attention must be given to the following rules:

§ 1. Consanguinity is computed by lines and degrees.

Rule I. § 2. In the direct line, there are as many degrees as generations, or as many persons, with the stock removed (Can. 96).

Hence between father and son there is one degree, because there is one generation or one person of the son, the father being excluded as the stock. Between grandson and grandfather two degrees are counted, because there are two generations, although three persons intervene, namely grandfather, father, and his son, or grandson with respect to the grandfather. Suppose likewise great-grandfather or great-great-grandfather, and you will have three or four degrees.

Rule II. § 3. In the oblique line, if each tract is equal, there are as many degrees as generations in one tract of the line (Can. 96).

In the equal collateral line there are as many degrees as there are persons on one side, with the stock removed. Hence brother and sister are in the first degree, because if the common stock or father is set aside, one person remains on each side; and since each is distant by one degree from the stock, they also are distant from each other by one degree. Likewise paternal cousins, or the children of two brothers, are each distant by two degrees from the common stock or from the grandfather, and consequently are blood-relatives between themselves in the second degree. Thus also it must be said concerning the others.

Rule III. § 3. If the two tracts are unequal, there are as many degrees as generations in the longer tract (Can. 96).

Hence if one is distant from the common stock by two degrees and his blood-relative by three, they will be blood-relatives between themselves in the third degree, according to the saying: The more remote degree draws the nearer to itself. Therefore Bertha will be a blood-relative in the second degree with her paternal uncle, or the brother of her father, because she is distant by two degrees from the common stock, namely from her grandfather, although the paternal uncle himself is separated from the same stock by one degree, since he is the son of the stock, or the brother of Bertha's father. Thus also must it be established concerning any others.

Notice that these rules regard computation according to ecclesiastical law. But if the civil laws of some State compute differently, attention must be given to them, but only for civil effects. Cf. Kenrick, n. 153.

Questions

Question 1. How can the degrees of consanguinity easily be found?

Resp. If the common stock is known, write his name on paper, and below mark the generations and the names of the persons descending from here and there, until you come to those persons who are to be joined in wedlock; from this you will easily compute the degrees. - But if the stock is unknown, proceed thus: write in the lower part of the paper or table the name of the bridegroom on one side, and the name of the bride on the other; then above the bridegroom's name mark the names of those blood-relatives of his who perhaps can be the cause why some kinship exists with the bride; do the same with respect to the bride. When this notation has been made, ascend on one side, and see whether they come together in a common principle or stock, from whom the bridegroom and bride have been mediately begotten. Hence after you have found it, and at the same time have observed whether the betrothed are in an equal or unequal line, finally apply the rules proposed below and the resolution of the doubt will be clear. For these things let the following example stand:

GREAT-GRANDFATHER

PATRITIUS MURPHY

GRANDMOTHER
Anna Murphy
Wife of Joseph Smith

GRANDFATHER
Petrus Murphy

FATHER	FATHER
Michael Smith	Joannes Murphy
BRIDEGROOM	BRIDE
Robertus Smith	Maria Murphy

In the example Robertus Smith and Maria Murphy are blood-relatives in the third equal degree.

Another method also exists for recognizing the degrees of kinship, namely the use of the tree of consanguinity or of the genealogical table which is had on the following page. Therefore, that the whole matter may be done practically, inspect the table, and see in what line and in what cells you find the persons concerning whose kinship inquiry is made, and attend by how many degrees they are distant from the common stock.

Consanguinity between the same persons can arise from a multiple head, and then there is a double or multiple propinquity or impediment to be opened in the petition of dispensation. But this can happen when two or more common stocks concur. Thus, for example, if wives who are themselves sisters or cousins between themselves were married by two brothers or cousins, the children received from each wedlock will be joined between themselves by a double bond of consanguinity. - Cf. Scavini, lib. 3, tract. 12, n. 1012.

Question 2. Who are collateral blood-relatives?

1°. From the Father's Side

PATRUUS MAGNUS, or brother of the grandfather - grandfather's brother.

AMITA MAGNA, or sister of the grandfather - grandfather's sister.

PATRUUS, or brother of the father - father's brother, paternal uncle.

AMITA, or sister of the father - father's sister, paternal aunt.

PATRUELES, or children of brothers from the father's side - first cousins.

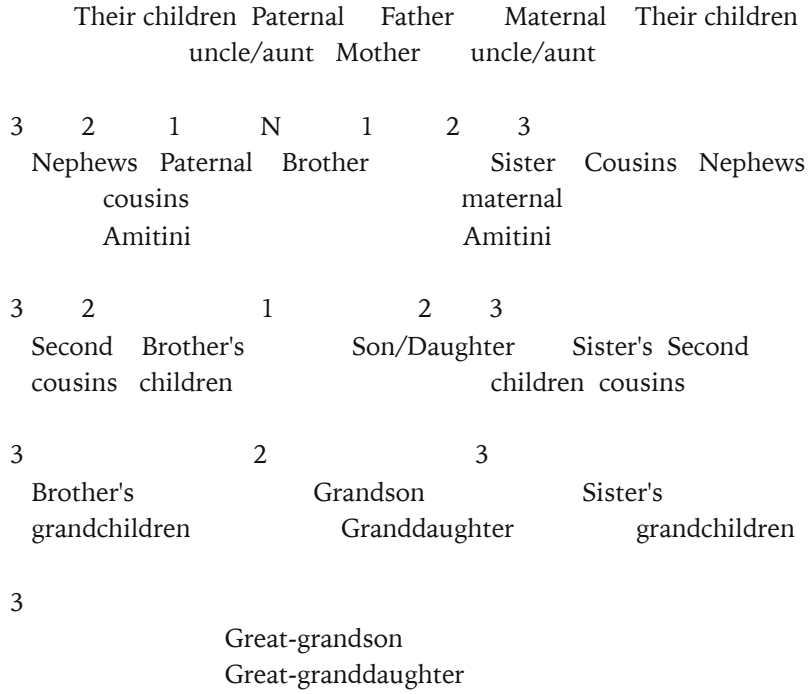
2°. From the Mother's Side

AVUNCULUS MAGNUS, or brother of the grandmother - grandmother's brother.

MATERTERA MAGNA, or sister of the grandmother - grandmother's sister.

Genealogical Table

			3			
			Great-grandfather			
			Great-grandmother			
3		2	3			
		Great paternal uncle/aunt		Grandfather Grandmother	Great maternal uncle/aunt	
3	2	1	2	3		



Notes

I. This table represents consanguineous persons up to the third degree in the direct and collateral line.

II. Persons who are joined by a tract are blood-relatives between themselves in the direct line, and with the rest in the collateral line.

III. Where the lines are joined, there the stock is had.

AVUNCULUS, or brother of the mother - mother's brother, maternal uncle.

MATERTERA, or sister of the mother - mother's sister, maternal aunt.

CONSOBRINI, or children of brothers from the mother's side - first cousins.

3°. From Each Side

AMITINI, or children of brothers - first cousins.

SOBRINI, or their children - second cousins.

NEPOTES, or children of brothers - nephews - brother's or sister's children.

PRONEPOTES, or their children - second nephews - grand nephews.[1]

[1] Cf. Addenda, p. 1117, n. 70.

II. - On Spiritual Kinship

Spiritual kinship is a certain propinquity which, by statute of the Church, arises from the administration and reception of Baptism among certain persons determined in canon law.

I say. Only that spiritual kinship invalidates marriage concerning which there is question in can. 768 (Can. 1079). From baptism only the baptizer and the sponsor contract spiritual kinship with the

baptized person (Can. 768).

And therefore neither the baptizer nor the sponsor can validly enter with the baptized woman. Any other kinship no longer constitutes an impediment.

You Will Resolve. - Sponsors, whether male or female, do not contract spiritual kinship unless they themselves immediately and by themselves, or through a proxy, physically touch the baptized person, either by holding or touching him while he is baptized, or by receiving him immediately from the hand of the priest after Baptism; because otherwise they are not properly judged to receive him from the sacred font. For all the texts of canon law by which spiritual kinship is established are expressed in these words: he who receives, holds, touches, etc. - Cf. S. Alphonsus, *de Baptismo*, n. 148.

2°. An unbeliever cannot contract spiritual kinship because this propinquity arises from the Church; and therefore the minister of the sacrament, in order that he incur it, must be baptized. Hence an unbeliever who validly and licitly baptized someone in a case of necessity afterward does not incur the impediment when he himself is baptized. Since in this case the spiritual kinship itself never existed, it cannot revive when the sacrament has been received.

3°. "But if others beyond those designated have touched the baptized person, they contract spiritual kinship in no way." - Council of Trent, sess. 24, cap. 2.

4°. If parents have designated more than two, or persons of the same sex, contrary to the Tridentine Decree itself, and these, admitted illegitimately by the pastor, have touched the infant, all, otherwise capable, contract spiritual kinship.

5°. Sponsors can receive infants through proxies; in which case not the proxies, but the sponsors, contract the impediment.

6°. That absent persons be sponsors, it is required that they truly give a mandate to others, by which these receive the infant in their name; it is not enough that they ratify an act placed without mandate. - Cf. Wernz, v. 4, n. 492. - Van de Burgt, n. 168.

III. - On Legal Kinship

Legal kinship is the propinquity of persons which arises from legal adoption.

I say. Those who by civil law are held incapable of entering nuptials between themselves on account of legal kinship arisen from adoption cannot, by force of canon law, validly contract marriage between themselves (Can. 1080).

Therefore such as is the incapacity among legal kinsmen by force of civil law, such is it also by force of canonical law.

Point IX. On the Impediment of Affinity

§ 1. Affinity arises from valid marriage, whether ratified only or ratified and consummated.

§ 2. It exists only between the man and the blood-relatives of the woman, and likewise between the woman and the blood-relatives of the man.

§ 3. It is computed so that those who are blood-relatives of the man are affines of the woman in the same line and degree, and conversely (Can. 97).

I say. § 1. Affinity in the direct line dirimently invalidates marriage in any degree; in the collateral line up to the second degree inclusive.

§ 2. The impediment of affinity is multiplied:

1°. As often as the impediment of consanguinity from which it proceeds is multiplied;

2°. By repeated successive marriage with a blood-relative of the deceased spouse (Can. 1077).

Questions

Question 1. By what law does affinity dirimently invalidate?

Resp. From the certain opinion of all, it dirimently invalidates by the law of the Church alone in the collateral line, and more probably also in the direct line.

Question 2. Who are the various affines?

Resp. They are the following, namely:

SOCER, or father by reason of affinity, whether of the married man or of the married woman - father-in-law.

SOCRUS, or mother affine - mother-in-law.

PROSOCER, or grandfather affine - wife's grandfather.

PROSOCRUS, or grandmother affine - wife's grandmother.

GENER, or husband of the daughter - son-in-law.

NURUS, or wife of the son - daughter-in-law.

PROGENER, or husband of the granddaughter - granddaughter's husband.

PRONURUS, or wife of the grandson - grandson's wife.

LEVIR, or brother of the husband or wife - brother-in-law.

GLOS, or sister of the husband - sister-in-law.

FRATRIA, or wife of the brother - sister-in-law, a brother's wife.

SORORIUS, or husband of the sister - brother-in-law, a sister's husband.

VITRICUS, or husband of the mother - stepfather.

PRIVIGNUS, or child from the first Marriage of the father or mother - stepson, stepdaughter.

NOVERCA, or wife of the father - stepmother.

Question 3. Does affinity from Marriage consummated, but invalid, dirimently invalidate Marriage?

Resp. Negatively, affinity arises from valid marriage alone.

You Will Resolve. - 1°. Persons who are joined in marriage are not themselves affines, but rather the foundation of affinity.

2°. The blood-relatives of the woman are not affines of the blood-relatives of the man. Affinity does not beget affinity.

3°. Two brothers can marry two sisters.

4°. A father and son can marry a mother and daughter.

5°. Such as is the degree of consanguinity with one person, such is the degree of affinity with the other.

6°. One must not doubt concerning the power of the Supreme Pontiff of dispensing in the first degree of the direct line of affinity. Therefore in desperate cases perhaps some hope shines forth.

7°. Martha enters Marriage with Titius, who is multiply blood-related to Thomas. Titius dies. Theodorus enters Marriage with Martha; when she is dead, he enters it with Bertha, the sister of Martha. These are cases of multiple affinity between Martha and Thomas, and between Theodorus and the blood-relatives of Bertha.

8°. Titius and Bertha, unbelievers, enter Marriage; both become Catholics; their marriage is now already ratified. After years of conjugal life Bertha dies. Titius now wishes to enter with Bertha's blood-relative in a prohibited degree. Titius becomes an affine of this person in the same degree.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point X. On the Impediment of Public Honesty

The impediment of public honesty arises from invalid marriage, whether consummated or not, and from public or notorious concubinage; and it dirimently invalidates nuptials in the first and second degree of the direct line between the man and the blood-relatives of the woman, and conversely (Can. 1078).

Indeed, it is not fitting that the blood-relatives in the first and second degree of the direct line of one of those invalidly joined in marriage, or of those publicly known as concubinarians, be able to enter marriage with the other co-party. Public honesty forbids it. The source of this impediment is invalid marriage, consummated or not, and public and notorious concubinage.[1]

[1] Cf. Addenda, p. 1117, n. 70.

Point XI. On Abrogated Impediments

The abrogated impediments are the following:

1°. The impediment of disparity of cult between a person baptized outside the Catholic Church, and not converted to it from heresy or schism, and a non-baptized person;

2°. The impediment of consanguinity in the fourth degree of the collateral line;

3°. The impediment of affinity in the third and fourth degree;

4°. The impediment of affinity from illicit intercourse;

5°. The impediment of public honesty from betrothals;

6°. The impediment of public honesty beyond the second degree;

7°. Every impediment of spiritual kinship except between the baptizer and the baptized person, and between the baptized person and the sponsor.

The sources of the double impediment, affinity and public honesty, are changed; the source of the first is valid marriage, the source of the second is invalid marriage and public and notorious concubinage.

Chapter VII. On the Celebration of Marriage

Point I. On Vices of Consent — I. - Error and Condition

I say 1°. A twofold error about Marriage is distinguished, namely: 1°. substantial error, which is concerned with the person; 2°. accidental error, which affects the qualities of the person. But condition is understood as servile condition unknown by the other free party, and consequently the impediment which is called condition is nothing other than an error by which the co-party is thought free when she is a slave.

When error is in the apprehension of a thing not necessary for the essence of the contract, but in a certain accident, it brings it about that the contract is voluntary as regards its essence and consequently such simply, but involuntary in a qualified sense and as regards that accident in which the error is concerned. And this error does not exclude consent, nor is anything had in law vitiating such consent. For in reality, in this error, he wills to marry this woman, to be married to this one; and there is the consent of two into the same thing and a contract substantially whole, nor invalid by law. S. C. C., Wallachien., 2 June 1860.

§ 1. Error concerning the person renders marriage invalid.

§ 2. Error concerning a quality of the person, even if it gives cause to the contract, invalidates marriage only:

1°. If error of quality redounds into error of person;

2°. If a free person contracts marriage with a person whom he thinks free, when on the contrary she is a slave, by slavery properly so called (Can. 1083).

Error of person renders marriage invalid. Error is also either of fortune, or condition, or quality.

Error of person is when this man is thought to be Virgilius but he is Plato; error of fortune when this man is thought to be rich who is poor; error of condition when he is thought to be free who is a slave; error of quality when he is thought to be good and is evil. Cause XXIV, q. 1.

Titius wishes to enter marriage with Anna, and Anna with Titius; therefore each, Titius and Anna, wish mutually to hand over and accept the perpetual and exclusive right over the body in order to determinate acts. Titius wishes to hand over the right over his body to Anna, and Anna wishes to accept that right; Anna wishes to hand over the right over her body to Titius, and Titius wishes to accept that right. In the celebration Martha has been substituted for Anna, and Titius, thinking Martha to be Anna, hands over the right over his body not to Martha, but truly to Anna. But Martha cannot accept from Titius a right which Titius does not hand over to her. This error of person on the part of Titius brings it about that the consent furnished to Martha is null in relation to Martha. In other words, the right which Titius wished to hand over over his body, he wished to hand over to Anna; this was the object of the contract, just as the right which he wished to accept was the right over the body of Anna. Error of person removed this object; in the celebration itself he wished to accept as wife not Martha but Anna, and to hand himself over as husband to a woman, not to Martha, with whom he externally expressed the words, but to Anna. Therefore his error made it such that

externally he said that he consented to the woman Martha, to whom he consented in no way. This error removed matrimonial consent. For he does not consent to this Martha, but to Anna, whom he thought Martha to be. Consent to Anna remained; consent to Martha was null; therefore there is no marriage with Martha.

If, however, error of quality redounds into error of person, the contract is invalid: that is, if someone judges that he is contracting with another person, not the one whom he accepts externally, and therefore neither does he consent to contract with this one. When therefore does error of quality redound into error of person? When the quality in which there is error designates an individual person, then error of quality falls back into error of person; as if someone wished to marry the firstborn daughter of the king of Spain. For since the apprehension of the mind draws the consent of the will, the will tends toward that which apprehension proposes to it. Wherefore, since the individual person apprehended, by means of that quality of primogeniture by which she is indicated, is proposed to the will, the consent directly and formally tends toward that person, and hence error concerning that quality is error concerning the person. S. C. C., Wallachien., 2 June 1860.

As regards the second paragraph, n. 2: If a free person has contracted with a slave properly so called, judging her to be free, the marriage is null. The conditions are that the free party be ignorant of the servile condition of the other and contract with that ignorance, and that the slavery be strictly so called.

A threefold error renders marriage null: error of person; error of quality redounding into error of person; error of servile condition of one party.

I say 2°. Simple error concerning the unity or indissolubility of marriage, or its sacramental dignity, even if it gives cause to the contract, does not vitiate matrimonial consent (Can. 1084).

For such error does not take away true and sufficient consent, as has been answered many times by the Sacred Congregation of the Holy Office.

A valid marriage can be contracted with a merely concomitant error concerning its indissolubility, because then the general will of contracting according to the institution of Christ prevails, and that general will as it were absorbs the private error. Instruction of the Holy Office, 6 April 1843. - The depraved opinion of the contracting parties, even though confirmed by the laws or customs of the fatherland, namely that the bond of marriage can be dissolved, in no way of itself harms the validity of marriage, unless this opinion is brought into a pact as a condition in the act of entering marriage; for then the marriage becomes null and invalid, as always happens when a condition repugnant to the substance itself has been attached to marriage. Holy Office, 20 June 1866, n. 25. - Marriages entered with only the error of the contracting parties that the bond of consummated marriage can be dissolved in the case of adultery or for other causes are valid. But if they have been entered under this express condition, they must be held as invalid. 11 March 1868, to 2. Error adhering to the mind, which nevertheless has not been brought into a pact or condition, does not harm the validity of marriage. Holy Office, 18 Dec. 1872. Concerning heretics imbued with false doctrine, Benedict XIV, *de syn. dioec.*, 1. 13, c. 22, says thus: It must be believed that they (heretics) wished by a general will to contract a valid marriage according to the law of Christ, and therefore one not to be dissolved even for cause of adultery. For private error can neither be put before nor bring prejudice to the general

will of which we have spoken, on which the validity and perpetuity of the contracted marriage depend.

I say 3°. Knowledge or opinion of the nullity of marriage does not necessarily exclude matrimonial consent (Can. 1085). For it does not exclude the general intention of entering marriage according to the law of Christ, and indeed here and now. For they wish to furnish consent truly matrimonial, and thus insofar as they can, as in the example of those who thought that they could not enter before a Turkish judge, although they wished to enter nuptials. Thus such marriages are to be held as valid, as was answered by the Sacred Congregation de Prop. Fide, 1 Oct. 1785. Again the same is established from the sanation of marriage so called civil, which sanation has been conceded not only once. But it could not have been conceded unless matrimonial consent could exist together with such a celebration.

II. - Force and Fear

I say 1°. § 1. A marriage entered on account of force or grave fear inflicted from outside and unjustly, from which, in order that someone may free himself, he is compelled to choose marriage, is also invalid (Can. 1087).

This is certainly established from many places of law. Marriage must enjoy full security.

I say 2°. § 2. No other fear, even if it gives cause to the contract, carries with it the nullity of marriage (Can. 1087).

The reason is: 1°. because light fear is not judged to influence consent gravely and efficaciously; 2°. because from positive law only grave fear makes Marriage invalid; 3°. because otherwise innumerable Marriages would become invalid with the greatest detriment to society.

Questions

Question 1. Does any grave fear whatsoever dirimently invalidate Marriage?

Resp. Negatively, but the following conditions are required, namely, that it be inflicted 1°. by an external and free cause; 2°. unjustly; 3°. that from it, in order to free himself, someone be compelled to choose marriage.

Question 2. By what law does grave fear dirimently invalidate Marriage?

Resp. Certainly by ecclesiastical law; but whether also by the law of nature is disputed among theologians, and S. Alphonsus, n. 1054, relates reasons on either side. Besides, no practical utility can be derived from the solution of this controversy. For either the discussion is of Marriage to be contracted or of one contracted. If the first, the Church will never dispense unless the cause of fear is first removed; if the other, that Marriage will never be declared invalid unless it has first been proved, in the external forum, that all the conditions which the Church requires for grave fear were verified. - Cf. Ballerini, note (c), p. 806.

Point II. On the Form of Celebration of Marriage

A clandestine marriage is called that which is contracted without the solemnity required by the Church.

Questions

Question 1. What are the dioceses and places, among us, where the Decree *Tametsi* was in force de facto, whatever finally may have been the origin and mode of its promulgation?

Resp. This question, which nevertheless regards some fact and not law, was previously wrapped in great obscurity, and diverse responses and opinions for thinking were being circulated. But now, by the work of the Third Plenary Council of Baltimore, it has a clear solution, for the Fathers of this Council, "after the matter had been studiously investigated, came to this opinion," from which it is certainly not licit to recede: "The Decree *Tametsi* is not in force in the following ecclesiastical Provinces, namely: 1. Baltimore; 2. Philadelphia; 3. New York; 4. Boston; 5. Oregon City; 6. Milwaukee; 7. Cincinnati, except the diocese of Vincennes; 8. St. Louis, except the city of St. Louis itself and certain other places of the same Archdiocese soon to be named; 9. Chicago, except certain places of the diocese of Alton to be cited presently."

"But in the other places of the same United States the decree *Tametsi* is judged to be in force, namely: 1°. in the whole province of New Orleans; 2°. in the province of San Francisco with the territory of Utah, except that part of the same territory which lies to the east of the Colorado River; 3°. in the province of Santa Fe, except the northern part of the territory of Colorado; 4°. in the diocese of Vincennes; 5°. in the city of St. Louis, and also in the places called St. Genevieve, St. Ferdinand, and St. Charles, of the Archdiocese of St. Louis; 6°. in the places called Kaskaskia, Cahokia, French Village, and Prairie du Rocher, of the diocese of Alton." - Cf. Responses of the Holy See to the Postulates of the Fathers, in the Third Plenary Council of Baltimore, p. cvii. Cf. S. C. d. P. F., 15 April 1901.

Question 2. Were clandestine Marriages of heretics among themselves, or mixed ones, valid where the Tridentine law concerning clandestinity was in force?

Resp. Affirmatively, if however the discussion is of those places to which the Declaration of Benedict XIV was extended, by which in the year 1741 the Supreme Pontiff established that clandestine Marriages entered or to be entered in Holland and in the federated Provinces of Belgium, between heretics or between one heretical party and another Catholic party, are valid. Moreover, this Benedictine Declaration was afterwards extended to several regions of Europe, and as regards us, it had also been extended to several dioceses and places by the work of diverse Bishops; but since, at the time when the last Plenary Council was celebrated, there were still some dioceses to which it certainly had not been extended, and concerning some others there was doubt, the Fathers of the Council requested that, for inducing uniformity, it be extended to all those places, or be declared certainly to have been extended, in which the Decree *Tametsi* is certainly known to be in force. Moreover, to this petition the response was that this extension was conceded "only" for the dioceses of San Antonio and Galveston and for the Apostolic Vicariate of Brownsville, in which the matter was doubtful. Whence it follows that the Benedictine Declaration had not been in force in the Province of Santa Fe, to which it certainly had not been extended before the aforesaid petition was made. - Cf. Responses of the Holy See, etc., in the Third Plenary Council of Baltimore, pp. cviii and cix. - Feije, *de impedimentis Matrim.*, nn. 306 and following. - Ballerini, note (a), p. 811, and note (a), p. 820. - Kenrick, n. 186. - Nilles, Part 1, p. 224.

Question 3. Who were those who came under the name of heretics, when it was a question of places where the Benedictine Declaration was in force?

Resp. The solution is clear from the following rescript of the Holy Office, 6 Apr. 1859, which could and had to be applied also to other regions besides Holland. - When the doubt had been proposed: "Whether, for the understanding of the celebrated Declaration of Benedict XIV for Holland, the following five classes can be comprehended under the name of heretic: 1°. those who, baptized Catholic, from childhood not yet seven years old are educated in heresy and profess heresy; 2°. those who are educated not so much in heresy as by heretics, namely with no or scarcely any instruction in heretical doctrine received, and worship not frequented, although sometimes participated in; 3°. those who, while still children, falling into the hands of heretics, are joined to a heretical sect; 4°. apostates passing over from the Catholic Church to a heretical sect; 5°. those who, born and baptized by heretics, have grown up without having emitted any solemn profession of heresy, and as it were of no religion, etc.? ..." The Sacred Congregation responded: "For the effect of Marriage, those enumerated above are comprehended in the praised Declaration of Benedict XIV." - Cf. Feije, n. 319.

Question 4. What was our special privilege in relation to acquiring quasi-domicile for the effect of contracting valid Marriage?

Resp. "The Eminent General Inquisitors on the day 6 May 1886, the matter maturely considered, issued the following decree: 'At the petition of the Council of Baltimore, supplication is to be made to His Holiness that he deign to decree, in the Confederate States of America, that those transferring themselves from a place where the chapter *Tametsi* is in force to another place, provided they have stayed there continuously for the space of at least one whole month and have proved the liberty of their state, as is of law, are to be judged to have quasi-domicile there in order to Marriage, without inquiry having to be made concerning the intention of remaining there for the greater part of a year.' - But in the audience of the day 12 May 1886, at the report of R. P. D. Joseph D'Annibale, assessor of the Holy Office, the Most Holy Lord Leo XIII deigned by his authority to hold ratified and to confirm the aforesaid Decree of the Eminent Fathers, anything whatsoever to the contrary notwithstanding." - Cf. Third Plenary Council of Baltimore, p. cix. *Revue des Sciences Ecclesiastiques*, February 1881, p. 187. - O'Kane, nn. 1021 and following. - *Irish Ecclesiastical Record*, Nov. and Dec. 1883; and Feb. 1884. - Ballerini, note (a), p. 824, and (b), p. 811. - Nilles, part 1, p. 266.

Only those marriages are valid which are contracted before the pastor, or the local Ordinary, or a priest delegated by either one, and at least two witnesses, yet according to the rules expressed in the canons which follow, and with the exceptions saved concerning which in can. 1098, 1099 (Can. 1094).

§ 1. The pastor and the local Ordinary validly assist at marriage:

1°. Only from the day of acquired canonical possession of the benefice according to the norm of can. 334, § 3, 1444, § 1, or of begun office, unless by sentence they have been excommunicated or interdicted or suspended from office, or declared such;

2°. Only within the limits of their territory; in which they validly assist at marriages not only of their own subjects, but also of non-subjects;

3°. Provided that, constrained neither by force nor by grave fear, they ask for and receive the consent of the contracting parties.

§ 2. The pastor and the local Ordinary who can validly assist at marriage can also give license to another priest that he validly assist at marriage within the limits of their territory (Can. 1095).

Who are pastors, and those equated with them, is clear from Canon 451:

§ 1. A pastor is a priest or moral person to whom a parish has been conferred as title, with care of souls to be exercised under the authority of the local Ordinary.

§ 2. With pastors are equated, with all parochial rights and obligations, and they come in law under the name of pastors:

1°. Quasi-pastors, who rule quasi-parishes, concerning which in can. 216, § 3;

2°. Parochial vicars, if they are endowed with full parochial power.

§ 3. Concerning military chaplains, whether major or minor, one must stand by the peculiar prescriptions of the Holy See (Can. 451).

The distinct parts of a diocese into which the diocese itself is divided, to each of which its own particular church with a determined people is assigned and its own particular and proper pastor is set over it for the care of souls, are parishes; parts of an apostolic vicariate and prefecture, if a particular rector is assigned, are called quasi-parishes. Cf. Can. 216, § 3.

§ 4. Without a special apostolic indult, parishes cannot be constituted according to the diversity of language or nation of the faithful living in the same city or territory, nor merely familial or personal parishes; but as regards those already constituted, nothing is to be innovated without consulting the Apostolic See (Can. 216).[1]

For the validity of marriage there is required the presence of the pastor or local Ordinary or a priest delegated by either one, and of at least two witnesses; two exceptions are given which we shall explain below.

Nevertheless, in relation to the pastor and local Ordinary, this one and that one validly assist only from the day of acquired possession of the benefice or of begun office.

But if by sentence they have been excommunicated, or interdicted, or suspended from office, or declared such, their assistance is invalid.

The pastor and Ordinary can validly assist only in their own territory.

But in their own territory they validly assist at marriages not only of subjects but also of non-subjects.

Moreover, that this assistance be valid, it is further required that they have been constrained neither by force nor by grave fear.

Finally, it is necessary that they ask for and receive the consent of the contracting parties.

In these points a great distinction is now introduced between the law in force before the Decree *Ne Temere* and the present law of the Code.

Formerly the announced pastor validly assisted; but now his competence is annexed to the possessed benefice or the office already begun. Formerly he could validly assist as long as he was pastor, although excommunicated or interdicted or suspended from office by public decree through sentence, or declared such; but now he who is bound by such a censure is declared incompetent. Formerly he validly assisted at marriages of his own subjects everywhere on earth; but now he can validly assist only in his own territory. Formerly he validly assisted only at marriages of subjects even in his own territory; but now there he validly assists both subjects and non-subjects. Namely, his competence is territorial, restricted within the limits of his own parish but extended also to marriages of non-subjects. Hence the ancient discipline of the proper pastor is abolished, by which formerly the assistance of that pastor in whose parish at least one of the contracting parties had domicile or quasi-domicile was required for validity; but now the contract must be entered before the pastor of the territory in which the contract is entered, although neither party is his subject. Formerly the pastor validly assisted, although constrained by force or grave fear; hence surprise marriages were valid. But now he assists validly only when free from force and grave fear. Formerly the pastor validly assisted when present under compulsion, yet perceiving words signifying the mutual matrimonial consent of determinate betrothed persons; but now for validity it is required that he ask for and receive the consent of the contracting parties.

Therefore the assistance of the pastor must be physical, formal, free, and active.

[1] Cf. Addenda, p. 1109, n. 52.

As regards Marriages to be Celebrated, these things are established for our army and navy.

I. Priest Chaplains of the Army and Navy of the United States of North America, during war, enjoy the full faculty of assisting at the marriages of all those who pertain to the Army and Navy of the United States, whether in regions which are subject to the dominion of the United States, or elsewhere. But in marriages which are celebrated outside the territory of the United States of North America, the local Diocesan Chancery must be approached, lest they be contracted against the laws of the region, and especially in those cases in which one of the contracting parties is not an American citizen.

II. Those pertaining to the Army or Navy of the United States of North America are also able to celebrate marriage either under the jurisdiction of the Bishop of origin, or of the Bishop of the place in which they are staying temporarily in camps, or of the Bishop of the Diocese through which they are journeying.

III. The faculty conceded to the Military Ordinary in relation to the celebration of marriage is not privative but cumulative, namely, it does not exclude the jurisdiction of those who by other titles are able to furnish this according to the norm of law.

IV. Chaplains of the Army or Navy are not to assist at marriages unless after previous investigation, especially with the pastor of the woman.

V. Petitions for obtaining dispensations are to be sent to the Military Ordinary or to the Military Vicar General.

VI. The document of the contracted marriage, according to the decree *Ne Temere*, is to be carefully prepared and sent to the Military Ordinary; but a copy of the document is to be kept by the Chaplain

until the Military Ordinariate renders him certain concerning receipt of the original.

Questions

Question 1. When does the Ordinary or pastor begin to be competent as the authorized witness of marriage?

Resp. From the day of acquired possession of the benefice or of begun office.

§ 3. Residential Bishops take canonical possession of a diocese as soon as, in the diocese itself, either personally or through a proxy, they have shown the apostolic letters to the Chapter of the cathedral church, in the presence of the secretary of the Chapter or the chancellor of the Curia, who is to refer the matter into the acts (Can. 334).

§ 1. Induction into possession of a benefice is to be made according to the mode prescribed by particular law or received by legitimate custom, unless from a just cause the Ordinary has expressly dispensed in writing from that mode or rite; in which case this dispensation takes the place of possession taken (Can. 1444).

Question 2. Can a putative pastor validly assist?

Resp. Affirmatively, if from common error he is judged such.

Question 3. Does any priest of the diocese, exercising the sacred ministry without special delegation of the local Ordinary or pastor, validly assist at marriage by force of a general faculty conceded to him of administering all sacraments which do not require the episcopal order?

Resp. Negatively.

Question 4. Which excommunicated, suspended, or interdicted pastor is not competent?

Resp. A pastor is not competent who by sentence has been excommunicated, suspended from office, or interdicted, or declared such. This disposition of the Code corresponds to other canons by which it is required, for external penal effects, that the penalty have been inflicted or declared by condemnatory sentence, especially when it is a question of privation or restriction of the use of priestly power or of other sacred ministers. Cf. Can. 2261, 2264, 2275, 2284.

Question 5. Whether by a prohibition made by the Ordinary, lest the pastor espouse certain persons, the jurisdiction of that pastor is so taken away that, for contracting marriage contrary to such a prohibition, he is not the legitimate pastor?

Resp. "That the marriage contracted before a pastor to whom it has been interdicted by the Bishop lest he intervene is valid." Thus the Sacred Congregation of the Council in the Gienn. case, year 1581. "On which matter," says Benedict XIV, "there seems to be able to be stirred up no difficulty of graver moment. For since there is not that authority in the Bishop that he could induce a diriment impediment which does not exist, or establish as null and invalid some marriage which by the prescription of the canons is not null and invalid, the marriage will indeed be illicit if it is celebrated before him whom the Bishop has forbidden to be present at a celebration of this kind; he also will sin gravely who, with the superior's prohibition despised, furnishes assistance to it; but by no reason will it be able to be said that the marriage itself lies under the defect of nullity." - *De Syn. Dioec.*, 1. 13, c. 23.

Question 6. What things are required that the assistance of the pastor be valid?

Resp. From what has been said it is clear that two things are required: 1°. he must be a voluntary witness, coerced by no force or grave fear; 2°. he must assist actively by asking for and receiving the matrimonial consent of the spouses. That this mode of assistance, formal, voluntary, and active, is necessary for validity is gathered first from the fact that it is prescribed as a condition *sine qua non*, through the particle provided that, and second from the end of the legislator, who intends to found those statutes by which all marriages made by surprise are rendered null and invalid. - Cf. *Acta S. Sedis*, v. 40, p. 531.[1]

[1] Cf. Addenda, p. 1111, n. 54.

Question 7. "Whether Ordinaries and pastors, not only explicitly but also implicitly invited and asked, provided nevertheless that constrained neither by force nor by grave fear they ask for and receive the consent of the contracting parties, can validly assist at marriages?"

Resp. "Affirmatively." Thus the Sacred Congregation of the Council, 28 Mar. 1908. It is no longer required that the pastor assist as one invited and asked. - Cf. Can. 1095, § 1.

Question 8. What is the competence of the Ordinary and pastor in relation to marriage?

Resp. It is territorial. But the territory is diverse: that of the Ordinary is the diocese, vicariate, etc.; but that of the pastor is a parish canonically erected, a quasi-parish, or a district defined and perfectly divided from others, or an entire station in places where the territories are not yet perfectly divided. - Leitner, *Die Verlobungs- und Eheschliessungsform*, p. 33. Cf. Can. 451, §§ 1, 2.

Question 9. What fear invalidates the assistance of the pastor?

Resp. Grave fear, or fear falling upon a constant man. A constant man is one who in some class is of ordinary fortitude, namely, who above others of the same class is distinguished neither by timidity nor by strength of soul. The fear will be grave when the evil inflicting it is such that no one fearing it loses the name of a constant man. Whenever such fear is inflicted by an extrinsic free cause in order to compel the assistance of the pastor, and for that reason he assists, the marriage is null and invalid. But if the pastor unjustly refuses to assist, and on account of this cause is compelled by grave fear to be present, even then the contract must be called null. For where the law does not distinguish, neither ought we to distinguish; but the law simply excludes assistance furnished from grave fear. This vexation can easily be removed, because any pastor or Ordinary is suitable and competent for the validity of marriage, indeed in a case of necessity even for liceity. Nevertheless the wedlock entered before a pastor who, finally yielding to importunate prayers, assists will be valid.

Question 10. What is established by the new law in relation to witnesses?

Resp. Besides the presence of an authorized witness, at least two witnesses are required; therefore more can be present. As regards them the ancient discipline is in force. It suffices that they enjoy the use of reason. Therefore non-Catholics can also validly be assumed, or those deceived by fraud or coerced by fear; adults or minors; men or women; wholly unwilling and not knowing how to write. Nevertheless heretics are illicitly assumed. S. C. Inq., 19 Aug. 1891.

Their assistance must be such that they can testify concerning the marriage celebrated of this bridegroom and bride. Therefore material presence is not sufficient, but it is necessary that the

witnesses know what is being done. Therefore they must see the spouses and perceive and understand the signs expressing consent; but if they do not see the contracting parties themselves, yet hear known voices while they pronounce consent, the assistance is valid.

Nevertheless it is not required that determinate witnesses be invited, or that certain persons be so employed that these and not others are witnesses; but it suffices that those who are present at the celebration can make faith concerning the marriage entered, since it is certainly established to them concerning the furnishing of consent. And hence a marriage entered before the pastor and several persons, all of whom can duly testify concerning the consent given, is valid, although the two invited witnesses were not present.

Question 11. Whether "exempt regular churches, according to the tenor of the decree, can be considered as the territory of the pastor or Ordinary in whose territorial district they are situated, for the effect of assistance at marriage?"

Resp. "Affirmatively." (S. C. de Sacr., 13 Mar. 1910.)[1]

[1] Cf. Addenda, p. 1151, n. 126.

You Will Resolve. - Marriages are invalid:

1°. When the pastor or Ordinary or one delegated by either is lacking;

2°. When at least two witnesses do not assist;

3°. When it is contracted before the proper pastor of the spouses outside his own territory without the necessary delegation of the Ordinary or pastor of the place in which it is contracted;

4°. When it is contracted before a non-delegated priest, or before a delegated deacon;

5°. When it is contracted before the pastor announced for the place, but not yet possessing the benefice;

6°. When it is contracted before a pastor excommunicated or interdicted or suspended from office by sentence;

7°. When it is contracted before a pastor compelled by grave fear to assist;

8°. When it is contracted before an invited pastor, indeed hearing but not asking for consent;

9°. When it is contracted before a pastor present by chance, but not actively assisting.

On the Liceity of the Assistance of the Pastor and Local Ordinary

§ 1. But the pastor or local Ordinary assist licitly at marriage:

1°. When it has been legitimately established to them concerning the free state of the contracting parties according to the norm of law;

2°. When it has further been established concerning the domicile or quasi-domicile or monthly stay, or, if it is a question of a wanderer, the actual stay, of one or the other contracting party in the place of marriage;

3°. If the conditions concerning which in n. 2 are lacking, when license has been had from the pastor or Ordinary of the domicile or quasi-domicile or monthly stay of one or the other contracting party,

unless either it is a question of wanderers actually journeying, who nowhere have a seat of stay, or a grave necessity intervenes which excuses from license to be sought.

§ 2. In any case let it be held as a rule that marriage be celebrated before the pastor of the bride, unless a just cause excuses; but marriages of Catholics of mixed rite, unless something else has been provided by particular law, are to be celebrated in the rite of the man and before his pastor.

§ 3. A pastor who assists at marriage without the license required by law does not make the stole-fees his own, and he is to remit them to the proper pastor of the contracting parties (Can. 1097).

Before marriage is celebrated it is necessary to observe the dispositions of law concerning free state, concerning banns, and all other things pertaining to it. Thus the Roman Ritual, tit. *de sacr. matrim.*: "The pastor, admonished concerning some Marriage to be contracted in his Parish, should first know from those to whom it pertains who and of what sort they are who wish to contract Marriage: Whether there is some impediment between them; Whether they wish to contract spontaneously, freely, and according to the honesty of the Sacrament; Whether they are of legitimate age, so that the man has completed at least fourteen[1] years, the woman twelve[2] years; and that each knows the rudiments of the Faith, since they ought afterward to teach these to their children." "Moreover, let the Pastor beware lest he easily admit to contracting Marriage wanderers and travelers and those who have uncertain seats; nor likewise those who have been married before, as are the wives of soldiers or captives or of others who are journeying, unless, after diligent inquiry has been made concerning all these things, and the matter referred to the Ordinary, license for celebrating Marriage of this kind has been had from him, which is to be conceded gratis." Finally, proclamations are to be made according to the statutes of law. By natural and positive law under grave obligation, the pastor is bound before he joins the spouses to institute an investigation concerning free state, that is, concerning their immunity especially from the impediment of bond and from all other impediments, both diriment and impeding. In no way can the pastor licitly proceed to the celebration unless it is established to him concerning this immunity. In this matter let there be compared the Third Plenary Council of Baltimore, Appendix, pp. 258 and following, pp. 274 and following, and diocesan statutes. Wernz, v. 4, n. 130 and following. Besson, *Nouvelle Revue Theologique*, tom. 40, p. 76. - Boudinhon, *Le Mariage et Les Fiancailles*, n. 71 and following. - McNicholas, *The New Marriage Legislation*, p. 35: This last little book, most excellently adapted to our conditions, is altogether to be consulted. - Cf. Can. 1067, § 1.

[1] Now, sixteen.

[2] Now, fourteen.

Questions

Question 1. What else must be established to the pastor before he can licitly assist at marriage?

Resp. It must be established to him concerning domicile or quasi-domicile or monthly stay, or, if it is a question of a wanderer, concerning actual stay in the place of marriage. By the Code quasi-domicile has been reintroduced into matrimonial law in relation to its celebration. - Cf. Can. 92, under n. 80.[1]

[1] Cf. Addenda, p. 1112, n. 55.

Question 2. How is the place of marriage mentioned in n. 2 to be understood?

Resp. The place of marriage is the parish or diocese; parochial and diocesan domicile is given. - Cf. Can. 92 under n. 80.

Question 3. How is monthly stay to be understood?

Resp. Generally a month signifies thirty days. - Cf. Can. 32. But we ought not to interpret the matter too rigorously. Wherefore if someone, after habitation in the place has already been begun, were absent by chance for one or another day, this would not prevent him from being said, at the end of thirty days from entrance into the place, to have stayed there for a month.

Moreover, stay in a place here designates residence; thus it can be that someone works during the day in one parish, but has the seat of residence in another. His pastor for marriage is the rector of this latter, not of the former. Stay in no way requires continuous presence. Cf. Besson, l. c., pp. 78 and following. Gennari, *Il Mon. Eccles.*, Sec. Ser., v. 10, p. 90. - Ojetti, l. c., n. 97. - Vermeersch, *De Religiosis*, v. 4, p. 176.

Question 4. What is required if neither of the spouses has domicile or monthly stay in the place of marriage?

Resp. The pastor and local Ordinary assist licitly: "when, if the conditions concerning which in n. 2 are lacking, license has been had from the pastor or Ordinary of the domicile or quasi-domicile or monthly stay of one or the other contracting party, unless it is a question of wanderers actually journeying, who nowhere have a seat of stay, or a grave necessity intervenes which excuses from license to be sought."

Question 5. Is monthly stay in a parish to be computed from the day of conversion, say of Titius, to the Catholic faith, or rather from his entrance into the parish?

Resp. The merely external fact of stay suffices for liceity, abstracting from the fact of the conversion of Titius to the faith. Moreover, the will of the legislator must be sought from the words of the law according to that saying: "The legislator expressed what he willed." But now only monthly stay of one or the other contracting party is required, without any discussion being had concerning their religion. Therefore only the material fact of stay is exacted for liceity, with the other things to be observed by law being observed. But this monthly stay must be morally continuous. S. C. de Sacr., 28 Jan. 1916.

Therefore license is to be sought from the pastor either of domicile or quasi-domicile or monthly stay of the spouses. - Cf. Vermeersch, l. c., n. 60. - Gennari, l. c., p. 30. - Bucceroni, *Supplementum*, n. 13.

This license, since it is not delegation nor necessary for validity, seems to suffice if it is presumed or interpretative. Thus Gennari, l. c. - Pezzani, l. c., n. 94. Grave necessity excuses from obtaining or even seeking this license, some urgent cause for the celebration of marriage, which cannot be deferred except with a notable inconvenience altogether, until license is obtained. In this case the pastor also assists licitly. Authors counsel that the reason for license not sought be preserved by some document, for avoiding inconveniences perhaps to arise afterward.

But if the pastor refuses to give license sought from a just cause, recourse can be had to the Ordinary or to the pastor of the other spouse.

Question 6. When does the pastor licitly assist at marriages of wanderers?

Resp. At the marriage of wanderers concerning whom in can. 91, the pastor, except in a case of necessity, should never assist unless, after the matter has been brought to the local Ordinary or to a priest delegated by him, he has obtained license to assist (Can. 1032).

Question 7. Who are wanderers according to the new Code?

Resp. Wanderers are those who nowhere have domicile or quasi-domicile. Thus the new Code, can. 91. And therefore the sense of wanderer is now fixed. The prohibition of assisting without permission of the Ordinary or delegated person, outside a case of necessity, extends itself to all wanderers who are held such according to Can. 91.

This license is to be sought either from the Ordinary or from a priest delegated by him for this. As is clear, in large dioceses it would be a very grave burden for the Ordinary to attend to this by himself. Canon 1032 meets this difficulty, by force of which he can designate priests in various parts of the diocese who may discharge this function. Therefore the pastor must have recourse to the delegate or to the Ordinary, but only after a diligent examination concerning free state has been instituted; and if there are any diocesan laws on this point, they must be observed exactly. Although it is established to him concerning the liberty of the parties, nevertheless he cannot take a step toward the celebration before license has first been obtained. Necessity would certainly excuse, for example, a marriage to be legitimated in a case of death, where there would be danger in delay; but even in this case the pastor is bound according to his powers to guard beforehand against the danger of nullity of the sacrament. - Cf. Vermeersch, l. c., n. 62. - Besson, l. c., n. 86; Pezzani, l. c., n. 98, 99. - Gennari, l. c., p. 31. - Creagh, l. c., p. 48.

Question 8. What if one of the spouses is a wanderer?

Resp. The disposition of this canon, which renews the Tridentine decree, must be observed. Therefore the pastor must bring the matter to the Ordinary or delegate, and, after permission has been received, he can licitly assist at the marriage without license of the pastor of the other spouse being sought; for he himself is then the proper pastor at least as regards the effect of this canon. - Cf. Vermeersch, l. c., n. 63. - Besson, l. c., p. 90, 1° (d). - Gennari, *Il Monitore Ecclesias.*, Sec. Ser., v. 10, p. 90.

Question 9. Who ought to assist when the bridegroom and bride are from diverse parishes?

Resp. In any case, let it be held as a rule that marriage be celebrated before the pastor of the bride unless some just cause excuses. - Cf. Can. 1097, § 2.

The same must be said here concerning pastor as also before: namely, he is the one in whose parish the bride either is domiciled or quasi-domiciled or has already stayed for a month. Hence if the bride is subject to one pastor only by reason of that stay, but the man to another by reason of domicile, regularly the marriage is to be celebrated before the former, because he, in the sense of this law, is the woman's pastor.

By this paragraph a norm is established by which matters may proceed better. But from following this norm any just cause of convenience or utility excuses, indeed the very desire of the spouses, if they refuse to present themselves before another pastor. A grave reason is not required here, but simply a just one. Wherefore we also judge with Vermeersch, l. c., n. 64, that the obligation of this paragraph is not grave. Therefore pastors of brides ought not to be excessive in urging their right.

"Marriages of Catholics of mixed rite, unless something else has been provided by particular law, are to be celebrated in the rite of the man and before his pastor" (Can. 1097, § 2). Marriages both among the Greek-Ruthenian faithful and among the faithful of mixed rite are to be blessed in the rite of the

woman by the pastor of the woman. Thus S. C. de Prop. F., 17 Aug. 1914, *De Spirituali Administratione Ecclesiae Graeco-Ruthenae in Foederatis Civitatibus Americae Septentrionalis*.

Question 10. What if the bride has domicile in one parish, but monthly stay in another?

Resp. The celebration can licitly take place before the pastor either of the domicile or of the monthly stay.

Question 11. Can this rule be observed when the bride is a wanderer?

Resp. Affirmatively of itself. "In any case," the canon says. And although very often there is a just cause of celebrating before the pastor of the bridegroom, nevertheless to the bride is attributed a right before the bridegroom, nor can any indication be found of a contrary will of the legislator. - Cf. Besson, l. c., p. 88. - Vermeersch, l. c., n. 64. Nevertheless see above, Question 8.

Notes

1°. For the valid celebration of Marriage the Code designates any pastor in his own territory; but for licit celebration, the pastor either of domicile or quasi-domicile or monthly stay. Therefore his competence for validity is restricted to the limits of his own parish; for liceity, to persons domiciled or quasi-domiciled or already staying for a month in the parish. Within his own territory he validly assists at all marriages; outside it, without delegation, at none. Within his own territory he licitly assists at marriages of his own people, whether by reason of domicile or quasi-domicile or by reason of that stay, but not of strangers without license.

2°. Since domicile is immediately acquired by the fact of habitation in some parish with the intention of remaining there perpetually, of itself it would be licit to celebrate marriage immediately.

3°. Simple monthly stay in a parish suffices for licit celebration; therefore whether someone happens to be there by chance, or went there purposely for the sake of wedlock, he contracts licitly in that place before the pastor. For stay in fraud of the law is no longer to be considered.

As regards the liceity of assistance within one's own territory, the following should be kept before the eyes:

Both parties have domicile or monthly stay in the parish of the contract; or only one party, while the other has it elsewhere or does not have it; or neither party.

As regards the first hypothesis: the pastor or local Ordinary, or one delegated by either, can assist from the first day of acquired domicile according to the things just said, or, if they are not domiciled, only after a month.

As regards the second hypothesis: that one party is either the bride or the bridegroom, and the other party, as we first suppose, is not a wanderer. If it is the bride, the pastor can always licitly assist; if it is the bridegroom, regularly the pastor cannot licitly assist unless there is a just cause excusing from the norm prescribed in § 2; if the other party is a wanderer, the matter is to be brought to the Ordinary or to the delegate, and license is to be obtained from him.

As regards the third hypothesis: when neither party has domicile or monthly stay in the parish of the contract, either each has it elsewhere, or both or one or the other is a wanderer. When each has it elsewhere, the pastor of the place of the contract ought not to assist before he has received license

from the pastor of the bride; but if a just cause is present, let him have recourse to the pastor of the bridegroom; if, however, grave necessity urges, he assists by law without license. When both or one or the other is a wanderer, the matter must be arranged with the Ordinary.

The pastor, for example of St. Aloysius, licitly assists at nuptials between Titius and Bertha in the following cases, supposing that their free state is legitimately established:

1°. Titius and Bertha have domicile in the parish of St. Aloysius.

2°. Titius and Bertha have monthly stay in the same parish.

3°. Bertha has domicile or monthly stay in the parish of St. Aloysius; Titius has domicile or monthly stay in the parish of St. Joseph.

4°. Titius has domicile or monthly stay in the parish of St. Aloysius, Bertha in the parish of St. Patrick; nevertheless a just cause is present excusing them from contracting before the pastor of the bride.

5°. Titius has domicile in the parish of St. Aloysius, Bertha is a wanderer; the pastor of St. Aloysius has received license to assist from the Ordinary or from a priest delegated for that.

6°. Titius is a wanderer, Bertha has monthly stay in the parish of St. Aloysius. Necessity of celebrating immediately urges.

7°. Titius and Bertha have domicile or monthly stay in the parish of St. Joseph; the pastor of St. Aloysius has received license to assist from the Ordinary or from the pastor of the spouses.

8°. Titius and Bertha have domicile in the parish of St. Joseph; grave necessity intervenes excusing from obtaining the aforesaid license.

9°. Titius has domicile or monthly stay in the parish of St. Joseph, Bertha in the parish of St. Mark; the pastor of St. Aloysius has obtained license from the pastor of the bride, or from the Ordinary.

10°. Titius has domicile in the parish of St. Peter, Bertha in the parish of St. Mark. There is present a just cause excusing them from entering marriage before the pastor of the bride, who refuses to give license justly sought to the pastor of St. Aloysius. This latter has received it either from the Ordinary or from the pastor of the bridegroom.

11°. Titius and Bertha are wanderers; or, Titius has domicile in the parish of St. Patrick and Bertha is a wanderer. The pastor of St. Aloysius, after the matter has been brought to the Ordinary or delegate, has obtained license to assist.

12°. Titius and Bertha are wanderers; or, Titius has domicile in the parish of St. Patrick, Bertha is a wanderer. They present themselves before the pastor of St. Aloysius. The necessity of celebrating urges.

On the Delegated Priest

§ 1. License of assisting at marriage, conceded according to the norm of can. 1095, § 2, must be given expressly to a determinate priest for a determinate marriage, with any general delegations excluded, unless it is a question of cooperating vicars for the parish to which they are attached; otherwise it is invalid.[1]

§ 2. The pastor or local Ordinary is not to concede license unless all things which the law constitutes for proving the liberty of state have been fulfilled (Can. 1096).

Therefore a priest who is not pastor or Ordinary needs license from either one so that he may validly and licitly assist. This license is not delegation properly so called, and therefore perhaps in the article that word is employed, not this one. Concerning it, what Wernz already skillfully observed in his excellent work, v. 4, n. 180, 1, must be noted: "The concession of license to assist is not an act of jurisdiction by which ecclesiastical jurisdiction is truly delegated to another, but by better right is called the substitution of another authorized witness, by force of the faculty received from the Council of Trent, which has great likeness with delegation."

[1] Cf. Addenda, p. 1109, n. 52; p. 1150, n. 125.

Questions

Question 1. Who is the delegating pastor or Ordinary?

Resp. The Ordinary or pastor is understood not of the contracting parties, but of the place in which the matrimonial contract is celebrated: the Ordinary, namely, for his diocese, and the pastor for the parish. For validity requires the assistance of the pastor or Ordinary of the place of contract, or of one delegated by either. Hence if a priest assisted in some territory without delegation from the Ordinary or pastor of this place, although with license of the pastor of the contracting parties, the marriage would be invalid.

Question 2. To whom can this license or delegation be conceded?

Resp. This license or delegation can be conceded only to a priest, and to one certain and determinate, but not to a deacon, nor to an indeterminate priest. Delegation is validly made by naming the priest personally, or by designating his office, for example, Father N.; the pastor of St. Patrick; the first assistant of the church of St. Anne; the chaplain of St. Mary's orphanage; for in all these cases the priest is truly determinate and certain. But delegation by which the choice of any priest at pleasure is left to the spouses is null; for it is made to an indeterminate person.

Question 3. In what way must this delegation be made?

Resp. The Code prescribes no mode. Wherefore it can be conceded to the delegate either in writing or by living voice, without intermediary or through a messenger, absolutely or conditionally. - Cf. Wernz, l. c.

Question 4. Can a pastor generally delegate certain persons for his own territory?

Resp. Negatively: § 1. License must be given expressly to a determinate priest for a determinate marriage, with any general delegations excluded, unless it is a question of cooperating vicars for the parish to which they are attached; otherwise it is invalid (Can. 1096).

Question 5. Does tacit or even presumed delegation suffice?

Resp. Negatively to both; because according to the canon it must be given expressly, and presumed delegation is null. In the Code expressly and tacitly do not sound the same. - Cf. Can. 1123.

Question 6. Is this license or delegation circumscribed by territorial limits?

Resp. It is always circumscribed within the limits of the territory of the delegating person. Hence one conceded by the Ordinary is so circumscribed by the limits of the diocese that outside it it cannot even validly be employed. By like reason, one conceded by the pastor is circumscribed by the limits of the parish.

Question 7. What must be said if a pastor, constrained by grave fear, delegates a priest, and this priest, invited and asked, assists and asks for and receives consent?

Resp. It is disputed. The first opinion denies that the delegation is valid. For no one can transfer to another more right than is known to belong to himself. - Cf. Gennari, l. c., p. 56. - Pezzani, l. c., n. 119. But the other opinion affirms that the delegation is valid. For although the pastor himself cannot validly assist, nevertheless it has not been provided in law concerning the invalidation of the concession of license to assist, which indeed is not an act of jurisdiction, but by better right is called the substitution of another authorized witness. Cf. Ojetti, l. c., n. 103. - Ferreres, l. c., n. 309 and following. Vermeersch, l. c., n. 50.

Question 8. Does the delegate validly assist before he knows that delegation has been given?

Resp. Affirmatively, if he himself sought it and assists only after it has been given. For the very petition is tacit acceptance. In this case delegation is valid from the moment of concession. Certainly such assistance would be illicit after delegation has been given but before it is known.

Negatively, from the common opinion, if the concession is made while the delegate is ignorant and has not sought it, although a third person seeks it for him without his knowledge. See the response (in Wernz, n. 180, note 218) of the Sacred Congregation of the Council, 9 Dec. 1626: "Given ignorance of the license, the marriage is invalid." And again 3 July 1734: "Acceptance of the license or delegation is required." The reason is that this license has itself after the manner of a donation, which obtains effect only from the time of acceptance. This is the opinion received today. Yet others affirm that the concession is valid as soon as it is made, because it is a gracious concession. - Cf. Wernz, v. 4, n. 180, n. 218. - D'Annibale, v. 1, n. 225. Canon 37 must altogether be seen.

But if the Ordinary delegates assistants by statute, then capability for assisting is joined with the function or office. Cf. Vermeersch, l. c., n. 66.

Question 9. When does delegation cease?

Resp. Delegation ceases by revocation made by the delegating person and intimated to the delegate before the celebration of marriage; but if the priest assisted before the revocation was intimated to him, the delegation had not yet been efficaciously removed, and the marriage would be valid. - Cf. Ojetti, l. c., n. 34.

But if the delegating person dies or is deprived of office before the marriage, the delegate assists validly.

License given for a time or under condition also ceases when the time has elapsed or the condition has not been fulfilled.

Question 10. What must be said if the delegate by common error is held to be a priest but is not?

Resp. The delegation is valid, because a colored title with common error supplies the defect. Wernz, v. 4, n. 180, note 213.

Question 11. Can a delegate subdelegate?

Resp. Negatively, unless he has the special faculty of subdelegating.

Question 12. Which delegate has this faculty?

Resp. 1°. A delegate of the Roman Pontiff, unless the business has been reserved to the personal diligence of the delegate.

2°. A delegate of an inferior magistrate to the whole class of causes; or

3°. A delegate of the same inferior magistrate for assisting at one particular marriage, with the faculty of subdelegating received at the same time from the same. - Cf. Wernz, v. 2, nn. 553 and following.

Question 13. Can the local Ordinary or pastor concede this faculty of subdelegating?

Resp. Affirmatively.

Question 14. Who are delegates to the whole class of causes?

Resp. Delegates to the whole class of causes are those who are delegated either to all species of causes in some genus, for example, in parochial care, or to all causes contained in a certain species, for example, to all matrimonial causes. Thus Wernz, v. 2, n. 551. In our matter, delegates to the whole class of causes are: an assistant priest to whom all parochial functions are committed absolutely, fully, and without any restriction of parochial ministry; an assistant who is deputed to all matrimonial business.

Question 15. Are assistant priests among us to be held as delegates to the whole class of causes?

Resp. Negatively, but in each diocese it must be inspected whether faculties of assisting at all marriages in the parish are conceded to them.

Question 16. What is the distinction between the license concerning which in Canon 1095, § 2, and the license concerning which in Canon 1097, § 3?

Resp. The first (Can. 1095) is necessary for the value of the sacrament; the other (Can. 1097) for liceity; the first renders the priest to whom it is conceded a competent (authorized) witness of the contract; the other supposes him competent from elsewhere; the first is circumscribed by the territory of the conceding person, the other not likewise.

Titius and Bertha, pertaining to parish A, wish to enter marriage in parish B before the coadjutor of parish C. This coadjutor is altogether incompetent to assist at marriage; in order that he may put off that incompetence, he needs the license of the pastor (or Ordinary) of church B. Having received it, he becomes an authorized witness in the territory of parish B. And if he at once assisted there at the nuptials, these would be valid. Yet since the spouses are not subjects of the pastor of territory B, for licit assistance he needs the license of their own proper pastor, who is the pastor of territory A. This latter gives consent to the coadjutor of church C, who by the delegation received from the pastor of church B becomes the authorized witness of the nuptials of Titius and Bertha, who now at last can contract valid and licit marriage in the alien parish B before the aforesaid coadjutor.

Question 17. In what way must the delegate execute his function?

Resp. The delegate, in order that he may assist validly and licitly, is bound to observe the limits of the mandate. "Delegated power is to be understood strictly, nor is it extended to matters and cases not specified in the delegation," as Riganti says, *Reg. Cancell.*, v. 1, p. 293. Therefore he who exceeds the limits of the mandate places invalid acts. Hence one delegated to assist at the nuptials of Titius and Bertha invalidly assists at the nuptials of Thomas and the same Bertha or at the nuptials of others; one delegated to assist at marriages to be contracted in this month of July invalidly assists after the month of July has elapsed. The delegate is subject to the same rules pertaining to validity or liceity to which the pastor is subject.

Notes: Wherefore, in order that the delegate may validly assist, it is necessary:

1°. that he have received delegation from competent authority, the local Ordinary or pastor, who already has obtained the benefice or begun office;

2°. that he not be excommunicated or interdicted or suspended from office by sentence, or declared such;

3°. that he exercise the delegation within the limits of the territory of the delegating person;

4°. that he ask for and receive the consent of the contracting parties.

Those things which are prescribed for the liceity of assistance pertain to the pastor rather than to the delegate, unless by diocesan law or custom the process by which free state is established is reserved to the Ordinary. Wherefore the pastor must first have moral certitude concerning licit celebration before he delegates another to assistance.

But if the pastor has done all these things, nothing remains to be furnished by the delegate except the bare ministry of assistance.

But if the pastor has not done them, either by himself or through another, the delegate himself is bound to do them; and in this case, in order that he may assist licitly, it is necessary:

1°. that it be established to him concerning the free state of the contracting parties; hence he himself must institute the inquiry;

2°. that it be established to him concerning the domicile or quasi-domicile, or at least concerning the monthly stay, of one or the other contracting party in the place of marriage;

3°. in defect of domicile or quasi-domicile or monthly stay, besides delegation from the Ordinary or pastor of the territory of the contract, that he have license from the Ordinary or proper pastor of one or the other contracting party, unless grave necessity excuses;

4°. as regards wanderers, that he refer the matter to the Ordinary or his delegate so that he may receive permission to assist;

5°. if the bride pertains to the parish of the contract, there will be no difficulty; but if the bridegroom, not the bride, pertains to it, then either delegation has been made by the Ordinary or by the pastor. If by the Ordinary, likewise there is no difficulty; if by the pastor of the bridegroom, since he himself can judge concerning the just cause excusing, he will scarcely ever delegate another unless it is established concerning it, and thus the delegate may proceed securely to the celebration. - Cf. Cronin,

l. c., p. 219 and following. - Pezzani, l. c., n. 118. Vermeersch, l. c., n. 70. - Ojetti, l. c., n. 108. - Besson, l. c., p. 146. Gennari, l. c., p. 33.

On Marriage Before Witnesses Alone

If the pastor or Ordinary or delegated priest who would assist at marriage according to the norm of Canons 1095, 1096 cannot be had or approached without grave inconvenience:

1°. In danger of death, marriage contracted before witnesses alone is valid and licit; and even outside danger of death, provided it is prudently foreseen that that condition of affairs will last for a month;

2°. In either case, if another priest who can be present is at hand, he must be called and, together with the witnesses, must assist at the marriage, with the validity of the wedlock before witnesses alone saved (Can. 1098).

I. - On the Celebration of Marriage in Danger of Death

Thus far we have seen that the authorized witness of nuptials is either the local Ordinary, or the pastor of the territory of the contract, or one delegated by either. Now come, there are cases in which none of them can be had. Must one despair in these circumstances? By no means. For most wisely and most piously Holy Mother Church provides for these also, by establishing a twofold exception to the general law.

In danger of death, marriage contracted before witnesses alone is valid and licit if an authorized witness according to the norm of Canons 1095, 1096 cannot be had or approached without grave inconvenience. This canon in no way requires for validity the presence of a priest, but only of witnesses. Something is had for proving that wedlock has been entered, namely the presence of two or more before whom consent is furnished. It is altogether sufficient that these alone be present. In this indeed there is a great distinction between this canon and article VII of the Decree *Ne temere*: the Decree required the assistance of a priest and two witnesses; the canon requires not the former but the latter.

But for liceity, if another priest is at hand, he must be present together with the witnesses. The reason of the matter is that by his priestly help he may obtain God's blessing for the nuptials.

Questions

Question 1. How are the words, when danger of death is imminent, to be understood?

Resp. They are to be understood of every danger of death reasonably presumed, from whatever source it has arisen, in which one or the other contracting party is found. The reason of the first is taken from the end of the law, from the common use of speaking, from the consensus of theologians, and from parity with other sacraments; thus, for example, reasonably presumed danger suffices for this, that a non-approved priest absolve a penitent, that Extreme Unction be given, or Viaticum. Thus all. The reason of the second, because there is nothing in the law which restricts the sense of the words to danger arising from illness. For the words are general. Wherefore danger of death must be understood of every danger, whether from disease or from misfortune, for example, from shipwreck. The reason of the third, because cases in which each party lies gravely ill occur very rarely, and if such adjuncts had to be awaited, the exception would be of the least utility. Moreover, in relation to

dispensations which can be conceded by Ordinaries in the gravest danger of death, we know that it is altogether sufficient that one party be found in it.

Question 2. How is that condition to be understood: if he cannot be had or approached without grave inconvenience?

Resp. Just as it lies, in its whole extension; for it can happen that someone, the pastor or local Ordinary, can be approached, yet on account of civil law he does not dare to assist, because the celebration is opposed, for example, by civil legislation; in this case the pastor cannot be had. It can be that time is not available for recurring to the Ordinary or to the pastor or delegate.

Moreover, this time is not to be taken mathematically but morally. A priest can validly and licitly proceed to celebrating marriage if there is present certain danger in delay, or probable or prudently doubtful danger, lest, while the pastor is awaited, the person die or be deprived of the senses, or, as Pezzani says, l. c., n. 121, "if an unusual hour or weather condition or notable distance brings grave inconvenience to the family of the sick person in approaching the pastor." In brief: "the principle is that the pastor is not called if there is danger in delay, or if grave inconvenience is present." - The same, ibidem.

Nor is it necessary to use an extraordinary means, for example, a telegraph, to have the pastor or delegate, or to obtain permission. - Cf. Letter of the Secretary of State, 10 Dec. 1891. This is what is commonly said concerning the telephone. For telegraph and telephone are less safe means and discordant with the style of law.

Moreover, this exception made to the general law for the good of souls living in such almost desperate circumstances demands a benign rather than a strict interpretation. Wherefore we ought not to be too scrupulous in the application of this canon. - Cf. Ojetti, l. c., nn. 113 and following. - Besson, l. c., pp. 147 and following. - Vermeersch, l. c., n. 73.[1]

[1] Cf. Addenda, p. 1152, n. 128.

Question 3. In every case of imminent danger of death and impossibility of having the Ordinary, pastor, or delegate, is it licit to use this form?

Resp. Affirmatively, whenever there is a serious question of entering nuptials. For the law is general, it excepts nothing; therefore neither ought we to except. Certainly it is licit to use this form, among other things, for consulting for conscience and, if the case calls for it, for the legitimation of offspring. The exception certainly includes concubinarians, or those united civilly, or persons who foster illicit relations and cannot be separated without difficulty, or persons who, without true conversion, are separated, while nevertheless the mentioned relations are not broken off.

Question 4. What must be said concerning a case of danger of death and impossibility of having the pastor or delegate, when the persons are not civilly joined nor living in concubinage, yet have offspring which can be legitimated by marriage?

Resp. It is included in this canon. For the law does not distinguish; therefore neither ought we to distinguish. Then legitimation of offspring is established as a special and distinct reason on account of which the form is prescribed.

Question 5. Is all offspring legitimated by marriage?

Resp. By subsequent marriage of the parents, whether true or putative, whether newly contracted or convalidated, even not consummated, offspring is made legitimate, provided the parents were capable of contracting marriage between themselves at the time of conception, or pregnancy, or birth (Can. 1116).

Question 6. Must Canon 1098 be restricted only to those adjuncts which draw their origin from sins against the sixth precept of the Decalogue?

Resp. Negatively. The reason is that where the law does not distinguish, neither ought we to distinguish. And indeed adjuncts can arise from another source besides sins of lust, in which, when danger of death is imminent, consciences would be consulted for by marriage. Why therefore would the exception not have place in them?

Question 7. What priest can assist by force of this canon?

Resp. Any one whatever, not indeed for validity, but only for liceity. The law says: another priest, without handing down further designation.

Question 8. If any priest alone assists, is the marriage valid?

Resp. Negatively, because the law requires at least two witnesses for validity; thus according to the norm of this canon. It would indeed suffice that the priest be present together with another common witness; then satisfaction would have been made to the canon.

Question 9. Can any priest assisting according to the norm of this canon in danger of death dispense from impediments diriment by ecclesiastical law?

Resp. Affirmatively by force of Canon 1044, for consulting for conscience and the legitimation of offspring. - Cf. Can. 1043.

Question 10. Can any priest ever in this danger assist without witnesses?

Resp. Affirmatively, by force of Canon 1044, as below.

II. - On the Celebration of Marriage in the Absence of the Local Ordinary, Pastor, or Delegated Priest

Outside the article of death it can happen that somewhere an authorized witness, the local Ordinary, pastor, or delegate, cannot be had. Think of regions of missions to which a legitimate minister very rarely comes, or kingdoms in which persecution rages, or very extensive districts through which a missionary is accustomed to travel only twice or three times in a year. Then certainly the Church does not wish to urge the form essential in ordinary adjuncts; otherwise marriage would have to be numbered among those things which cannot be done. Such cases obtained also under the chapter *Tametsi*, and provision was made for them. Thus, for example, S. Inq., 1 July 1863, to the Bishop of Valparaiso: "When access is difficult and not safe, and it is unknown when the pastor can be had, and it is foreseen that he will be absent from the place for the space of at least one month, and there is no other who supplies the place of the pastor, that marriage is valid without the presence of the pastor, yet with the form of the Council observed in it insofar as possible, namely with at least two witnesses employed." A fortiori, the Church, founding a law to be valid everywhere, admits some tempering; and just as in the particular impossibility of having the legitimate superior, when danger of death is imminent, satisfaction is made to it while the necessity for validity of the presence of two witnesses

is retained, so in regional impossibility it is content with these last alone, as is clear from the following.

And also outside danger of death, provided it is prudently foreseen that that condition of affairs will last for a month (Can. 1098, 1°).

Therefore, just as in the article of death, so outside the article of death, if the pastor or local Ordinary or delegated priest who would assist at Marriage cannot be had or approached without grave inconvenience, provided that a prudent judgment is had that this condition of affairs will last for a month, Marriage is validly contracted before two witnesses. Therefore in some way the form is preserved and provision is made for the security of the sacrament.

In this case also, if another priest who can be present is at hand, he must be called and must assist at the Marriage together with the witnesses, with the validity of the wedlock before witnesses alone saved (Can. 1098, 2°).

Questions

Question 1. When is a legitimate minister judged unable to be had?

Resp. "When the contracting parties can in no way, or only with the greatest difficulty or danger, have recourse to the pastor or legitimate superior" (in the response of Pius VI, 3 Oct. 1793, to the doubts of the Bishop of Genoa); "or not without great difficulty" (Holy Office, 30 Jan. 1884); "or when access is difficult and not safe" (Holy Office, 1 July 1863).

Question 2. How long must this condition last before it is licit to use this form?

Resp. It is required that it be foreseen that it will last for a month; and thus the disposition of the Decree *Ne temere* has been changed, according to which actual duration for a month was necessary. And indeed, on account of that ordinance, at the end of the month wedlock could immediately be entered, although the pastor was going to arrive the next day; wherefore Marriages could become suspect. On the contrary, the Code posits as a necessary requisite actual and prudent foresight of the condition that will last for a month. For to wait for a month when Marriage is already almost prepared is a rather notable inconvenience and can be rather difficult and dangerous.

Question 3. Are the faithful bound to contract at least before a simple non-delegated priest, if he is present?

Resp. Affirmatively, according to n. 2 of this Canon, but not for validity.

Question 4. Can marriage be contracted before only two witnesses in danger of death, if the conditions of this canon are verified?

Resp. Affirmatively.

Question 5. In what does this impossibility consist?

Resp. The law itself declares it. It consists in this, that the pastor, etc., cannot be approached or had without grave inconvenience: "If he cannot be had or approached." Therefore it is clear that there is a twofold impossibility, namely, of having and of approaching. It happens not rarely that because of a shortage of priests several parishes are ruled by one pastor only, who cannot visit all of them every month. Likewise there are certain large parishes containing villages, even with a public chapel, very

far apart, which within a month cannot be surveyed by the pastor at all, both because of the roughness of roads and because of the force of rivers; nor can the pastor be approached by the faithful.

But it can be asked what impossibility suffices, general or particular? No one will deny that the general suffices. But the learned vary as regards the particular. Indeed the words of the law can be verified in a particular difficulty equally as in a general one: the pastor cannot be had or approached. Yet there stands in the way the solution of a case in which pastors were prohibited by civil law from assisting at marriage unless civil wedlock had first been performed, which could not always be performed first; and yet for preventing evils and for the good of souls it was expedient to enter nuptials. The response given by the Sacred Congregation de Sacr. was: Let recourse be had in individual cases, except in the case of danger of death, in which any priest can dispense even from the impediment of clandestinity, permitting that, in the reported adjuncts, marriage be contracted validly and licitly with witnesses alone, 30 Jan. 1916. Now come, at that time the Code was about to be published, and nevertheless a solution was given requiring recourse outside the article of death. Is it licit to suppose that the Sacred Congregation de Sacr. was going to give a response to be modified immediately or soon in the Code? In the case, speaking absolutely, the pastor can be approached and had, wherefore the condition is not verified. Cf. *La Civilta Cattolica*, year 69, v. 2, p. 35. Yet 1°. In a particular case where the words of the canon are verified, we judge, with better judgment saved, that particular impossibility also is understood. The reason is that in the same text and context the same signification must be attributed to the same words, unless a clear reason proves the contrary. Therefore also to the words "If he cannot be had or approached" the same signification belongs when applied to the case in danger of death and to the case outside danger of death. Hence the impossibility which suffices for one must be said to suffice also for the other, whether it is general or particular. Otherwise the words in the same context exclude in one case an extension, say to particular impossibility outside the article of death, which they include in another case. Moreover, the canon has one condition expressed in the same words for two conditioned cases; nor is anything present to signify that that condition is not to be extended equally to the two conditioned cases. In other words, the condition is the same in both places, it must be taken naturally, and when the words expressing the condition are verified, the conditioned case enters. Then, is not the author of the canon to be supposed by law to have willed what he said, especially since he could easily have excluded some sense expressed in the words? Wherefore not undeservedly do we say: when the condition is verified, whether in general or in particular impossibility, the canon can by law be applied.[1]

[1] Cf. Addenda, p. 1152, n. 128.

Question 6. Does the impossibility concerning which in the canon exist when the spouses cannot have their own pastor or his delegate, yet can easily approach another pastor in the nearest parish and contract before him?

Resp. Negatively, for then a pastor can be had who may assist at Marriage according to the norm of Canons 1095, 1096.

Question 7. Whether by reason of a momentary, unexpected passage through some place, wholly unknown to the faithful, from which a missionary is already foreseen to be absent for a month, that condition of affairs concerning which in this canon must be said to be interrupted?

Resp. Negatively, the foresight of monthly absence would be equally prudent as if he did not come.

Question 8. What must be affirmed concerning the furnishing of consent?

Resp. Nothing else is required except that consent itself in the present into marriage be elicited by the parties before two witnesses. Nor are the witnesses bound to require and accept consent.

Question 9. Whether he validly enters marriage before witnesses alone who betakes himself, in fraud of the law, to a place in which the condition of all this canon would be verified?

Resp. "Affirmatively." S. C. de Sacr., 13 Mar. 1910.

Question 10. Is it licit to enter marriage on a ship by force of this canon?

Resp. Affirmatively, both in the article and outside the article of death, if the conditions of the canon are verified. There is altogether nothing in the canon which injects doubt to the contrary.

On the Inscription of Marriages in Parochial Books

§ 1. Once marriage has been celebrated, the pastor or the one who acts in his place is to describe as soon as possible in the book of marriages the names of the spouses and witnesses, the place and day of the celebrated marriage, and other things according to the mode prescribed in the ritual books and by the proper Ordinary; and this although another priest delegated either by himself or by the Ordinary assisted at the marriage.

§ 2. Moreover, according to the norm of can. 470, § 2, the pastor is also to note in the book of the baptized that the spouse contracted marriage on such a day in his parish. But if the spouse was baptized elsewhere, the pastor of the marriage is to transmit notice of the entered contract to the pastor of baptism, either by himself or through the episcopal Curia, so that the marriage may be referred into the book of the baptized.

§ 3. As often as marriage is contracted according to the norm of can. 1098, the priest, if he assisted at it, otherwise the witnesses, are bound in solidum with the contracting parties to see that the entered wedlock be noted as soon as possible in the prescribed books (Can. 1103).

Therefore the pastor, or the one who acts in his place, is bound at once and accurately to describe the contracted marriage in the book of marriages according to the formula prescribed in the Roman Ritual or by the Ordinary. This statute, § 1, agrees with those things which are found in the Ritual: "When all things have been completed, the pastor by his own hand is to describe in the book of marriages the names of the spouses and witnesses and other things according to the prescribed formula; and this although another priest delegated either by himself or by the Ordinary celebrated the marriage." - Roman Ritual, *De Sacram. Matrim.*

It is known that among the obligations of pastors is the care of parochial books, which are named in the same Ritual, edition of Benedict XIV, in the last title. "The matrimonial books of the Church," says Wernz, v. 4, n. 198, "since they have been constituted by public authority in legitimate form, and the pastor presides over them by his office and as authorized witness, have full faith and force of public instruments, and the same is valid concerning attestations drawn wholly and duly by the pastor from the same books, unless falsification is proved."

Questions

Question 1. Who must make the description in the book of marriage?

Resp. The pastor or the one who acts in his place ... and this although another priest delegated either by himself or by the Ordinary assisted at the marriage. Therefore the description must be made by him who presides over the parish, or by him who habitually acts in the place of the former laboring under old age or infirmity.

Question 2. When must the pastor make this description?

Resp. As soon as possible; for this is clearly proclaimed in the law. Indeed, the best thing would be, when the nuptials have been celebrated, immediately to bring the spouses and witnesses into the sacristy and there to transcribe the acts into the matrimonial register, which is laudably done in many places. At least within three days the pastor must fulfill this function.

Question 3. What must the pastor describe?

Resp. The names of the spouses and witnesses, the place and day of the celebrated marriage, and other things according to the mode prescribed in the ritual books and by the proper Ordinary. In the Roman Ritual various formulas for various adjuncts are found, as for example if a delegate assisted, if denunciations were omitted or dispensations conceded. The Ordinary can also add other things to the prescriptions of the Ritual according to the customs of the region, which some Bishops have already done in certain dioceses, for example, concerning the signature of those about to be married and of the witnesses. In brief: in this matter let the pastor conform himself to the Roman Ritual and diocesan statutes.

Question 4. Is the obligation of describing marriages in the register grave?

Resp. Affirmatively, for it is a question of a matter of the greatest moment, namely that the validity of wedlocks be authentically established. Hence it is not only a mortal sin to omit the description, but also to defer it in such a way that from this there arises danger of forgetfulness or of errors in things necessarily to be noted. Indeed, it is clear to all how great are the inconveniences that arise for spouses if the description is either not made at all or not made in the proper mode. Moreover, this obligation arises from the quasi-contract which the pastor enters when he takes the office upon himself.

In the second paragraph of this canon a wholly new disposition of law is introduced, by force of which the pastor is bound to note in the book of baptisms that this baptized person, on such a day, contracted marriage in his parish. But if each spouse or one was baptized elsewhere, the pastor of the marriage must transmit notice of the entered contract to the pastor of baptism, so that the marriage may be referred into the book of baptism.

Question 5. What must the pastor of both marriage and baptism transcribe into the baptismal register?

Resp. If the words of the article are taken in themselves, it suffices simply to note at the end or in the margin of the baptismal inscription: this man (this woman) on the day - contracted marriage in this parish. But no one fails to see how useful it would be to add the name of the co-party, for example: this man (this woman) on the day - contracted marriage with NN. in this parish.

Question 6. What must the pastor of the marriage transmit to the pastor of baptism?

Resp. "Notice of the entered contract," that is, "NN. contracted marriage with NN. on the day - in the parish -." In this case the marriage itself is to be referred into the book of baptisms. Moreover, the pastor of the marriage is bound to transmit this notice to the pastor of baptism both of the bridegroom and of the bride, if they were baptized in diverse parishes.

Question 7. Is the transmission of this notice and the description in the book of baptisms obligatory?

Resp. Affirmatively, and indeed under grave obligation. For the end is that the change of state and the impediment of bond be established, and therefore invalid marriages be avoided. The process concerning free state will also be more expeditious. In preparing it, the pastor must ask from the future spouses a recent document of baptism.

Question 8. In what way must the pastor of the marriage complete this transmission?

Resp. "Either by himself or through the curia"; but which curia, his own or that of the place of baptism, is not decreed. Wherefore the pastor of the marriage will be free to transmit the notice to the pastor of baptism immediately, or by means of his own curia or the curia of the pastor of baptism.

Question 9. To what is the priest assisting in danger of death according to Canon 1098 bound?

Resp. He is bound "in solidum with the contracting parties to see that the entered wedlock be noted as soon as possible in the prescribed books." The reason is that marriage may be authentically established. Therefore the priest must as soon as possible give notice of the marriage to the pastor of the place of contract, who is to describe it in the aforesaid books and transmit a message to the pastor of baptism, if the spouses were baptized in another parish.

The obligation incumbent upon the assisting priest in solidum with the contracting parties is grave, as is clear from the end of the law. And because it is solidary, all and each are bound; but if one has satisfied the obligation, the others are released from obligation; if one is lacking, the others are bound.

Question 10. To what are the witnesses of a marriage according to the norm of Canon 1098 bound?

Resp. They are bound in solidum with the contracting parties to furnish the same thing to which the priest is bound with the contracting parties in the former case.

Instruction to Ordinaries concerning free state and the denunciation of an entered marriage with relation to the decree *Ne Temere*.

I. "It is recalled to the memory of pastors that it is not licit for them to be present at marriage unless it has been legitimately established to them concerning the free state of the contracting parties, with those things to be observed by law being observed; and the same are especially to be admonished not to omit requiring testimony of baptism from the contracting parties, if this was conferred on them in another parish.

II. "But that the things prescribed in n. IX, sec. 2, of the mentioned Decree may be duly observed, the denunciation of the celebrated marriage to be transmitted to the pastor of baptism should carry with itself the described names and surnames of the spouses and of their parents, the age of the

contracting parties, the place and day of the nuptials, the names and surnames of the witnesses who were present, and should have the subscribed name of the pastor with the parochial seal added. But an accurate inscription should indicate the parish, diocese, town or place of baptism of the spouses and those things which pertain to writings to be safely transmitted by public carriers.

III. "If perhaps it happens that, even with the cautions concerning which in n. 1 employed, the pastor of baptism, in receiving the denunciation of marriage, discovers that one or the other of the contracting parties is already bound to other nuptials, he will signify the matter as soon as possible to the pastor of the attempted marriage." - S. Cong. Sacr., 6 Mar. 1911.

On the Subjects

§ 1. The following are bound to observe the form established above:

1. All baptized in the Catholic Church and converted to it from heresy or schism, although either the former or the latter afterward defected from it, as often as they enter marriage among themselves;
2. The same, of whom above, if they contract marriage with non-Catholics, whether baptized or non-baptized, even after a dispensation has been obtained from the impediment of mixed religion or disparity of cult;
3. Orientals, if they contract with Latins bound to this form.

§ 2. But with the prescription of § 1, n. 1, remaining firm, non-Catholics, whether baptized or non-baptized, if they contract among themselves, are nowhere bound to observe the Catholic form of marriage; likewise those born of non-Catholics, although baptized in the Catholic Church, who from infant age grew up in heresy or schism or infidelity or without any religion, as often as they contract with a non-Catholic party (Can. 1099).

Questions

Question 1. Who are bound by this law?

Resp. The following are bound:

1. All baptized in the Catholic Church.
2. All converted to it from heresy or schism.
3. All these and those afterward defecting from the Church.
4. All of whom in nn. 1, 2, 3, contracting with non-Catholics, whether baptized or non-baptized.
5. Orientals contracting with Latins bound by this form.

Question 2. Who are not bound by this form?

Resp. The following are nowhere bound: 1. Non-Catholics entering marriage among themselves. 2. Those born of non-Catholics, although baptized in the Catholic Church, who from infant age grew up in heresy or schism or without any religion, as often as they have contracted nuptials with a non-Catholic party. One not yet of puberty before the full seventh year is called an infant, or child, or little

one, and is considered not master of himself; but when the seventh year has been completed, he is presumed to have the use of reason. Hence a non-Catholic non-baptized man validly enters with a non-Catholic non-baptized woman without this form; a baptized non-Catholic is not bound by this form when entering with a non-Catholic non-baptized woman; a baptized non-Catholic is not bound by this form when entering with a non-Catholic baptized woman. Nor are the following bound, 3. those born of heretics, schismatics, or infidels, baptized in the Catholic Church, but grown up from infant age in heresy or schism, as often as they have contracted with non-Catholics. With these two cases excepted, others are bound, for example, those born of those who are Catholics and baptized in the Catholic Church, although afterward from infant age they were grown up in heresy. There is one class of those baptized in the Catholic Church for whom the Code provides in a special mode by this canon 1099, § 2; nevertheless that special provision is not for every marriage, but only for that which they have contracted with non-Catholics, not however for a marriage which they have contracted with Catholics, nor for a marriage, as it seems, which they have contracted with a party of the same condition, namely born of non-Catholics but baptized in the Catholic Church, although grown up from infant age in heresy. For such persons are not simply called non-Catholics, as seems to be clear from this canon itself, where a distinction is found between those baptized in the Church and non-Catholics.[1]

[1] Cf. Addenda, p. 1090, n. 18.

Chapter VIII. On Matrimonial Dispensations

Point I. On the Power of Dispensing

I say 1°. The Pope can dispense from all impediments of ecclesiastical law, validly indeed in every case, because the whole force of the impediment proceeds from his will; but licitly, if he does this for a just cause, as right governance requires.

I say 2°. When danger of death is urgent, local Ordinaries, in order to provide for conscience and, if the case bears it, for the legitimation of offspring, can dispense both over the form to be observed in the celebration of marriage, and over all and singular impediments of ecclesiastical law, whether public or occult, even multiple, except impediments arising from the sacred order of the presbyterate and from affinity in the direct line, the marriage having been consummated; and they can dispense their proper subjects wherever dwelling and all persons actually staying in their proper territory, scandal being removed, and, if the dispensation is granted over disparity of cult or mixed religion, with the customary cautions having been furnished (Can. 1043).[1]

This canon truly grants the most ample faculties of dispensing in the article of death, in order to provide for conscience and, if the case bears it, for the legitimation of offspring; an ample field indeed; in a word, whatever truly urges that marriage be entered, and that by it provision be made for conscience, and, if the case bears it, for the legitimation of offspring, even offspring not yet born, suffices. It is not required that the co-parties be in concubinage; one cause simply suffices, from the two aforesaid causes, for the faculty here conceded to be rendered into use. To local Ordinaries, as they are understood in law, the faculty of dispensing is conceded: 1. over the form to be observed in the celebration of marriage; therefore they can grant a dispensation so that the betrothed simply furnish consent between themselves; 2. over all and singular impediments of ecclesiastical law, impeding and diriment, public or occult, single and multiple.

Two impediments are not contained in this most ample faculty: one from the sacred order of the presbyterate, the other from affinity in the direct line, arisen from consummated marriage. The faculty extends to subjects, wherever they dwell, and to all, even non-subjects, actually dwelling in one's proper territory. Nevertheless scandal must be removed; and in cases in which dispensation is made in disparity of cult and mixed religion, the cautions must be furnished. It makes no difference whether the impediment directly affects the sick person or the well person. With relation to affinity, that which the New Code decreed concerning its source must be kept before the eyes. The impediment from affinity in the direct line, from consummated marriage, is excluded, not another impediment of affinity of the direct line.

I say 3°. In the same circumstances of things of which in can. 1043, and only for cases in which not even the local Ordinary can be approached, the same faculty of dispensing belongs both to the pastor, and to the priest who assists at marriage according to the norm of can. 1098, n. 2, and to the confessor, but this last only for the internal forum in the act of sacramental confession (Can. 1044).[2]

In danger of death, on account of the same causes, but when the Ordinary cannot be approached, the same faculty is given to the pastor; to the priest who assists at marriage according to the norm of Can. 1098, § 2; and also to the confessor, but to this one only for the internal forum, in which case,

when the sick person recovers, a dispensation for the external forum must necessarily be sought. - Cf. Can. 1047.

Titius, dying, with a Catholic family, opens to the priest that he is not joined in marriage with Bertha. In youth they went to the nearer city, and, having returned, told their own that they had already contracted marriage; they never dared to speak about this matter. The case is contained in the canon.

Titius, dying, now lives in concubinage with Martina, the daughter of the widow Martha. Martha, having Martina from a prior marriage, had married Titius, with whom she never consummated marriage. Then, Martha having died, Titius began to exercise concubinage with Martina. Affinity is had in the direct line from a valid marriage. This case also is comprehended in this concession.

I say 4°. § 1. Local Ordinaries, under the clauses established at the end of Can. 1043, can grant a dispensation over all impediments of which in the cited can. 1043, as often as an impediment is discovered when now all things have been prepared for the nuptials, and marriage cannot be deferred, without probable danger of grave evil, until a dispensation is obtained from the Holy See.

§ 2. This faculty also avails for the convalidation of a marriage already contracted, if there is the same danger in delay and time is not available for recurring to the Holy See.

§ 3. In the same circumstances of things, all those of whom in Can. 1044 enjoy the same faculty, but only for occult cases in which not even the local Ordinary can be approached, or not except with danger of violation of secrecy (Can. 1045).

Outside the article of death, when now all things have been prepared, and an impediment is discovered, and marriage cannot be deferred without probable danger of grave evil until a dispensation is obtained from the Holy See, or in a perplexed case, as was said, then local Ordinaries can dispense, precisely as in the article of death, over all impediments of which in Can. 1043. This faculty avails also for the external forum. It must be noted that here it is not a question of the form to be observed in the celebration of marriage. But scandal must be turned away and the cautions, if necessary, furnished.

Indeed the same faculty avails also for the convalidation of marriage in the same danger of delay and difficulty of approaching the Holy See. This surely is a faculty very much desired.

But when a perplexed case arises, and the local Ordinary cannot be approached, or not except with danger of violation of secrecy, the pastor, the priest who assists at marriage according to the norm of can. 1098 n. 2, and the confessor enjoy the same faculty for occult cases only, but not for public cases.

I say 5°. The pastor or priest of whom in can. 1044 should at once make the local Ordinary more certain concerning a dispensation conceded for the external forum; and it is to be noted in the book of marriages (Can. 1046).

I say 6°. Unless the rescript of the S. Penitentiary bears otherwise, a dispensation conceded in the non-sacramental internal forum over an occult impediment is to be noted in the book carefully preserved in the secret archive of the Curia of which in can. 379; nor is another dispensation for the external forum necessary, even if afterward the occult impediment becomes public; but it is necessary if the dispensation had been conceded only in the sacramental internal forum (Can. 1047).

In canons 1046 and 1047 provision is made for marriages themselves, so that the parties are made secure and other unions to be contracted invalidly are rendered difficult and, insofar as can be done, morally impossible.[3]

I say 7°. § 1. In marriages whether contracted or to be contracted, one who enjoys a general indult of dispensing over a certain impediment can, unless something else is expressly prescribed in the indult itself, dispense over it even if the same impediment is multiple.

§ 2. One who has a general indult of dispensing over several impediments of diverse species, whether diriment or impeding, can dispense over the same impediments, even public ones, occurring in one and the same case (Can. 1049).

In paragraph 1, both for marriages to be contracted and for those contracted, there is declared the extension of the general faculty of dispensation over a certain impediment, so that it comprehends cases in which the same impediment is multiplied, unless the indult expressly establishes otherwise.

In paragraph 2 there is had a general concession, desired and most welcome; namely, the faculty of cumulating matrimonial dispensations in one and the same case is now declared to be contained in the general indult of dispensing over several impediments of diverse species, whether diriment or impeding, even public. Thus an Ordinary who has a general indult of dispensing in the impediment of consanguinity and of disparity of cult and of mixed religion can now cumulate dispensations in a case, for instance, in which consanguinity and mixed religion occur, and so concerning others.

I say 8°. If at any time with a public impediment or impediments over which someone can dispense by indult, there concurs another impediment over which he cannot dispense, the Apostolic See must be approached for all; if, however, the impediment or impediments over which he can dispense are discovered after a dispensation has been obtained from the Holy See, he will be able to use his faculties (Can. 1050).

The reason for the necessity of approaching the Holy See for all is the known principle: the whole gravity of the matter must become known to the one dispensing, and a greater number of impediments renders dispensation more difficult; and hence both must be set forth to the Holy See so that dispensation may be made by it in both, notwithstanding the indult of dispensing which an inferior may enjoy for one impediment. But now, otherwise than before, provided that the new impediment contained in his indult be found after a dispensation has been obtained from the Holy See over another impediment, the Ordinary can use his faculty. In his indult the Ordinary has a faculty for impediment A, but not for impediment B. A case occurs in which impediments A and B coexist together. The Ordinary, having read the supplicatory libellus, recognizes that he can furnish nothing. He must send to Rome a petition of dispensation for both. Let there be another example of the same impediments, and of the same faculty of dispensing over one, but not over the other. The Ordinary seeks a pontifical dispensation for one, not thinking that a pontifical dispensation for both is necessary. The dispensation over impediment B having been obtained, he himself concedes one for impediment A. Invalid, as it seems to us, is the dispensation which he gives. A third case. It is set forth to the Ordinary himself that impediment B stands in the way of some marriage. A pontifical dispensation has been obtained, and then, after the dispensation has been obtained, it is discovered that impediment A also is present; in these circumstances, now, otherwise than before, he can use his faculty. S. C. de Prop. Fide, 10 May 1887.

I say 9°. A dispensation from an impediment of consanguinity or affinity, conceded in some degree of the impediment, avails, although in the petition or in the concession an error concerning the degree has crept in, provided the degree really existing is inferior, or although another impediment of the same species in an equal or inferior degree was passed over in silence (Can. 1052).

Reg. 35, R. J. in VI°. That which is greater always contains in itself what is less. Reg. 53 R. J. in VI°. He to whom that which is greater is licit, to him surely that which is less is licit. It is a special concession, with account taken of the difficulty arising from a double impediment of consanguinity or affinity; an error is made in the petition relative to the degree; or some impediment is passed over in silence. The dispensation avails if the existing degree is inferior, or if the impediment passed over in silence was of the same species in an equal or inferior degree.[4]

I say 10°. A dispensation given by the Holy See over a ratified and non-consummated marriage, or permission made for passage to other nuptials on account of the presumed death of a spouse, always carries with it a dispensation from the impediment proceeding from adultery with a promise or attempted marriage, if any such is needed, but by no means a dispensation from the impediment of which in can. 1075, nn. 2, 3 (Can. 1053).

For it not rarely happens that those who have obtained from the Holy See a dispensation over a ratified and non-consummated marriage, or a document of liberty on account of the presumed death of a spouse, wish to enter a new marriage with a co-party with whom, during the prior bond, they were guilty of the deed of adultery with a promise of marriage, or contracted civil wedlock; and therefore, for example, an impediment stands in the way. Once the aforesaid dispensation or document of liberty has now been conceded, a dispensation from the first species of crime is considered conceded. - Cf. S. C. de Sacr. 3 June 1912.

I say 11°. A dispensation conceded from a lesser impediment is invalidated by no defect either of obreption or subreption, even if the one final cause set forth in the prayers was false (Can. 1054).

Therefore a dispensation simply avails for lesser impediments; nor does the concealment of truth, or subreption, stand in the way, nor the exposition of falsehood, or obreption, in consanguinity in the 3rd degree of the collateral line, in affinity in the 2nd degree of the collateral line, in public honesty in the 2nd degree, in spiritual kinship, and in crime from adultery with a promise of marriage or attempted marriage, even by a civil act only.

I say 12°. Dispensations over public impediments committed to the Ordinary of the petitioners are to be executed by the Ordinary who gave the testimonial letters or transmitted the prayers to the Apostolic See, even if the betrothed, at the time when execution must be given to the dispensation, having abandoned the domicile or quasi-domicile of that diocese, have departed into another diocese no longer to return, with the Ordinary of the place in which they desire to contract marriage nevertheless having been warned (Can. 1055).

Therefore he who transmitted the prayers to the Apostolic See, the same Ordinary must fulminate the dispensation committed to himself; and this even if the betrothed at the time of fulmination have departed from the diocese, not going to return there, with the Ordinary of the place in which they desire to contract marriage nevertheless having been warned.

I say 13°. Except for some moderate prestation under the title of chancery expenses in dispensations for non-poor persons, local Ordinaries or their officials, any contrary custom being reprobated, cannot, on the occasion of a conceded dispensation, demand any emolument, unless this faculty has been expressly given to them by the Holy See; and if they have demanded it, they are bound to restitution (Can. 1056).

Wherefore in no way can fines or taxes be demanded by Ordinaries on the occasion of dispensations, except for a moderate sum for sustaining the chancery, unless the Holy See has expressly conceded the faculty; besides, if they have demanded them, they are bound to restitution.

I say 14°. Those who concede a dispensation by power delegated by the Apostolic See are to make, in the same dispensation, express mention of the pontifical indult (Can. 1057).

Nevertheless, the validity of the concession seems in no way to depend upon this mention.

I say 15°. When from a certain and authentic document, which is subject to no contradiction or exception, it has been established concerning the existence of the impediment of disparity of cult, order, solemn vow of chastity, bond, consanguinity, affinity, or spiritual kinship, and at the same time with equal certitude it has appeared that a dispensation over these impediments has not been given, in these cases, with the solemnities heretofore reviewed having been omitted, the Ordinary, the parties having been cited, will be able to declare the nullity of the marriage, with nevertheless the intervention of the defender of the bond (Can. 1990).

Against this declaration the defender of the bond, if he has prudently judged that the impediments of which in can. 1990 are not certain or that a dispensation over the same has probably intervened, is bound to provoke to the judge of the second instance, to whom the acts must be transmitted and who must be warned in writing that it is a question of an excepted case (Can. 1991).

The judge of the other instance, with the sole intervention of the defender of the bond, will decree in the same manner of which in can. 1990 whether the sentence is to be confirmed, or rather whether one must proceed in the cause according to the ordinary course of law; in which case he remits it to the tribunal of first instance (Can. 1992).

[1] Cf. Addenda, p. 1137, n. 96.

[2] Cf. Addenda, pp. 1151, 1111, 1120, nn. 127, 53, 73.

[3] Cf. Addenda, p. 1091, n. 19; p. 1120, n. 74; p. 1121, n. 76.

[4] Cf. Addenda, p. 1119, n. 71.

Questions

Question 1. What are the impediments in which the Pope himself can properly give no dispensation?

Resp. There are at least three, namely: consanguinity in the first degree of the direct line, bond, and impotence, because these are certainly of natural and divine law. Nevertheless, on account of most urgent causes, he can declare in some particular case that the Marriage is valid, notwithstanding some impediment concerning which it is doubted whether it is of natural or divine law, just as Clement XI and Urban VIII in fact declared. - Cf. S. Alphonsus, nn. 902 and 1119.

Question 2. What must be said concerning the Matrimonial Faculties which are conceded to Ordinaries by force of general concessions?

Resp. The Sacred Consistorial Congregation issued a decree concerning certain faculties of Ordinaries.

... Our Most Holy Lord Benedict XV, Pope, after consultation with a special meeting of the Most Eminent Cardinal Fathers, by this decree of the S. Consistorial Congregation established and sanctioned those things which follow:

(1) with the exception of places subject to the S. Congregation de Propaganda Fide, for which in their own time those things which will be opportune will be decreed, elsewhere, namely in all dioceses subject to common law, all faculties for the external forum conceded to Ordinaries, and which are contained in the Formularies and Brief reviewed above, will cease from the day 18 May of this year, and will no longer be able to be in use;

(2) nevertheless in more remote places and others to which, whether on account of the present war or for any other reason, notice of the present decree shall not have arrived in useful time, the Most Holy Lord holds ratified dispensations and ordinations perhaps conceded by Ordinaries by force of the old faculties; with this nevertheless remaining firm, that from the day of received notice, if the matter is still whole, they conform themselves to this decree;

(3) faculties for the internal forum given by the S. Penitentiary, and others conceded by reason of the present war, or obtained by Ordinaries for peculiar causes, are not comprehended under the disposition of this decree, and therefore are not abolished;

(4) concerning matrimonial dispensations, although by force of canons 1043-1045 Ordinaries can bestow opportune dispensations "when danger of death is urgent" and "as often as an impediment is discovered when now all things have been prepared for the nuptials, and marriage cannot be deferred without probable danger of grave evil," nevertheless the Most Holy Lord, with attention to the adjuncts of times and places, decreed that these things should further be indulged:

(a) that local Ordinaries in America, in the Philippine Islands, in the East Indies, in Africa outside the shores of the Mediterranean Sea, and in Russia, for five years from the day 18 May of this year, may be able to dispense from impediments of lesser degree which are reviewed in can. 1042, with the rules established in that chapter of the Code being observed; and likewise that they may be able to sanate in the root marriages invalidly contracted on account of some impediment of the same lesser degree, according to the rules laid down in chapter XI, title VII, book III of the Code "concerning the convalidation of marriage," the party conscious of the impediment having been warned concerning the effect of the sanation;

(b) that the same local Ordinaries may likewise be able, for five years, to dispense from impediments of greater degree, whether public or occult, even multiple, yet of ecclesiastical law, with the exception of impediments proceeding from the sacred order of the presbyterate and from affinity in the direct line from consummated marriage, as well as from the impeding impediment of mixed religion, if the petition for dispensation has been sent to the S. See and an urgent necessity of dispensing has supervened while recourse is pending. Nevertheless, in conceding dispensations in these cases, the Ordinary should always have before his eyes the rules established in the Code, book III, title VII,

chapters 2, 3, and 4, concerning impediments in general and in species, and likewise the clauses customarily appended in marriages with Hebrews and Mohammedans; nor should he concede the dispensation unless he has taken care concerning the full observance of all these things according to the prescriptions of the sacred canons, and provides for the rights of the S. Congregation for the discipline of the Sacraments concerning payment of taxes;

(c) that the Ordinaries of France, of the three kingdoms of Great Britain, of Germany, Austria, and Poland, during the war, as often as access to the S. See is foreseen to be difficult or impossible for at least a month, may be able to use the same faculties which are reviewed above under letters (a) and (b).

The present things to avail by mandate of the Most Holy, anything contrary notwithstanding.

Given at Rome, from the Secretariat of the S. Consistorial Congregation, on the day 25 April 1918.

- C. Card. De Lai, Bishop of Sabina, Secretary.
- V. Sardi, Archbishop of Caesarea, Assessor.

In the Decree of the S. Consistorial Congregation of the day 2 August 1918, *On the Extension of the Faculties of Certain Ordinaries During the War*, among other things these are had:

But on the part of many Ordinaries of America it was observed that, from the lack of security of the sea on account of the present war, they were placed in a condition even worse than the Ordinaries of Europe reviewed under letter (c); and therefore they offered humble prayers that they might be fortified with an equal indult as those: for it is certain in the present state of affairs that more than a month is required for approaching the S. See from America. Moreover, the Most Holy Lord judged that these requests, which seemed just to him, should be granted; and therefore by the present decree of the S. Consistorial Congregation he benignly indulges, for the time of the present war, that the Ordinaries of the more remote places, of which under letter (a), may be able to dispense from greater impediments and from the impeding impediment of mixed religion, and to sanate in the root marriages invalidly contracted on account of a diriment impediment of which above, without being obliged to observe that condition and restriction placed under letter (b), that is, if the petition for dispensation has been sent to the S. See and an urgent necessity of dispensing has supervened while recourse is pending. Nevertheless individual Ordinaries must, at the end of any year, as long as this hard condition of things shall persevere, render an account to the S. Congregation of Sacraments concerning the species and number of dispensations which they themselves have conceded, and on that occasion satisfy the rights of the S. Congregation concerning payment of taxes. The present things to avail, while the adjuncts which now exist endure, and anything at all contrary notwithstanding. Given at Rome from the S. Consistorial Congregation, on the day 2 August 1918.[1]

[1] Cf. Addenda, p. 1091, n. 20.

Question 3. When a dispensation has been conceded, is legitimation of offspring conceded?

Resp. Through a dispensation conceded over a diriment impediment, whether from ordinary power or from power delegated by general indult, but not through a rescript in particular cases, there is also conceded by that very fact legitimation of offspring, if any shall have already been born or conceived

from those with whom dispensation is made, excepting nevertheless adulterine and sacrilegious offspring (Can. 1051).

In this canon the disposition of law concerning legitimation of offspring is declared. For either a dispensation over a diriment impediment is conceded from ordinary power, and then through the dispensation there is also conceded legitimation of offspring already born or conceived, excepting adulterine or sacrilegious offspring; or the dispensation is conceded from power delegated by general indult, and then through the dispensation legitimation is also conceded as above; or it is conceded from power by rescript in particular cases, and then through the dispensation legitimation is not conceded by that very fact.

Point II. On the Causes of Dispensation

I say 1°. For the liceity of a dispensation, a cause is always required, both on the part of the one conceding, whoever he may be, and on the part of the one asking. The reason is taken from this, that otherwise the power would not be applied for governing rightly. Besides, it is established from the Council of Trent, sess. 24, cap. 5, *de Reform. Matrim.*, where it is said: "In marriages to be contracted either let no dispensation at all be given, or rarely, and let it be conceded for a cause and gratis."

I say 2°. For the validity of dispensations of greater degree, it is required that there be no subreption or obreption falling upon the motive or final cause, or also none simply essential, namely suppression of truth or expression of falsehood concerning those things which by law, custom, or style of the Roman Curia must necessarily be opened. The reason is that the superior is not judged to dispense except under the tacit condition: if the prayers rest upon truth.

A dispensation conceded from a lesser impediment is invalidated by no defect either of obreption or subreption, even if the one final cause set forth in the prayers was false.

Questions

Question 1. What are the just causes, namely canonical causes, that dispensation be made in diriment impediments?

Resp. To remove every doubt concerning this matter, the S. Congr. de Prop. Fide on the day 9 May 1877 issued an Instruction, where it enumerates these causes thus:

"1. Narrowness of place, whether absolute or relative, by reason only of the female petitioner, namely when in the place of origin or even domicile the woman's kinship has been so propagated that she cannot find another of equal condition whom she may marry, except a consanguineous or affine person, and for her to leave the fatherland would be hard.

2. Over-adult age of the woman, namely if she has already passed the 24th year of age and hitherto has not found a man of equal condition whom she can marry. But this cause does not support a widow who desires to pass to other nuptials. Now it is enough that it be established concerning over-adult age, nor is it necessary to prove that up to that age she did not find a man of equal condition whom she could marry. S. Pen. 11 Mar. 1902.
3. Deficiency or incompetence of dowry, namely if the woman does not actually have so great a dowry that she can marry an outsider of equal condition, who is neither consanguineous nor affine, in the proper place in which she dwells. This cause urges more if the woman exists

wholly undowered, and a consanguineous or affine man is prepared to take her as wife, or even conveniently to endow her wholly from his own resources.

4. Lawsuits over succession of goods already arisen, or grave or imminent danger of the same. If the woman sustains a grave lawsuit over succession of goods of great moment, and there is no other who would take up a lawsuit of this kind upon himself and pursue it at his own expense, except the one who desires to take her as wife, a dispensation is usually conceded; for it is of interest to the commonwealth that lawsuits be extinguished. To this another cause comes very near, namely Dowry involved in lawsuits, when, that is, the woman is destitute of another man by whose help she may be able to recover her goods. But a cause of this kind suffices only for the more remote degrees.
5. Poverty of a widow who is burdened with numerous offspring, and the man promises to support her. But sometimes by the remedy of dispensation assistance is given to a widow only for this cause, that she is younger, and is placed in danger of incontinence.
6. The good of peace, under which name come not only treaties between kingdoms and Princes, but also the extinction of grave enmities, quarrels, and civil hatreds. This cause is adduced either for extinguishing grave enmities which have arisen between the consanguineous or affine relatives of the contracting parties, and which would be wholly composed by the celebration of Marriage; or when grave enmities have flourished between the consanguineous and affine relatives of the contracting parties and, although peace between them has already been entered, nevertheless the celebration of Marriage would contribute greatly to the confirmation of that peace.
7. Excessive, suspect, dangerous familiarity, and also cohabitation under the same roof, which cannot easily be impeded.
8. Intercourse previously had with a consanguineous or affine woman or another person laboring under an impediment, and pregnancy, and therefore legitimation of offspring, namely that provision be made for the good of the offspring itself and the honor of the woman, who otherwise would remain unmarried. This indeed is one of the more urgent causes, on account of which dispensation is usually given even to plebeians, provided the intercourse was not perpetrated under hope of an easier dispensation; which circumstance would have to be expressed in the supplication. Those things which are said here concerning the necessity of manifesting this circumstance were recently abrogated by the Supreme Pontiff Leo XIII, as is clear from the Response of the S. Office given on the day 25 June 1885. - Cf. Third Plenary Council of Baltimore, p. 253.
9. Infamy of the woman, arisen from suspicion because she, too familiar with her consanguineous or affine relative, is thought to have been known by the same, although the suspicion is false, namely when, unless Marriage is contracted, the woman would remain gravely defamed or unmarried, or would have to marry a man of unequal condition, or grave damages would arise.
10. Revalidation of Marriage.
11. Danger of mixed Marriage, or of being celebrated before a non-Catholic minister. When there is danger that those wishing to contract Marriage in some even of the greater degrees, from

denial of dispensation, may approach a non-Catholic minister for celebrating nuptials, the authority of the Church being spurned, there is found a just cause of dispensing; because there is present not only very grave scandal of the faithful, but also fear of perversion and defection from the faith of those acting thus and despising the impediments of Marriage, especially in regions where heresies rage with impunity. This S. Congregation taught in the Instruction given on the day 17 April 1820 to the Archbishop of Quebec. Likewise, when the Apostolic Vicar of Bosnia had asked whether he could bestow a dispensation on those Catholics who allege no other motive than insane love, and at the same time it is foreseen that, the dispensation being denied, they are about to enter wedlock before an infidel judge, the S. Congregation of the S. Office, in Feria IV, 14 Aug. 1822, decreed: 'it must be answered to the petitioner, that in the case set forth he should use the faculties committed to him in Form II, according as he shall judge expedient in the Lord.' The same must be said concerning the danger that the Catholic party with a non-Catholic may dare to celebrate Marriage.

12. Danger of incestuous concubinage. From the Instruction of the year 1822 recalled above, it shines forth that the remedy of dispensation must be applied lest someone become filthy in concubinage with public scandal and evident danger of eternal salvation.
13. Danger of civil Marriage. From the things said it follows that the probable danger that those who seek a dispensation, if it is not obtained, are going to celebrate Marriage merely civilly, as they say, is a legitimate cause of dispensing.
14. Removal of grave scandals.
15. Cessation of public concubinage.
16. Excellence of merits, when someone, either by struggle against the enemies of the Catholic faith or by liberality toward the Church or by doctrine, virtue, or in another way, has deserved very well of Religion."

Question 2. What things must necessarily be expressed in the petition for dispensation?

Resp.

1. The name and surname of the petitioners; the diocese of origin or of actual domicile or quasi-domicile. Canon 47 is to be recalled: Rescripts are not rendered invalid on account of an error in the name of the person to whom or by whom they are conceded, or of the place in which the person dwells, provided that in the judgment of the Ordinary there is no doubt concerning the person or the matter itself.
2. The species, even the lowest, of the impediment: whether it is consanguinity, or affinity, or public honesty; whether the direct or collateral line; in the impediment of crime, whence it proceeds; filiation in spiritual kinship.
3. The degree of consanguinity or affinity. A dispensation avails in these impediments, although in the petition or in the concession an error concerning the degree has crept in, provided the degree really existing is inferior, or although another impediment of the same species in an equal or inferior degree was passed over in silence. - Cf. Can. 1052. Impediments of lesser degree are: 1°. Consanguinity in the third degree of the collateral line; 2°. Affinity in the second

degree of the collateral line. Cf. Can. 1042. A dispensation conceded from a lesser impediment is invalidated by no defect either of obreption or subreption, even if the one final cause set forth in the prayers was false (Can. 1054).

4. The degree of public honesty. - Cf. above, N. 874, Q. 14.
5. The number of impediments, for example, if there is double or multiple consanguinity or affinity, or if besides kinship there is also affinity, or any other impediment whatever, whether diriment or impeding.
6. Various circumstances, namely whether the Marriage is to be contracted or has been contracted; if already contracted, it must be opened whether in good faith, at least on the part of one, or with knowledge of the impediment; likewise whether with denunciations premised, and according to legitimate form; or whether under hope of more easily obtaining the dispensation.

Here also it will be worth the labor to recall canon 37, placed above, n. 123, which perhaps in certain more difficult cases could be of use. A rescript can be obtained for another even besides his assent; and although he himself can choose not to use the grace conceded by rescript, nevertheless the rescript avails before his acceptance, unless something else appears from the clauses appended.

Concerning certain abuses and irregularities in the concession of matrimonial dispensations, let the letters given by the Sacred Congregation de Propaganda Fide on the day 2 Aug. 1901 be consulted. *Amer. Eccl. Rev.*, vol. 26, p. 200.

Question 3. Does the dispensation cease, the final cause of the dispensation totally ceasing, for example, if the offspring to be legitimated through Marriage has died?

Resp. Negatively, if the cause ceases when the dispensation has already been expedited and communicated by the delegate to the supplicants, even if it ceases before the celebration of Marriage, namely before the begun use of the dispensation. The reason is that as soon as the dispensation was communicated either to the betrothed themselves or to another person, for example, to the Pastor acting in their name, the impediment was already removed. But otherwise one must say if the cause ceases at any other moment before the removal of the impediment, unless the dispensation is pontifical from an impediment of lesser degree.

Point III. On the Mode of Petitioning a Dispensation

The Holy See has committed the business of granting matrimonial dispensations to certain Roman Congregations, as is clear from the Constitution previously commemorated, *Sapienti Consilio*: I. 1. 5. "The faculty of the Holy Office remains entire for taking cognizance of those things which are involved concerning the Pauline privilege, and the impediments of disparity of cult and mixed religion," besides those things which touch dogmatic doctrine concerning marriage, just as also concerning the other Sacraments. I. 3°. 2. 3. To the Congregation for the discipline of the Sacraments are attributed all those things which up to this point were accustomed to be decreed and conceded by other Congregations, Tribunals, or Offices of the Roman Curia, "as dispensations in the external forum both for the poor and for the rich, sanations in the root, dispensation over ratified marriage, separation of spouses, restitution of birth or legitimation of offspring"; it resolves questions

concerning the validity of marriage, with the right of the Holy Office preserved. II. 1. The Tribunal of the Sacred Penitentiary bestows dispensations, absolutions, sanations for the internal forum. I. 6°. 6. The S. Cong. de Prop. F. had united to itself the congregation for the affairs of oriental rites, for which power remains entire, as before; an example of this is the Decree of 17 Aug. 1914 concerning the Greek-Ruthenians in the federated states. I. 5°. 1. The S. C. for Religious dispenses in the vow of chastity as regards religious members. Cf. Can. 246-258.

Questions

Question 1. In what way must a dispensation be sought if two impediments are present, of which one is public, the other occult?

Resp. The dispensation of the public impediment must be sought from the S. C. Sacr., the other being kept silent, which must remain secret, and both must be expressed in the supplication to the Penitentiary, at the same time setting forth the other dispensation obtained from the S. C. Sacr. - Cf. S. Alphonsus, n. 1139.

Question 2. In what way must the dispensation be executed?

Resp. No formula is prescribed under pain of invalidity or under precept, for none is had in the Roman Ritual. Nevertheless it can be done in the following manner: (a) As regards a dispensation of the S. Penitentiary, after absolution these or similar words are to be said: By apostolic authority I dispense thee over the impediment N., which thou hast incurred, so that thou mayest be able to enter Marriage, or to perfect it once entered, and I render legitimate the offspring received, or to be received. In the name of the Father, etc. But if the dispensation is from a vow of chastity, let it be said: Moreover, the vow of chastity which thou hast emitted, by dispensing I commute into the works which I have prescribed to thee, so that thou mayest be able to contract Marriage and to use it. In the name, etc. (b) As regards a dispensation of the S. C. Sacr., it is conceded either in gracious form or in commissorial form. If the dispensation is of lesser degree, there is no difficulty from the cause. But when the truth of the motive cause is required for validity, that cause must exist then, when the dispensation is actually conceded.

§ 1. If in a rescript the mere ministry of execution is committed, the execution of the rescript cannot be denied, unless either it is manifestly clear that the rescript is null by defect of subreption or obreption, or in the rescript there are appended conditions which the executor knows have not been fulfilled, or the one who obtained the rescript seems so unworthy, in the judgment of the executor, that the concession of grace will be for the offense of others; if this last thing happens, the executor, execution having been interrupted, should at once make the rescriber more certain concerning this matter.

§ 2. But if in the rescript the concession of the grace is committed to the executor, it belongs to him, according to his prudent judgment and conscience, to concede or deny the grace (Can. 54).

The executor of a rescript functions invalidly in his office before he has received the letters and recognized their authenticity and integrity, unless prior notice of the same has been transmitted to him by authority of the rescriber (Can. 53).

You Will Resolve. What if a confessor in confession detects that the marriage of the penitent is null on account of an occult impediment and unknown to the penitent himself? Let him prudently be

silent; indeed to admonish the one confessing can bring forth very grave inconveniences; meanwhile let him skillfully and energetically inquire, in the sacred tribunal itself, into the mind of the penitent with relation to his family life. But if he finds him not disposed to those things which would have to be done in order that the marriage be validated, let him continue to be silent, and dispose him by frequent use of the Sacraments, although a rather long time may be required; at length, when the penitent is found wholly prepared to renew consent, let him narrate the matter to him in kindly words, extolling the grace of the Sacrament, and obtain the dispensation.

But if the penitent is conscious of some occult impediment, let him altogether admonish him of his obligation of avoiding the rendering of the debt until the dispensation is obtained. Once it has been obtained and notified, that spouse should duly furnish consent, if it is a simple dispensation; but if it is a sanation in the root, he should do those things which are enjoined. But what if the person cannot withdraw from the co-party, the husband, nor avoid the debt, except with danger of most grave harm? Surely the case is difficult. If it is a question of entering or convalidating marriage, let the following canon 1045 be seen:[1]

§ 1. Local Ordinaries, under the clauses established at the end of can. 1043, can grant a dispensation over all impediments of which in the cited can. 1043, as often as an impediment is discovered when now all things have been prepared for the nuptials, and marriage cannot be deferred, without probable danger of grave evil, until a dispensation is obtained from the Holy See.

§ 2. This faculty also avails for the convalidation of a marriage already contracted, if there is the same danger in delay and time is not available for recurring to the Holy See.

§ 3. In the same circumstances of things, all those of whom in can. 1044 enjoy the same faculty, but only for occult cases in which not even the local Ordinary can be approached, or not except with danger of violation of secrecy. Let canons 1043 and 1044 be accurately read.

[1] Cf. Addenda, p. 1150, n. 125.

Formulae — For Petitioning Matrimonial Dispensations — I. - To the S. C. Sacr. — For Petitioning a Dispensation from a Public Impediment over Which the Bishop Cannot Dispense

Most Blessed Father,

John N. and Anna N., of the parish commonly called N., Diocese N., desire to enter Marriage with one another, but because there stands in the way the impediment (here is placed the impediment, whatever it may be), therefore they humbly beg from Your Beatitude the dispensation necessary for them. The reasons are: 1°. the age of the girl, who, now having been born twenty-five years, would probably not find another man whom she could suitably marry; 2°. the Christian virtues existing in each petitioner (let other causes be placed if they are present).

Most humbly kissing the feet of Your Holiness, with the highest reverence and devotion by which it is fitting, I remain,

Of Your Holiness Most submissive, N. N.

Given at N., on day N., in year N.

Note 1°. If the petitioners are poor, after the reasons have been set forth, let it be added: The petitioners exist poor and miserable, and live only from their own labor and industry.

Note 2°. The supplication composed by the Pastor of the petitioners must be sent to the Bishop. But the Bishop, or in his place the Vicar General, sends it, furnished with testimony, seal, and episcopal signature, to Rome to his mandatary who solicits the dispensation, and transmits it to the Bishop.

II. - To the S. Penitentiary — For Petitioning a Dispensation in a Marriage to Be Contracted

Most Eminent Prince,

It is most humbly set forth to Your Eminence, on the part of the petitioners Titius and Caia, that they intend to contract Marriage, but that Titius, being married, carnally knew Caia by perfect intercourse while his own wife Sempronia was still living, and they mutually gave faith to each other concerning Marriage to be contracted between them, if Sempronia, the wife of Titius, should die first; and she also died first through poison administered by Titius. But since from the premises the impediment of crime has arisen, and therefore they cannot contract Marriage either licitly or validly, the petitioners supplicate for the grace of dispensation over that impediment of crime, so that they may be able publicly to contract Marriage between themselves and afterward remain in it licitly and freely, and the offspring may be decreed legitimate. The impediment is wholly occult, and there is urgent danger of perseverance in sin, indeed even of grave scandal, if they cannot be coupled in legitimate Marriage. Wherefore, for the quiet of their conscience, grieving exceedingly over the premises, they humbly supplicate Your Eminence, that concerning these matters you may deign to provide, by Apostolic authority, an opportune remedy.

Reverently kissing the hands of Your Eminence, with the highest devotion by which it is fitting, I remain,

Of Your Eminence, Most obedient and most devoted, N. N. Pastor N. N.

Given at Baltimore, N. N. N.

III. - To the S. Penitentiary — For Petitioning a Dispensation in a Marriage Already Contracted

Most Eminent Prince,

Titius, being married, carnally knew Caia by perfect intercourse while his own wife Sempronia was still living, and they mutually gave faith to each other concerning Marriage to be contracted between them, if Sempronia, the wife of Titius, should die first; and, after Sempronia had died first through poison administered by Titius, conscious (or ignorant, or Titius conscious or ignorant, or Caia conscious or ignorant) of the impediment, in the face of the Church, with proclamations premised (or dispensed), or, with no proclamations premised, before a civil Magistrate or a heretical herald, they contracted Marriage and consummated it by carnal intercourse (if each party or either party still perseveres in good faith, let that be expressed; likewise whether each party or either party, conscious of the impediment, now abstains from intercourse or nevertheless has persisted in it). Wherefore, since the impediment is wholly occult and separation cannot be made without scandal, I most

humbly beg Your Eminence that you benignly indulge a dispensation to them, insofar as they may be able validly to contract.

Of Your Eminence, etc.

Note. Externally, when the letter has been signed, the inscription should be placed thus: To the Most Eminent and Most Reverend Lord D. S. R. E. Cardinal Major Penitentiary, Rome. It will be useful to give the letter to one's own Bishop, who will take care concerning transmission.

The formulae which follow will be useful for petitioning dispensations from our Ordinaries according to the faculties conceded to them.

IV. - To the Bishop — For Petitioning a Dispensation in a Public Impediment

Most Illustrious and Most Reverend Lord,

John N. and Anna N. of this my parish, or of the parish or mission N., of this Diocese, or Diocese N., consanguineous in the third equal degree in the transverse line, desire to enter Marriage with one another, and therefore they humbly beg from Your Most Illustrious Lordship the dispensation necessary for them. - The reasons are (here let the reasons and the circumstances necessarily to be expressed, if any are present, be set forth).

Reverently kissing the hands of Your Lordship, with the highest devotion by which it is fitting, I remain,

Of Your Most Illustrious Lordship, Most devoted servant, N. N. Pastor N. N.

Given at N. N.

Note 1°. If the betrothed belong to diverse Dioceses, this is more rightly expressed, and indeed immediately after the family name of each. Besides, the dispensation is more suitably petitioned through the Pastor of the bride, if the impediment is common to each of the contracting parties, as is the impediment of consanguinity.

Note 2°. If the degree of consanguinity is diverse or mixed, or several public impediments are given at the same time, all, as is clear, must be clearly expressed.

Note 3°. If the circumstances necessarily to be expressed are occult, they cannot, as is clear, be expressed in this same supplicatory libellus.

V. - To the Bishop — For Petitioning a Dispensation in an Occult Impediment Without Any Danger of Injuring the Seal

Most Illustrious, etc.,

Titius and Caia, while the first wife of Titius was still living, carnally knew one another and mutually gave faith to each other concerning Marriage to be contracted between them, if the wife of Titius should die first; she now being dead, but with neither of the petitioners plotting against her death, they desire to contract Marriage between themselves. But since the impediment of crime proceeding from adultery and promise is occult, and unless Marriage is contracted between them there threatens danger of scandals or of perseverance in sin, therefore, for avoiding these things and for the quiet of

their conscience, they humbly supplicate that Your Most Illustrious Lordship may deign most clemently to impart to them the grace of dispensation.

Of Your Lordship, etc.

VI. - To the Bishop — For Petitioning a Dispensation for a Marriage Already Contracted in Good Faith with an Impediment Public of Itself

Most Illustrious, etc.,

It is humbly set forth to Your Most Illustrious Lordship on the part of the devout petitioners John N. and Anna N. of the parish ... Diocese ... (see above), that they, formerly ignorant that some impediment existed between them by which they could not be matrimonially coupled to each other, with no impediment detected or denounced, contracted, and solemnized it in the face of the Church and consummated it by carnal intercourse. But afterward it came to their notice that they are joined to each other in the third degree of consanguinity touching the second, on account of which they abstained from carnal intercourse (or - and nevertheless persisted in the same carnal intercourse). But since the aforesaid petitioners cannot remain in a Marriage of this kind without dispensation, and if separation were made between them, grave scandals could arise therefrom, they supplicate that, the pardon of the ecclesiastical law having been most clemently given to them, they may be able to enter Marriage in the face of the Church and afterward live in it licitly and freely.

Of Your Lordship, etc.

VII. - To the Bishop — For Petitioning a Dispensation for a Marriage Already Contracted in Bad Faith with a Public Impediment

Most Illustrious, etc.,

It is humbly set forth to Your Most Illustrious Lordship, in the name of the petitioners John N. and Anna N. of the parish N., Diocese N., that they, formerly knowing themselves to be joined in the second (or third, etc.) equal (or unequal) degree of consanguinity, petitioned from Your Most Illustrious Lordship a dispensation for validly contracting Marriage between themselves, the said impediment notwithstanding; but having suffered refusal, blinded by insane lust, they contracted and consummated incestuous Marriage before a civil magistrate (or heretical herald), from which already (let the number be placed) they have received children. But now by the grace of God, greatly fearing the danger of eternal salvation, they weep over the life passed before and desire to repair it. But since, if separation were made between them, grave scandals would arise therefrom and great harm for their children; and since they cannot remain in Marriage without dispensation, they supplicate that Your Most Illustrious Lordship may deign to dispense with them, insofar as, in the face of the Church, yet with the public denunciations omitted, they may contract Marriage with each other, consent having been renewed, and may licitly remain in it.

Of Your Lordship, etc.

VIII. - To the Bishop — For Petitioning a Dispensation in an Occult Impediment, and Indeed with Sanation of the Marriage in the Root

Most Illustrious, etc.,

Caia, of the Diocese N., ignorant of the impediment of crime arisen from adultery with a promise of marriage, contracted Marriage in the face of the Church and with denunciations premised, in good faith, with a man bereaved of his wife. Wherefore, since they cannot be separated without scandal, and danger of incontinence lies beneath, the putative husband being wholly ignorant of the impediment, and therefore matrimonial consent cannot be renewed without grave danger of disagreements; hence she humbly supplicates for the remedy of dispensation over an impediment of this kind, wholly occult, in the root of the Marriage, so that without renewal of consent the Marriage may be able to be sanated.

Of Your Lordship, etc.

IX. - To the Bishop — For Petitioning a Dispensation over Banns

Most Illustrious, etc.,

John N. and Anna N., desiring to enter Marriage between themselves, earnestly ask that a dispensation over the three proclamations be conceded to them. The reasons are (let them be set forth sincerely).

Of Your Lordship, etc.

Note. If the causes for petitioning the dispensation are not honorable, or at least not public, let no names be placed except fictitious ones, namely: TITIUS AND BERTHA.

X. - To the Bishop — For Petitioning a Dispensation over the Impediment of Mixed Religion

Most Illustrious, etc.,

Anna N., a Catholic of parish N., desires to enter Marriage with Robert N. from place N., attached to sect N. (or a baptized non-Catholic). - The non-Catholic party before me under faith of oath promised that all infants of each sex to be born from that Marriage are to be baptized and educated in the Catholic faith, and that for them, as also for the co-party, the exercise of the Catholic religion will be wholly free. Besides, the Catholic party promised that she, with her powers, would take care that, insofar as it will be in her, the other party be converted to the true Faith. Wherefore she humbly supplicates Your Most Illustrious Lordship, that you may deign to concede to her, by Apostolic authority, a dispensation over this impediment. The causes are (let the causes be set forth, for example, various attempts that the female petitioner renounce such a Marriage; founded hope of conversion of the non-Catholic party, etc.).

Of Your Lordship, etc.

Pontifical Commission — For Authentically Interpreting the Canons of the Code — Dubia — Resolved in the Plenary Meetings of the Days 2-3 June 1918 — On Marriage

1. If someone claims his right from validly contracted betrothals against a party about to enter marriage with another, must the marriage be suspended until there has been action concerning the just cause of dispensation from the prior betrothals and concerning reparation of damages, if any is due? (Can. 1017, § 3).

Resp. Negatively, or that an action concerning the just cause of dissolution of betrothals is no longer admitted; but that an action of reparation of damages does not suspend the celebration of marriage.

2. Whether the action of reparation of damages, of which in can. 1017, § 3, pertains to the ecclesiastical forum or to the civil?

Resp. The action of reparation of damages, of which in can. 1017, § 3, is of mixed forum.

3. If the bride or bridegroom are found ignorant of Christian doctrine, is there place for rejecting them from marriage, or for deferring marriage until instruction? (Can. 1020, § 2.)

Resp. Let the pastor observe the prescription of canon 1020, § 2; and while he performs those things which the Code prescribes to be performed, let him diligently teach to the ignorant betrothed at least the first elements of Christian doctrine; but if they refuse, there is no place for rejecting them from marriage according to the norm of canon 1066.

4. If the party after attained puberty has dwelt for more than six months in very distant and separated shores, from which a longer time is required in order that regular attestation of liberty of status be had, yet the celebration of marriage is urgent, does there suffice in the case, for making certain the liberty of status, the oath of the party with the testimony of two, or, if two cannot be had, of at least one, who had dwelt with him in those regions? (Can. 1023, § 2.)

Resp. The matter is remitted to the prudent judgment of the Ordinary, who can prescribe other proofs, not excluding a supplementary oath, according to the norm of canon 1023, § 2.

5. What if illicit and occult intercourse preceded the birth of the woman to be married, concerning whom it could be doubted whether she is the daughter or sister of the other party? (Cann. 97, § 1, 1077, etc.).

Resp. Provision has been made by can. 1076, § 3.

6. Is the force of the new Code retroactive in these things which are modified concerning betrothals and impediments both impeding and diriment of marriage, so that any right acquired by force of valid betrothals can in no way be claimed, except insofar as the new Code concedes, and contracted impediments modified by the new Code need no dispensation? (Cann. 4, 10.)

Resp. The Code, even as regards betrothals and impediments, does not have retroactive force; but betrothals and marriages are governed by the law in force when they were contracted or will be contracted, yet with canon 1017, § 3 preserved as regards an action from betrothals.

7. What must be said concerning marriages, if any are null from the head of impediments abrogated by the new Code: do those marriages become valid by the very promulgation of the new Code, or even after the said promulgation do they need dispensation, sanation, etc.? (Cann. 4, 10.)

Resp. Negatively to the first part; affirmatively to the second.[1]

8. Whether spiritual kinship contracted before the day of Pentecost of the year 1918 beyond the limits now defined by the new Code in can. 768, from the aforesaid day of Pentecost ceases by the fact itself as regards all effects, or only ceases to be an impediment to marriage? (Cann. 768, 1079.)

Resp. Negatively to the first part; affirmatively to the second.

(*A. A. S.* Year X, n. 8 - 1 August 1918.)

[1] Cf. Addenda, p. 1138, n. 97.

Chapter IX. On the Revalidation of Marriage

A marriage can be invalid 1°. on account of defect of consent; 2°. on account of defect of the prescribed form, namely on account of clandestinity; 3°. on account of the inability of the parties induced by force of some ecclesiastical impediment. - Hence:

I say 1°. § 1. For convalidating a marriage invalid on account of a diriment impediment, it is required that the impediment cease or be dispensed, and that at least the party conscious of the impediment renew consent.

§ 2. This renewal is required by ecclesiastical law for validity, even if at the beginning each party furnished consent and did not afterward revoke it (Can. 1133).

The reason for the first is that marriage must be between capable persons who consent; therefore it is necessary that the diriment impediment either cease or be dispensed, and thus the parties become capable persons who may consent into marriage.

The reason for the second is ecclesiastical law itself, demanding this renewal, which from the nature of the thing, once the impediment ceases, is not required, as becomes clear from sanation in the root, by force of which the Church holds the old consent as sufficient.

Therefore two things are required for convalidating: the capability of the parties through cessation of the diriment impediment or dispensation, and renewal of consent at least by the party conscious of the impediment.

I say 2°. Renewal of consent must be a new act of the will into the marriage which is established to have been null from the beginning (Can. 1134).

I say 3°. § 1. A marriage invalid on account of defect of consent is convalidated if the party who had not consented now consents, provided the consent furnished by the other party perseveres.

§ 2. If the defect of consent was merely internal, it is enough that the party who had not consented consent internally.

§ 3. If it was also external, it is necessary also to manifest the consent externally, either in the form prescribed by law, if the defect was public, or in another private and secret mode, if it was occult (Can. 1136).

I say 4°. A marriage null on account of defect of form, in order that it become valid, must be contracted anew in legitimate form (Can. 1137).

The reason is that the law prescribing the form of celebration urges all subjects. If the invalidity is public, it must be convalidated publicly before the Pastor and witnesses, but it can be entered privately before the same, with reparation of scandal made through publication of the convalidation. But if one party wished to approach the Pastor and the other refused, the latter is to be induced to renew consent through a proxy before the Church in the form prescribed by canon 1095. If the invalidity is occult, it must be convalidated occultly in the customary form. Finally, if one party obstinately refuses, recourse must be had to dispensation in the root in favor of the innocent party. - Cf. Heiss, parag. 62. - Wernz, v. 4, 649. But if the party wishing to convalidate the marriage, together

with the other party, should proceed even in fraud of the law to a region of which in Canon 1098, n. 1°, and there, with the conditions fulfilled, should renew formal matrimonial consent before two witnesses after the nullity of the marriage had been known, the marriage would be convalidated. - Cf. S. C. Sacr. 12 March 1910 ad III.

Article I. On the Revalidation of Marriage through Simple Dispensation

I say 1°. A simple dispensation removes the inability induced by law; conceded by one who enjoys legitimate power, it renders the person to whom it is given capable of entering marriage; and therefore it effects that consent furnished by the incapable person himself, and on that account ineffective, can now be effective. "As often as a law invalidates an act, it renders the will of the subject ineffective and impotent for contracting, for example, for transferring dominion, and this is to make the act incapable for contracting or ... for contracting thus." Examples: "the law makes ... a person incapable for some act in species," as one solemnly professed for contracting marriage; or it makes incapable relatively, "as, for contracting with a consanguineous woman"; or "it makes incapable for contracting thus," as happens in the Tridentine form. "And in all these cases the act itself is invalidated and the consent of the will is rendered ineffective for producing such an effect. But by this and not otherwise a person becomes incapable for the same effect." Suarez, *De Leg*. l. 5, c. 19, n. 4. A law invalidating surely does not remove the physical act of the will, but effects that that act or consent lacks juridical force for producing the contract. Therefore, when two consanguineous persons furnished conjugal consent, it is the law of the Church which rendered that consent ineffective; then by its dispensation it removes the ineffectiveness of the act, and the parties can now, because capable, enter marriage. But indeed the Church can so dispense in its invalidating law that all effects following from it are invalidated at the same time. And therefore, even without any renewal of consent, the marriage is immediately considered valid, and the other effects cease, as if it had been valid from the very beginning; the validity is from now, the legitimacy from then. That is to say, that consent, naturally sufficient, with the invalidating law of the Church removed and, by power of the same, the necessity of renewal removed, exercises its full effect of the act of the will and constitutes marriage. Such a dispensation is sanation in the root. Wherefore renewal of consent must not be called necessary from nature, but only from the law of the Church. When it removes the ineffectiveness of consent but demands its renewal for contracting marriage validly, its action is called a simple dispensation. - Cf. below n. 930.

I say 2°. Once a simple dispensation has been obtained, the party conscious of the impediment is now rendered capable for contracting and is bound by the law of the Church to renew consent. But if each party is conscious of the impediment, each must renew consent. When it is required that one, when that each party renew consent, will be said below in n. 929, Question 1.

I say 3°. Therefore there follows the necessity of that renewal, but from the positive law of the Church. But the Church requires that a new consent be furnished by the spouses knowing the nullity of the prior contract in the case of a marriage null on account of an impediment ceasing without dispensation. - Cf. above n. 927. Thus the S. Off. concerning the following case:

A certain Amalia, a non-Catholic not baptized, married John, a baptized heretic. During the marriage Amalia was baptized in some heretical sect and for some time lived maritally with John. Afterward,

once the adultery of her husband had been known, she obtained a civil divorce. Finally she sought the faculty of entering second nuptials with a Catholic man. The S. Office on 8 Mar. 1899 responded: "A prior oath having been furnished by Amalia in the Curia NN, by which she declares that the marriage contracted with John after the baptism of Amalia herself was not ratified by the same persons knowing its nullity in a place where clandestine or mixed marriages are held valid, and provided that the Most Reverend Lord Archbishop is morally certain concerning the asserted ignorance of the spouses regarding the impediment of disparity of cult, let a document of liberty be given to the woman from the head of disparity of cult itself?" Cf. S. Off. 31 Aug. 1887; Pontif. Comm. for authentically interpreting the Code of Canon Law, 2-3 June 1918 - Card. Gennari, *Consultazioni*, v. 1, p. 633 - Card. Gasparri, *De Matrimonio*, n. 1138.

Questions

Question 1. Must consent be renewed before the Pastor and witnesses?

Resp. § 1. If the impediment is public, the consent must be renewed by each party in the form prescribed by law (Can. 1135).

The reason is both because then the reason for removing or preventing scandal urges, and because otherwise the validity of the Marriage could not be proved before the Church, since it is publicly established that the Pastor and witnesses were not present except at the celebration of an invalid Marriage, and thus the end intended by the Council of Trent would not be obtained; for the spouses, after the Marriage had been clandestinely revalidated, could separate and enter new nuptials with others with impunity.

§ 2. If it is occult and known to each party, it is enough that consent be renewed by each party privately and secretly.

§ 3. If it is occult and unknown to one party, it is enough that the party alone who is conscious of the impediment privately and secretly renew consent, provided the other perseveres in the consent furnished (Can. 1135).[1]

The reason is that the Council of Trent, by prescribing the presence of the Pastor and witnesses, is deservedly presumed not to have wished to comprehend this case. For the Council wished only to meet the inconveniences which arose from nuptials celebrated secretly; but in our case the Marriage has already been publicly contracted, and therefore that danger is absent; therefore it suffices to place the new consent secretly. Besides, not only would extension of the law to this case be useless, but also harmful; indeed it would provide place for many scandals, expose the parties to defamation, and induce many other inconveniences. - Cf. S. Alphonsus, n. 1110.

[1] Cf. Addenda, p. 1138, n. 98.

Question 2. In how many ways can consent be renewed, or exacted from the party ignorant of the impediment, after a dispensation has been obtained?

Resp. These are the principal modes assigned by various authors:

I. If the spouse simply says: Our Marriage is null on account of some impediment, or: The confessor told me that it is null, and therefore let us renew consent.

II. If the spouse says: I did not have true consent when I contracted Marriage; I now wish to furnish new consent; do you also wish to furnish it? - This mode is commonly admitted by authors, and can rightly be applied without a lie, since null consent is not true consent; and on the other hand the spouse ignorant of the impediment thus sufficiently knows the nullity of the Marriage.

III. If he says: I am troubled by scruples concerning the value of our Marriage, and therefore let us renew consent. This mode can be admitted according to the more common opinion with S. Alphonsus; for it suffices that the other party place consent independent from the prior one; but for this it is enough if he prudently doubts concerning the value of the first Marriage.

Various other modes are also exhibited by many theologians, for example, if the spouse says to the co-party: Say, I ask you, if our Marriage were null, would you not wish to contract again? Or: If you had not married me, would you not wish to marry now? etc. But these modes are deservedly rejected, because thus it is uncertain whether the other party intends to repeat consent into the preceding Marriage, or truly to consent into a new one. - Cf. S. Alphonsus, n. 1117.

Article II. On the Revalidation of Marriage through Dispensation in the Root

§ 1. Sanation of marriage in the root is the convalidation of the same, carrying with it, besides dispensation or cessation of the impediment, dispensation from the law concerning renewing consent, and retrotraction, by a fiction of law, concerning canonical effects, to the past.

§ 2. Convalidation is made from the moment of concession of the grace; but the retrotraction is understood to have been made to the beginning of the marriage, unless something else is expressly provided.

§ 3. Dispensation from the law concerning renewing consent can also be conceded with only one party or each party unaware (Can. 1138).

Dispensation, or rather sanation in the root, consists in this: that Marriage is revalidated by force of consent previously given. That is to say, the consent previously given therefore produced no effect, because it labored under some defect, which, since it was placed by the Church, nothing can or ought to impede from being removed by the Church itself. But with this defect removed, the consent as it were revives, or rather is sanated, and immediately Marriage arises. Therefore the difference between simple dispensation and dispensation in the root consists in this: that through the first the Church only removes the diriment impediment and thus renders the spouses capable for contracting; but through the other, besides the removal of the impediment, it accepts the consent previously given, proceeding to the very root of the Marriage; and consequently in the first case renewal of consent is required, and in the second it is not required. Behold therefore the process by which the Church sanates Marriage in the root: first it removes the impediment, which is supposed to be of ecclesiastical law; then it accepts the sanated consent by taking it in the very root; and because this acceptance now takes place, now Marriage properly begins; finally it annuls all juridical effects which flowed from that defective consent, and indeed from its very beginning, unless something else is expressly provided. - Cf. Benedict XIV, *Institut*. 87, n. 80; and *de Synod. dioeces*. lib. 13, cap. 21, n. 7. - Heiss, § 64. - Lehmkuhl, n. 828.

I say 1°. The Supreme Pontiff can sanate in the root all Marriages which are invalid by force of some impediment of ecclesiastical law. The reason is taken both from this, that according to the explanation lately given, nothing is had in a sanation of this kind which is repugnant to the matter or passes beyond the power of the Church, and because in fact for many centuries the Roman Pontiffs have been accustomed to concede such dispensations. Boniface VIII is read to have dispensed thus first in the year 1301; but in more recent times Pius VI, Pius VII, Leo XII, etc., dispensed more frequently in the same mode. - Cf. Benedict XIV, *de Synod. dioeces.* lib. 13, cap. 21, n. 7.

Sanation in the root can be conceded only by the Apostolic See (Can. 1141).

I say 2°. Three conditions are required so that Marriage can be convalidated by the help of dispensation in the root, namely:

1°. That the conjunction of the spouses have had the external species of a just Marriage: this condition either pertains to the very essence of the thing, namely if the matrimonial conjunction was openly fornicary and was apprehended as such by the spouses, for then necessarily the consent itself must have been lacking, namely the very root of the Marriage, as Benedict XIV speaks; or if true consent was present, because the spouses did not know the nullity of the Marriage, it must be said that this condition is required from positive Pontifical will for avoiding scandal. - Cf. Feije, n. 768. - *Acta S. Sedis*, vol. 1, Append. 7, p. 182.

Nevertheless this is not to be taken wholly strictly, for "for the effect of which there is question" (of sanation), says Benedict XIV, "it is enough that marriage was in fact contracted and that marital affection intervened." - *Quaest. Can.* 174.

2°. § 1. If consent is lacking in each or either party, marriage cannot be sanated in the root, whether consent was lacking from the beginning, or, furnished from the beginning, was afterward revoked.

§ 2. But if consent was indeed lacking from the beginning, but was afterward furnished, sanation can be conceded from the moment of furnished consent (Can. 1140).

Observe, however, that for destroying the force of consent previously given, a certain present wishfulness of departing in one or even in each spouse does not suffice, but a positive and absolute will is required. - Cf. Lehmkuhl, n. 831.

Real and moral perseverance of consent can be had in a co-party who, if conscious of the impediment, would be ready to dissolve the marriage; or who in the same ignorance sought separation from bed and cohabitation; or when two remain in marital life, as in a civil marriage, and one wishes to compose the matter before the Church and the other does not wish to do this.

3°. That an urgent and very grave cause be present. But this can be had especially in a threefold case, namely: 1°. when one party cannot be brought to renewal of consent, and nevertheless exhibits present consent of remaining in Marriage; 2°. when the impediment is known only to one party, and could not be manifested to the other without grave inconveniences; 3°. when there is an urgent reason for not admonishing the spouses concerning the nullity of the Marriage.

Observe, however, that only in this third case is there had a perfect sanation in the root; for when one of the spouses renews consent as is supposed in the first and second case, the sanation will be imperfect, namely on the part of only one spouse.

Questions

Question 1. Whether dispensation in the root can be given only for sanating a Marriage which is invalid by force of some impediment of ecclesiastical law?

Resp. Affirmatively, and the reason is that the Roman Pontiff can do nothing concerning impediments of divine or natural law, and consequently cannot sanate consent which was defective by such law. But if, some Marriage having been invalidly contracted by force of some impediment of ecclesiastical law, afterward another impediment of the law of nature, for example, of impotence, has supervened from the fact that the man, having received a wound, became absolutely incapable of the conjugal act, nevertheless the Church will be able to sanate that Marriage, and consequently legitimate the children who were born from the time of the celebration of the Marriage up to the reception of the wound, and remove the other effects of the nullity of the Marriage. The reason is taken from the very nature of sanation in the root. Cf. Feije, n. 769.

In this case rather only an imperfect sanation was given, namely the effect of the invalidity of the marriage was removed, and thus the offspring was made legitimate. According to the opinion now received, that marriage could not be sanated, because the party was incapable by the law of nature; but legitimation of the offspring was conceded.

Question 2. Can sanation of a marriage civilly entered be made?

Resp. It can be made. For these spouses can truly place conjugal consent which is ineffective, which, if it perseveres, can be sanated.

Question 3. Can any marriage invalidly entered be sanated in the root?

Resp. § 1. Any marriage entered with the naturally sufficient consent of each party, but juridically ineffective on account of a diriment impediment of ecclesiastical law or on account of defect of legitimate form, can be sanated in the root, provided consent perseveres.

§ 2. But a marriage contracted with an impediment of natural or divine law, even if the impediment afterward ceased, the Church does not sanate in the root, not even from the moment of cessation of the impediment (Can. 1139).

Question 4. Can there be sanated in the root a concubinary union, to which after many years civil marriage succeeded, in a case in which before this civil wedlock one party had been made impotent by a surgical operation?

Resp. "In the case set forth, sanation in the root cannot be conceded; and to the mind. The mind is that since the marriage cannot be revalidated, the putative spouses ought immediately to be separated. But if this is morally impossible, let them at least, with cautions applied, cohabit under the same roof as brother and sister. But as regards canonical legitimation of offspring, it can be conceded through a rescript of the prince duly to be expedited." Thus the S. Off., 8 March 1900. It is an example of offered legitimation of offspring for ecclesiastical effects.

Question 5. Can a dispensation in the root be obtained and applied with each party ignorant of it?

Resp. Affirmatively, altogether, because in no way is knowledge of the dispensation required in order that the Church can remove the effect of the law or the obstacle which stood in the way of the efficacy of consent; for the power of the Church is wholly independent of such knowledge. It is

confirmed from the practice of the Church. For Clement XIII conceded to a certain Procopus, who seems to have been a Bishop, the faculty that he might sanate in the root, the parties not having been warned, many Marriages invalidly entered on account of excessive extension of the faculties received. Other examples also are reported by others concerning similar revalidation of Marriages. - Cf. Heiss, p. 246.

Question 6. In what way must a dispensation in the root be executed?

Resp. In the same mode as a simple dispensation, by adding in the formula the words in the root; wherefore it can be said thus: "I, by Apostolic authority conceded to me, sanate in its root the Marriage contracted by thee with N., and I declare the offspring received and to be received legitimate, in the name of the Father and of the Son and of the Holy Spirit." - I said, it can be said, because no formula is properly necessary, since none is prescribed in the Roman Ritual. - Cf. Heiss, § 64, n. III.

Note. If at any time it happens that one or each spouse, instead of sanation, seeks a declaration of nullity of Marriage, one must proceed altogether cautiously, whether as confessor or as Pastor, not only on account of civil laws and scandal which perhaps could arise from separation, but also because neither confessor nor Pastor has any power over a Marriage once celebrated, however certain its nullity may seem to them. Wherefore then recourse must be had to the special curia which recently among us has been instituted in individual dioceses for treating and resolving matrimonial causes. - Cf. Third Plenary Council of Baltimore, nn. 297, 304 and seq.; and Append., pp. 262 and seq.[1]

[1] Cf. Addenda, p. 1091, n. 21.

Chapter X. On the Conjugal Debt

The conjugal debt is called that common action of spouses which is necessary for generation, and which has been ordained by the supreme Provider of all things for propagating human society. But this action is situated in carnal intercourse, by which man and woman are made as it were one body and one flesh. An act of this kind is called by the Apostle a debt, for it is that which spouses mutually owe to each other. Concerning this act, however much it is disagreeable, one must here speak briefly and chastely for the practice of confessors. - Cf. S. Alphonsus, n. 900.

Article I. On the Liceity of the Conjugal Act

I say. The conjugal act, had between legitimate spouses, is of itself honorable and licit. The reason is that an act of this kind is the means established and ordained by the very Founder of nature for the legitimate propagation of the human race. - I said of itself, because it can become illicit by reason of the end and of circumstances. And first it would become gravely illicit by reason of the end, if either a gravely depraved end were positively intended, or all ends rendering this act honorable were positively excluded, which are 1°. generation of offspring; 2°. satisfaction of the obligation toward the other spouse; 3°. avoidance of incontinence both in oneself and in the co-party; 4°. the desire of fostering or conciliating honorable love, of manifesting or promoting conjugal affection, etc. - By reason also of circumstances, especially of position and time, the conjugal act otherwise licit could be gravely vitiated. On account of position indeed, if it were unnatural in such a way that the spouses could not come together and the semen were poured out outside the vessel; but on account of time, if the conjugal act were placed at that time when proximate danger of abortion or of death of the co-party was present. - Cf. S. Alphonsus, nn. 881 and seq.

You Will Resolve. 1°. The use of marriage is illicit if it is done on account of pleasure alone, that is, by not intending the other ends even virtually or implicitly. This is clear from prop. 9 condemned by Innocent XI, which sounds thus: "The work of marriage, exercised on account of pleasure alone, is wholly free from all fault and venial defect." Nevertheless of itself, if it were done, it would be only a venial sin, just as it is venial to take food on account of delight alone. But the use of marriage is immune from this fault if it is made as a remedy of concupiscence, or on account of another honorable end, whether expressly or implicitly, even if otherwise delight or pleasure is intended. - Cf. S. Alphonsus, n. 912. - Baller. note (b), p. 881.

2°. The use of marriage is licit for sterile persons, both because no law in the opposite can be shown, and because sterile persons of themselves are suitable for completing the conjugal act; but if no generation follows, that happens wholly by accident; and other honorable ends besides generation are present, rendering conjugal intercourse honorable. Besides, scarcely is there given a case of sterility certainly known.

3°. To old men, whose semen is no longer prolific, the use of marriage is licit, provided they can sufficiently complete intercourse, or have a non-empty hope of completing it. For the same reasons favor old men which we adduced concerning sterile persons. It is confirmed besides from the practice of the Church, which blesses the Marriages of old men. - Cf. S. Alphonsus, n. 954.

4°. The wholly licit position is that which nature itself teaches, namely that the woman be lying beneath, and the man lying above. But any other position diverse from the aforesaid, provided the conjugal act can be sufficiently completed, does not exceed venial sin, and with a just cause acceding, lacks all fault. Wherefore spouses by no means sin who invert the position on account of danger of abortion during the time of pregnancy, on account of the corpulence or curvature of the man, on account of excessive weariness of the woman, or also on account of frigidity, when they are more aroused by an unnatural position, etc. Indeed the position which alone is possible, whatever finally it may be, is in no way condemned, although a not small loss of semen follows; because that part of the semen is not necessary for generation, and by accident, against the will of the spouses, is lost. - Cf. S. Alphonsus, n. 917.

5°. According to not a few theologians, the conjugal act is never forbidden, not even lightly, by reason of time; the reason is that no law can be assigned by which it is ever prohibited even under light fault. Nevertheless to S. Alphonsus the opinion is more pleasing which does not excuse from venial fault if intercourse is made during the time of pregnancy, unless there is danger of incontinence or another honorable cause, which otherwise can often be present. Besides, the more common opinion teaches that coition had during the time of menstruation is not excused from venial fault on account of the indecency which it seems to bear before itself, unless there is some cause rendering it honorable, namely for avoiding quarrels or preventing incontinence, etc. - Cf. S. Alphonsus, nn. 924 and seq.

6°. According to the more common opinion it is not illicit on Sundays and Feasts, even more solemn ones; both because no law is opposed, and also because marital intercourse does not remove spouses from observing the Feasts of the Church. Most of the Holy Fathers who are objected in the opposite seem to speak of counsel rather than of precept. Hence you will also deduce that there is no reason why use of this kind should be prohibited during the time of Advent or Lent. Cf. S. Alphonsus, n. 923.

7°. The S. Office on 24 March 1897 declared artificial fecundation of a woman to be illicit.[1]

8°. A Marriage once validly entered is not invalidated by the fact that the man, even before it is consummated, has become impotent; hence there enters also the condition or circumstance which, had it existed before, he could not have entered. But after marriage has been entered, to such a man, says D'Annibale, vol. 3, n. 470, note 13, rights are established on both sides. C. 25, Can. 32, 7. And therefore for those who after contracted marriage have been made eunuchs, to coit is not illicit. - Tolet. L. 7, 1, 6, 4. Sanch. 7, 192, 6.

9°. It is licit for a woman who cannot retain semen to use marriage, because now perfect intercourse within the vessel is had; but if the semen is not retained, this is by accident, nor does it in any way impede the use of marriage; indeed also in that case the woman cannot be obliged to apply extraordinary means or means harmful to her bodily health.

[1] Cf. Addenda, p. 1116, n. 66.

Article II. On the Obligation of the Conjugal Act

I say. There is indeed never given an obligation of asking for the conjugal debt, except sometimes by accident from charity or another virtue; but there is given a strict obligation from justice, of itself

grave, of rendering it to the other spouse asking seriously, reasonably, and with right. The reason for the first is that no one is bound to use his own right. - Nevertheless I said that by accident an obligation of asking can be given; thus, for example, a man is bound from charity to ask, if he judges that the co-party is placed in danger of incontinence and, on account of modesty, does not ask. But the reason for the second is that from the very nature of the matrimonial contract the spouses mutually transfer to themselves the power of their bodies in order to conjugal use. It is also deduced from the words of the Apostle, I Cor. vii, 3: "Let the husband render the debt to the wife, and likewise also the wife to the husband; the woman does not have power of her body, but the man; and likewise also the man does not have power of his body, but the woman." - I said asking reasonably and with right, for the obligation of rendering the debt ceases in one spouse when the right of exacting it ceases in the other; but the right ceases especially in the following cases, namely: 1°. if one of the spouses has committed adultery; 2°. if the one asking lacks the use of reason, for example, if the man were overwhelmed by liquors, for then his petition would not be human; 3°. if the one rendering can reasonably fear grave harm or danger to health, because the spouses are not judged to have obligated themselves to rendering the debt with so great an inconvenience. - Cf. S. Alphonsus, nn. 943 and 946.

You Will Resolve. 1°. Spouses are bound to cohabitation, nor can one be absent for a longer time without the consent of the other or without necessity; for this obligation follows from the very obligation of rendering the debt. But just causes of going away for a long time are: the public good, the family to be fed or protected, harm from enemies to be avoided, etc. - Cf. S. Alphonsus, n. 939.

2°. The spouse denying the debt sins gravely as often as there is danger of incontinence or of grave annoyance in the other party. Likewise if he denies it to the other seriously asking. But otherwise, if the co-party benevolently remits it or asks weakly.

3°. One denying does not sin when the other asks immoderately, for example, after the third or fourth time in the same night; nor if he defers for a brief time, namely to the night, or if from the night he defers to the morning time, with nevertheless always the danger of incontinence excluded. - Cf. S. Alphonsus, n. 940.

4°. Wives are to be reprehended who deny the debt to their husbands, even when they ask weakly, without sufficient cause; or who do not concede except compelled, and harshly and contumeliously reproach the man for his petitions.

5°. A wife is not excused from rendering the debt on account of ordinary inconveniences of childbirth, pregnancy, or nursing, nor indeed on account of pains that are grave but brief in time, nor on account of long-lasting but moderate pains, for example, of the head for several months after childbirth, nor on account of health somewhat weakened; because all these things are annexed to the matrimonial condition. But it is otherwise if danger of life or of very grave disease would truly have to be feared from the judgment of a truly prudent physician. - Cf. S. Alphonsus, n. 952.

6°. There is no obligation of rendering the debt to the other laboring under a contagious disease grave in itself, such as plague, venereal disease, or something similar. Likewise, on account of notable weakness of body, those laboring under fever or another grave disease are excused from rendering the debt. - Cf. S. Alphonsus, n. 950.

7°. A spouse is not excused from rendering the debt on account of fear of more numerous offspring; for procreation of offspring pertains to the principal end of Marriage; whence that inconvenience is intrinsic to Marriage itself. Cf. S. Alphonsus, n. 941.

8°. Especially Catholic physicians are bound under grave obligation not to exaggerate the dangers of childbirth but rather to indicate the means by which they may be lessened.

Article III. On the Sins of Spouses

Sins can be perpetrated between spouses by reason of the conjugal act either by excess, that is, by placing acts useless for generation, or by defect, by not completing the essential act, or by staining the bed with the crime of onanism.

§ I. On the Sins of Spouses by Excess

I say. Whatever is necessary for completing the conjugal act, or useful for exercising it more easily, more quickly, or more perfectly, is altogether licit for spouses. But whatever in the conjugal act stands in the way of generation, or of itself induces pollution outside the natural conjunction, is illicit, and indeed gravely. Finally, whatever is useless or indifferent for procuring generation even remotely and indirectly, or for reasonably promoting conjugal affection, is likewise illicit, but does not exceed venial sin. The reason for the first is that he who has a right to the end has a right also to the necessary or useful means, and means not otherwise prohibited; and to those to whom the principal thing is licit, the accessory also is licit, and the means ordained to it. But the reason for the second is that voluntary effusion of semen is not licit except in order to generation, and therefore Marriage does not give spouses a faculty except for effusion of semen which can of itself serve generation; but otherwise, if men could enjoy pleasure itself without the consequent burden of feeding and educating offspring, generation of children would easily be put after, indeed would be avoided by set effort, and thus society itself would decline to destruction. Finally, the reason for the third is that then pleasure alone would be sought in these things, which, as was said above, is indeed a sin, but does not exceed venial.

You Will Resolve. 1°. Any honorable kisses among spouses are free from fault, and touches upon both honorable parts and also less honorable parts, if nevertheless they are done cautiously, by reason of demonstrating conjugal affection or fostering love, even if sometimes by accident involuntary pollution were to follow; because all honorable signs of love, even tender ones, as means to the end, are licit for those who by the matrimonial bond ought to become one heart and one flesh. - Cf. S. Alphonsus, n. 933.

2°. Touches and looks less honorable are also of themselves free from fault if they are immediately referred to intercourse. Indeed the same must be held, even if they were simply dishonorable, but necessary or useful for exciting nature; for then they are a certain preparation for intercourse and as it were an inception of it. But all these will be venial if they are done on account of pleasure alone, even if they immediately precede intercourse. But they must be held mortal if they expose each or either spouse to danger of pollution before intercourse; which indeed will easily happen if they remain long in these things before they come to the conjugal act.

3°. Spouses do not sin gravely, even if from touches had even without intention of intercourse there arises a commotion of the spirits or of the members serving generation, or distillation follows,

although these things would be mortal in the unmarried. The reason is that, voluntary pollution or the crime of sodomy excluded, nothing is done against the good of Marriage. - Nevertheless let them beware lest they fall into proximate danger of pollution, which will easily happen if the motions are very inordinate. Hence, although, speaking of itself, spouses do not sin mortally who, intercourse having been begun, by mutual consent do not complete the conjugal act, if perhaps there is no danger of pollution, nevertheless S. Alphonsus rightly observes after Sanchez that ordinarily this is mortal, because ordinarily such danger will be present. - Cf. S. Alphonsus, nn. 918 and 934.

4°. A wife who excites herself by touches to semination, or rather to her completed pleasure, immediately after intercourse in which the man alone emitted, does not sin gravely; indeed, according to the more common and more probable opinion, not even lightly: 1°. because the semination of the woman, whatever it may be, pertains to completing the conjugal act, so that spouses properly are one flesh, and just as the wife can prepare herself by touches for intercourse, so also she can complete it; 2°. because if women after such irritation were bound to restrain natural motions, they would continually be exposed to great danger of sinning gravely. - Cf. S. Alphonsus, n. 919.

5°. Touches with oneself from venereal delight, the other spouse being absent, according to the opinion of many, cannot be excused from grave sin, even with pollution or proximate danger of it excluded. The reason is that the spouse does not have the right of using his own body in order to pleasure to be completed with himself, but only in order to intercourse. - Nevertheless not a few other theologians, cited by S. Alphonsus, say that, with danger of pollution excluded, this does not exceed venial fault. Moreover, the holy Doctor judges the first opinion more probable and altogether to be urged in practice. - Cf. S. Alphonsus, n. 939. - Lacroix, n. 339. - Baller. note (a), p. 914.

6°. Tibullus, receiving the confessions of women whose husbands are accustomed often to be absent, and who do not easily contain themselves, teaches and urges that those women do not sin in the following cases: first, if by desiring their own absent husband, they suffer sensual commotion or pollution; second, if they desire to experience this same pollution in themselves from ardent love of the absent husband; third, if they excite pollution in themselves by touches had with themselves, provided they refer these acts to the absent husband. The Sacred Penitentiary adds to the beloved writer in Christ: that already twice concerning this matter response had been made by this Sacred Tribunal, and acts of this kind are gravely illicit, and a confessor approving them is to be denounced. Sacr. Pen. 2 Sept. 1904.

7°. Morose delight concerning intercourse had or remotely to be had, with danger of pollution excluded, according to the common opinion is only a venial sin. - I said 1°. that it is a sin, because in this pleasure, not referred to proximate intercourse, disorder is found, since an honorable end is lacking and the genital spirits are moved in vain, at least inchoatively. I said 2°. that it is only venial, because, since intercourse is of itself licit for spouses, to be delighted concerning it cannot be gravely illicit. Indeed, neither desire concerning future intercourse nor approval concerning past intercourse is of itself illicit, unless it is referred to the pleasure of intercourse alone; because desire or joy concerning a licit thing cannot be illicit. - Cf. S. Alphonsus, n. 937. - Voit, n. 1207.[1]

[1] Cf. Addenda, p. 1116, n. 67.

§ II. On Onanism in Particular

Onanism consists in this, that the man, after intercourse has been begun, withdraws himself before emission and pours out the semen outside, in order to impede generation. It takes its name from Onan, the second son of the patriarch Judah, who after his brother Her had died, according to custom, was compelled to take his widow Tamar, so that he might raise up seed for his brother. Moreover Onan, as is had in Gen. xxxviii, 9 and 10: "Entering to the wife of his brother, he poured out the seed upon the earth, lest children be born in the name of his brother. And therefore the Lord struck him, because he did a detestable thing."

I say. Voluntary onanism is always a mortal sin, as something grave against nature; and therefore it can never be licit for spouses. The reason is both because it is repugnant to the primary end of Marriage and of itself tends toward the extinction of society, and because it was strictly prohibited by the supreme Legislator and Author of nature, as is drawn from the text of Genesis just related. Besides, when there was a question concerning the theological note of this proposition: "For honorable reasons it is licit for spouses to use marriage in that mode in which Onan used it," response was made by the S. Penitentiary on the day 21 May 1851, that the said "proposition is scandalous, erroneous, and contrary to the natural law of Marriage."

I said voluntary onanism; for a wife can be excused from sin if for a grave cause she renders the debt to an onanist husband, provided internally she does not consent to his sin, and externally shows her repugnance by serious admonitions or other signs of displeasure. The reason is that she is engaged in a licit thing and uses her right, of which she cannot be deprived on account of the malice of the man; nor does she properly cooperate with the sin of another, since she has herself only passively, and the intrinsically evil action consists only in the act of the man then withdrawing against the order of nature. This same thing was declared on the day 8 June 1842 by the S. Penitentiary in the following words:

"Since the whole disorder of the act proceeds from the malice of the man, who, instead of consummating, withdraws himself and pours out outside the vessel; therefore if the woman after due admonitions accomplishes nothing, and the man insists by threatening blows or death, she herself will be able, as approved theologians teach, simply to permit it without sin, and this from a grave cause which excuses her; since charity, by which she is bound to impede that, does not oblige with so great an inconvenience."

But in no way can a woman acquiesce to an onanist husband who would wish to use an instrument called "male protector," because intercourse of this kind would not only be completed, but also begun, against the law of nature. - Cf. Lehmkuhl, vol. 5, n. 858. To a man using such instruments the woman must oppose that resistance which a virgin opposes to an invader. It is most difficult in these frauds against nature to have or find good faith as companion of the act; for the matter is so alien to nature itself; surely the case will be rare in which bad faith is lacking.

You Will Resolve. 1°. The woman sins gravely who induces the man to abuse marriage, even indirectly or tacitly, for example, by complaining about the number of offspring, about the labors of childbirth or of the education of children, or by repeatedly saying that she will die in the next childbirth, etc.

2°. Likewise the woman sins gravely by internally consenting to the detestable action of the man, even if externally she shows repugnance. Yet if she admits an inefficacious complacency not concerning the evil work in itself, but only concerning the effect that follows, say concerning immunity from the inconveniences of gestation or from the dangers of childbirth, of itself she does not sin, although complacency of this kind sometimes does not lack danger. But one must altogether beware lest, by manifestation of it made to the man, she render him more spirited for sinning more freely and more often.

3°. The wife is bound, at least ordinarily, to warn the onanist man concerning the obligation of acting rightly, and, insofar as it is in her, to turn him away from the perverse manner of acting. Nor does it suffice that she has warned him once, but sometimes she must repeat the admonitions, unless she is certain that a new admonition will profit nothing. Nevertheless then also she must make her repugnance manifest in some way.

4°. It will also be the office of the wife to move the husband by blandishments, various signs of love, prayers, and exhortations to completing the act rightly or abstaining from it altogether, because experience establishes that very many onanist men, allured by their wives, have betaken themselves to a better fruit. Today especially wives can more easily induce onanist husbands to abstain, since this abstinence, as will be said at once, ought not to be long-lasting.

5°. Various means are nowadays applied for impeding the generation of offspring, such as an envelope into which the man emits semen, or a sponge, or an occlusive pessary, or washing, or infusion of a killing liquid, or any other method exercised either before the act, or in the act, or after the act toward that most evil end. All these put on the character and most grave malice of Onanism; for they are repugnant to the very primary end of marriage, and are against nature. Onanism or voluntary sterility thus induced is surely always grave sin: generally speaking, it has arisen from a materialistic and pagan conception of life; therefore the doctrine of the Christian faith must be opposed to it: our life is a way to the fatherland, and the time of probation must be passed in observing the very laws of God. The joys and burdens of Marriage must be borne holily, and confidence in Divine Providence must be increased. Numerousness of offspring is a sign of divine blessing; the curse of God is upon those violating his law. Let mothers trust in God, to whose glory new offspring is born. - Cf. *Instruction des Eveques de Belgique sur l'Onanisme*. *Nouv. Rev. Theol.*, vol. 41, p. 616.

Questions

Question 1. What must be said concerning those who, so that no offspring may be born to them, abstain from the use of marriage for some days in each month?

Resp. As regards the truth of the matter, it must be said that today it is admitted, but not without exceptions, and consequently not with absolute certitude, that the time apt for conception is that which immediately precedes or follows the menstrual flow, when, namely, it appears both that a mature ovum is present and that whatever is necessary for the formation and nutrition of the fetus has been prepared by nature. Wherefore physiologists say, and practice often confirms it, that ordinarily no offspring arises if spouses have intercourse only during those fourteen or fifteen days which are more distant from the menstrual flow.

But as regards liceity, it certainly does not appear why limited abstinence of this kind from marital intercourse is to be condemned. For if it is licit to abstain altogether, why will it not be licit to abstain

for fifteen days in each month? - Nor should you say that the sin consists in the end which is intended, namely the lack of offspring; for it is answered that to wish to lack offspring is not evil in itself and of itself, but only then, when this desire is expressed by a positive manner of acting by which offspring is either impeded from being conceived, or once conceived is destroyed. Besides, concerning this question every doubt has been removed by a recent response of the S. Penitentiary, which has itself thus: "Spouses using marriage in the aforesaid mode are not to be disturbed, and a confessor can insinuate the opinion concerning which there is question, yet cautiously, to those spouses whom by another reason he has vainly attempted to lead away from the detestable crime of onanism." - Cf. *Nouvelle Revue Theologique*, vol. 13, pp. 458 and seq. - Baller. note (a), p. 917. - Capellmann, p. 89.

Question 2. Is a spouse bound to render the debt to a co-party who is infected with a horrible disease?

Resp. If he fears that grave harm will arise to himself from it, he is not bound; but if no harm or almost no harm will arise, of itself he is bound. The reason for the first: because the infected party does not have the right. For his power over the body of the other is not as to those things which are for the preservation of the individual, but as to those things which are ordained to the generative power. And therefore "the man is bound to render the debt to the wife in those things which pertain to the generation of offspring, with nevertheless first the safety of the person preserved." The reason for the second: because no cause excusing of itself appears. Nevertheless, although in the first case of great harm he is not bound to render, surely it would be licit to do this from conjugal love and it would often be an excellent work of charity. Indeed, even if "weak offspring is generated, it is better thus to be than not to be at all," as St. Thomas says, *Supp. in Sum. Theol.* Q. 64, a. 1, ad. 4. In this matter any prudent man will hand himself over to be healed by the hands of an honorable physician. Nor then is much to be feared for the offspring. For as Osler says, *Practice of Medicine*, p. 238: Happily it happens in by far the greater number of cases that, when the applied treatment has been perfected, the offspring comes forth immune. - Cf. *Nouv. Rev. Theol.*, v. 45, p. 611. - Wernz, v. 4, n. 256.

Warning. Extremes are to be avoided concerning the mode in which a confessor ought to conduct himself toward spouses altogether silent concerning the use of marriage. For just as it would be erroneous to assert that the confessor must never interrogate concerning this matter, so also to assert that he must always do so. Wherefore if there is a serious foundation, which indeed ought to be clear from the circumstances, that the penitent indulges in onanism and nevertheless confesses nothing, interrogations should be made, but altogether prudently and cautiously. And since, among us, this plague does not have roots so deep and universal as elsewhere, perhaps it will be better to be deficient than to abound in making questions.

Behold the golden words of the Supreme Pontiff, certainly worthy to be weighed:

"To pervert, both privately and publicly, that conformation of morals which the Church brought forth and polished, and to call human society back, with every trace of Christian wisdom and honesty gradually deleted in it, to the miserable institutions of the pagans: this is what today they will, what too many strive for, and would that it were without effect. But domestic society is proposed to the principal darts of the wicked; since it contains the beginnings and as it were seeds of the common society of men, they see that that conversion which they strive for, or rather corruption of the human community, will necessarily follow if once they have corrupted domestic institutions. Therefore, by

sanctioning the law concerning divorces, they tear away the stability of wedlock; by compelling youth to be instructed by public discipline, which for the most part is most alien to Religion, in a matter of the greatest weight, they cut away the sinews of paternal power; and, by proclaiming the shameful art of obtaining pleasure and defrauding nature, they impiously dry up the very fountain of the human race, and they defile the sanctity of the marriage-bed with most impure morals." - Letter of Benedict XV given to Rev. Fr. Matthew Crawley Boevey, 27 April 1915.

Treatise XIX. On Delicts and Penalties

Chapter I. On Delicts and Penalties in General

I say 1°. § 1. By the name of delict, in ecclesiastical law, is understood an external and morally imputable violation of law, to which there has been added a canonical sanction at least indeterminate.

§ 2. Unless something else appears from the adjuncts, those things which are said concerning delicts are applied also to violations of a precept to which a penal sanction has been annexed (Can. 2195).

A delict says three things: a violation of law; external and imputable; to which a canonical sanction has been added at least indeterminate. Therefore it is not the simple violation of any law whatever, but only of that law for whose observance provision is made by some penalty, definitely or indefinitely commemorated in the law itself. The Church, nor any human superior, burns thoughts with penalties; the adage is: no one suffers a penalty of thought. Besides, the Church, a pious Mother, does not pursue every sin whatever with her penalties, but only the graver ones, say, incontinence of clerics, homicide, simony. This violation must also be morally imputable. Surely one whose action is not imputed to him unto fault does not deserve penalty.

It must be noted that, unless something else is established, those things which are said concerning delicts are applied also to violations of a precept to which a sanction has been annexed.

Questions

Question 1. What delict is judged to be public, notorious, occult?

Resp. A delict is:

1°. Public, if it has already been divulged or has happened or is situated in such adjuncts that it can and ought prudently to be judged that it will easily be divulged;

2°. Notorious with notoriety of law, after the sentence of a competent judge which has passed into a matter judged, or after the confession of the delinquent made in judgment according to the norm of can. 1750;

3°. Notorious with notoriety of fact, if it is publicly known and committed in such adjuncts that by no tergiversation can it be concealed and by no support of law can it be excused;

4°. Occult, that which is not public; materially occult, if the delict itself lies hidden; formally occult, if its imputability does (Can. 2197).

A man outstanding in authority is killed on a public way by a wicked man, when very many men were diverting themselves there. It is simply public. In judgment he has now been marked by a capital sentence by competent authority, since he has been declared guilty of homicide and to be punished by this penalty by law. In a public tribunal before a judge he has spontaneously confessed that he is guilty of the crime. In each case it is notorious with notoriety of law. - A public usurer or concubinarian is either known to all as such or soon to be known, since the delict can neither be concealed nor excused. It is notorious with notoriety of fact. Occult is that which neither came into judgment nor was brought into the rumors of the people, and moreover is not known by such a number and quality of persons whence it ought to be public. - Titius, secretly, with no one knowing,

killed by Theodore; no one knows that homicide happened: the delict is also materially occult. Finally, when the imputability of an evil act lies hidden, then the delict is formally occult.

Question 2. In what way must one judge concerning the guilt of those who concur in a delict?

Resp. § 1. Those who by a common design of delinquency physically concur in a delict are all held guilty in the same mode, unless the adjuncts increase or diminish the culpability of someone.

§ 2. In a delict which by its nature demands an accomplice, each party is culpable in the same mode, unless something else appears from the adjuncts.

§ 3. Not only the one commanding, who is the principal author of the delict, but also those who induce toward the consummation of the delict or concur toward this in any way whatever, contract no less imputability, other things being equal, than the executor of the delict himself, if the delict would not have been committed without their work.

§ 4. But if their concurrence only rendered easier the delict which would have been committed even without their concurrence, it carries with itself lesser imputability.

§ 5. One who has fully withdrawn his influence in perpetrating the delict by opportune retraction is freed from all imputability, even if the executor nevertheless perpetrated the delict on account of other causes proper to himself; if he has not fully withdrawn it, retraction diminishes, but does not remove, culpability.

§ 6. One who concurs in a delict merely by neglecting his office is held by imputability proportioned to the obligation by which he was driven to impede the delict by his office.

§ 7. Praise of a perpetrated delict, participation in the fruits, concealment and reception of the delinquent, and other acts following a delict already fully completed can constitute new delicts, if namely they are punished by a penalty in the law; but, unless there had been agreement with the delinquent concerning those acts before the delict, they do not carry with themselves the imputability of the perpetrated delict (Can. 2209).

In this canon there is question of a very grave matter, that is, of establishing the imputability of delinquents. When several persons, willing, by common design perpetrate a delict, that is, physically concur for doing it, the existence of the delict is owed to all and each, because they are individually and all together its causes and authors. All will the delict as something intended; they do something exteriorly so that it exists as the physical effect of that which they do exteriorly. From the common action of several persons concurring together the delict has its origin. The delict is objectively one, subjectively multiple. All these are fellow-guilty, guilty in the same mode as principals. It can be that the culpability of one is greater because he acts with greater hatred toward another, for example, in homicide, or because the consanguineous relative of one is killed.

In adultery and other delicts which import complicity, each party is culpable in the same mode, unless something else appears from the adjuncts. And thus the penalty established by reason of this crime strikes each.

The executor and the one commanding hold the first places among delinquents; nevertheless those also are truly regarded as authors to whose concurrence the consummation is owed and without which the delict would not have been committed. For in this case the matter is also imputed to them,

as, for example, superiors of regular men introducing women into enclosure; a physician instructing a pregnant girl how an abortion may be done, giving medicine to her who knows nothing concerning these crimes, furnishing care to her, say, in a private hospital, etc., when otherwise the woman would have borne offspring in the natural mode. The perfection of every action is its consummation in its own order; therefore all who induce toward this, thus by ordering, or who concur in any way whatever, thus the aforesaid physician procuring abortion in that hospital, all, other things being equal, have the same imputability.

If the delict would have been committed without their cooperation, and the concurrence given only rendered the delict easier, they have lesser imputability.

Besides, one who has opportunely withdrawn his influence, say, for example, not only by retracting the counsel but also by adding reasons valid against his counsel previously given, loses all imputability; but if the retraction was not full, neither was the imputability full, but diminished according to the mode of retraction.

When someone was obligated by his office to avoid a delict, and by neglecting his office concurred toward it, his imputability is measured by the obligation by which he was bound to impede it.

Favor furnished to a delinquent after the delict, reception of the thing, concealment, defense, protection, can constitute new delicts; but unless there had been an agreement concerning these things before the delict was committed, they do not carry with them the culpability of the delict itself to be imputed.

Question 3. By how many names is penalty called?

Resp. § 1. Penalty is called:

1°. Determinate, if it has been taxatively established in the law or precept itself; indeterminate, if it has been left to the prudent judgment of the judge or Superior, whether by preceptive or facultative words;

2°. *Latae sententiae*, if a determinate penalty has been so added to the law or precept that it is incurred by the very fact of the committed delict; *ferendae sententiae*, if it must be inflicted by the judge or Superior;

3°. *A iure*, if a determinate penalty is established in the law itself, whether it is *latae sententiae* or *ferendae*; *ab homine*, if it is brought by way of a peculiar precept or through a condemnatory judicial sentence, even if established in law; wherefore a penalty *ferendae sententiae*, added to a law, before the condemnatory sentence is only *a iure*, afterward both *a iure* and *ab homine*, but is considered as *ab homine*.

§ 2. A penalty is always understood as *ferendae sententiae*, unless it is expressly said to be *latae sententiae*, or to be contracted by the fact itself or by the law itself, or unless other similar words are applied (Can. 2217).

In every penal law a penalty, or privation of some good, is established against the delinquent. But that penalty is either determined by the law itself, for example, a censure reserved to no one, or suspension, etc.; or it is left to the judgment of the judge, either by prescribing that he impose some penalty, or by leaving to his judgment to punish or dissemble. Although the penalty in the law is

determinate, nevertheless the mode by which it strikes the subject varies; for either he incurs it by the very fact of the delict, and it will be a penalty *latae sententiae*, or the law affirms that the penalty must be inflicted by the judge or superior, and it will be a penalty *ferendae sententiae*.

If a determinate penalty is established in the law itself, whether it is *latae* or *ferendae sententiae*, it is called *a iure*; therefore a determinate penalty which is called *a iure* is either *latae* or *ferendae sententiae*. That is called *ab homine* which is brought by way of a particular precept or through a condemnatory sentence of the judge, even if it has been established in law; wherefore a penalty *ferendae sententiae* before the condemnatory sentence is held only *a iure*; after the condemnatory sentence, *a iure* and at the same time *ab homine*, but it is considered as *ab homine*. This matter is very much to be noted, for in this division attention is paid especially to the mode of binding and loosing the bond; moreover a censure or penalty contained in law as *ferendae sententiae*, inflicted through a condemnatory judicial sentence, thereafter remains reserved to the superior of the judge or to the judge himself. Moreover, a penalty in law is always held as *ferendae sententiae* unless by the words by the fact itself or by the law itself, or equivalent words, something else is said. - Cf. Wernz, v. 6, p. 152, n. 16.

Question 4. Who punishes those holding supreme civil principality, Cardinals, Legates of the Holy See? Are Cardinals and Bishops comprehended by penal law?

Resp. § 1. A penalty can be inflicted or declared only by the Roman Pontiff upon those of whom in can. 1557, § 1.

§ 2. Unless expressly named, Cardinals of the Holy Roman Church are not comprehended under a penal law, nor Bishops under penalties *latae sententiae* of suspension and interdict (Can. 2227).

Hence those holding supreme principality, and their sons and daughters, and those to whom there is a right of succeeding in the principality, Cardinals, Legates of the Apostolic See, and in criminal matters Bishops, even titular Bishops, can be punished or declared subject to penalties by the Supreme Pontiff alone. - Cf. Can. 1557, § 1.

Question 5. Does ignorance excuse from penalties?

Resp. § 1. Affected ignorance, whether of the law or of the penalty alone, excuses from no penalties *latae sententiae*, even if the law contains the words of which in § 2.

§ 2. If the law has the words: has presumed, has dared, knowingly, studiously, rashly, has acted deliberately, or other similar words which demand full cognition and deliberation, any diminishment of imputability, whether on the part of the intellect or on the part of the will, exempts from penalties *latae sententiae*.

§ 3. If the law does not have those words:

1°. Ignorance of the law, or even of the penalty alone, if it was crass or supine, exempts from no penalty *latae sententiae*; if it was not crass or supine, it excuses from medicinal penalties, but not from vindicative penalties *latae sententiae*;

2°. Drunkenness, omission of due diligence, weakness of mind, impetus of passion, if, notwithstanding the diminishment of imputability, the action is still gravely culpable, do not excuse from penalties *latae sententiae*;

3°. Grave fear, if the delict inclines toward contempt of the faith or of ecclesiastical authority or toward public harm of souls, in no way exempts from penalties *latae sententiae*.

§ 4. Although the guilty person is not held by censures *latae sententiae* according to the norm of § 3, n. 1, this nevertheless does not impede him, if the matter bears it, from being affected by another suitable penalty or penance (Can. 2229).

Affected ignorance is ignorance directly willed and studiously acquired or not rejected; the end is that which someone regards, so conducting himself that he remains in ignorance. Such a one strives that knowledge of the law not be acquired.

Not likewise one who labors under crass ignorance, which does not arise, as such, from the fact that someone directly wishes not to acquire knowledge or to retain ignorance, but because for another cause, on account of love of leisure, weariness of study, he is excessively negligent in fulfilling the obligation of learning the law and driving away ignorance. Therefore this ignorance, excessive negligence of study, is crass, and thence the man himself is crassly ignorant, because, supine, he lies as if content in the mire of ignorance. This is indirectly voluntary ignorance.

Surely he is not worthy of immunity and liberty from a penalty conjoined with violation of the law who acts precisely so that he may not know the law. Such a one esteems the law itself little, indeed least of all. Wherefore one acting from affected ignorance is equated with a man acting knowingly when it is a question of penalties *latae sententiae*; from which, therefore, this ignorance does not excuse, not even when there are in the law the words knowingly, etc., as in § 2.

But when the words of the law demand a perfect voluntary, namely full cognition and deliberation, any diminishment of imputability arising from the part of the intellect or from the part of the will exempts from a penalty *latae sententiae*. In other words, the very extreme things required by the law must be verified.

When the law does not have the words has presumed, etc., ignorance whether of the law or of the penalty alone does not excuse, if it was crass and supine, from any penalty *latae sententiae*; such ignorance, so gravely and altogether culpable, is not worthy to be granted immunity; it is surely a certain great contumacy, and no cause is present for exempting a man who applied either no diligence or very slight diligence so that he might know what he is bound to know.

But it is otherwise if it was not crass, and it is a question of medicinal penalties; for to what end is a penalty or medicine for one who is ignorant? and therefore, since a penalty which he does not know does not amend him, in those ignorant persons who are not crassly, although gravely, ignorant, an excuse is present: "that dangers of souls may be met, we do not will those ignorant to be bound by sentences brought by the statutes of any Ordinaries whatever, provided nevertheless their ignorance was not crass or supine" c. 2, I, 2, in VI°. But the same gravely culpable ignorance does not excuse from vindicative penalties; for such a delict is voluntary in the cause and therefore imputable, and the man by transgressing the law placed the cause of the penalty, which can by law be brought upon the unwilling. But in general, although the guilty person is not entangled in censures *latae sententiae*, let him be affected by another suitable penalty or penance.

By equal reason fear does not excuse from penalties *latae sententiae* when the delict inclines toward contempt of the faith or of the Church or toward public harm of souls.

Question 6. By what penalty are accomplices or concurrents punished, although only one is named in the law?

Resp. By the same penalty by which that one is held are held those physically concurring in a delict by common design, partners in a delict demanding complicity, those commanding, inducing, and concurring toward the consummation of a delict which otherwise would not have been committed. - Cf. Can. 2231.

Question 7. When does a penalty *latae sententiae* hold the delinquent?

Resp. § 1. A penalty *latae sententiae*, whether medicinal or vindicative, holds the delinquent who is conscious to himself of the delict, by the fact itself, in each forum; nevertheless before a declaratory sentence, the delinquent is excused from observing the penalty as often as he cannot observe it without infamy, and in the external forum no one can exact from him observance of the same penalty, unless the delict is notorious, with the prescription of can. 2223, § 4 remaining firm.

§ 2. A declaratory sentence retrotracts the penalty to the moment of the committed delict (Can. 2232).

Question 8. Can the Ordinary remit penalties *latae sententiae* established by common law?

Resp. § 1. In public cases the Ordinary can remit penalties *latae sententiae* established by common law, with the exception of:

1°. Cases brought to the contentious forum;

2°. Censures reserved to the Apostolic See;

3°. Penalties of inability for benefices, offices, dignities, functions in the Church, active and passive voice, and privation of the same, perpetual suspension, infamy of law, privation of the right of patronage and of a privilege or grace conceded by the Apostolic See.

§ 2. But in occult cases, with the prescription of can. 2254 and 2290 remaining firm, the Ordinary can remit, by himself or through another, penalties *latae sententiae* established by common law, with the exception of censures reserved in a most special or special mode to the Apostolic See (Can. 2237).

Question 9. Can a penalty validly be remitted to one present or absent?

Resp. § 1. A penalty can validly be remitted to one present or absent, absolutely or under condition, in the external forum or only in the internal.

§ 2. Although a penalty can also be remitted orally, nevertheless, if it was inflicted in writing, it is expedient that its remission also be conceded in writings (Can. 2239).

Question 10. Can any confessor in more urgent cases suspend the obligation of a vindicative penalty?

Resp. § 1. In more urgent occult cases, if from observance of a vindicative penalty *latae sententiae* the guilty person would betray himself with infamy and scandal, any confessor can, in the sacramental forum, suspend the obligation of observing the penalty, with the burden enjoined of recurring at least within a month by letter, and through the confessor if that can be done without grave inconvenience, the name having been suppressed, to the S. Penitentiary or to a Bishop endowed with the faculty, and of standing by his mandates.

§ 2. And if in some extraordinary case this recourse is impossible, then the confessor himself can concede a dispensation according to the norm of can. 2254, § 3 (Can. 2290).

Question 11. How manyfold is infamy?

Resp. Twofold:

§ 1. Infamy is either of law or of fact.

§ 2. Infamy of law is that which is established in cases expressed by common law.

§ 3. Infamy of fact is contracted when someone, on account of a perpetrated delict or on account of depraved morals, has lost good estimation among upright and grave faithful, concerning which judgment belongs to the Ordinary.

§ 4. Neither affects the consanguineous or affine relatives of the delinquent, with the prescription of can. 2147, § 2, n. 3 remaining firm (Can. 2293).

Question 12. In what way does infamy, whether of law or of fact, cease?

Resp. Infamy of law ceases only by dispensation conceded by the Apostolic See; infamy of fact ceases when good estimation among upright and grave faithful, all adjuncts having been weighed and especially through lasting amendment of the matter, has been recovered, in the prudent judgment of the Ordinary (Can. 2295).

Chapter II. On Censures Considered in General

Article I. On the Nature, Division, and Conditions of Censures

Censure is commonly defined: A spiritual and medicinal penalty, by which a baptized man, delinquent and contumacious, is deprived by ecclesiastical power of the use of certain spiritual goods. It is called 1°. a penalty, because it supposes fault; 2°. spiritual, both because it is brought by spiritual power for the spiritual utility of Christians, and because it takes away spiritual goods primarily and immediately, temporal goods only secondarily and mediately; 3°. medicinal, because regularly it is brought and ought to be brought for this end, that the soul may bring itself back to better fruit; nevertheless accidentally, when this is expedient, it is brought even against him of whose conversion there is despair; for although it is a medicine, it is also a penalty, and therefore, when the primary end of correction ceases, secondary ends are still obtained, namely that the guilty person be chastised and fear be instilled into others; 4°. a baptized man, because those who have not been baptized are not subject to the power of the Church; but power is exercised over subjects; 5°. delinquent and contumacious, because a penalty is inflicted only on a delinquent, but medicine ought not to be offered except to those whose contumacy needs such a remedy; 6°. he is deprived of the use of certain spiritual goods, namely of goods which fall under the power of the Church, such as public prayers, sacraments, etc. - Hence censure differs 1°. from deposition and degradation, which are not medicinal nor for a time, but only penal and perpetual; 2°. from irregularity, which can be contracted also on account of a mere defect of mind or body without any fault, and therefore of itself is not a penalty, but only a canonical impediment.

The Code gives nearly the same definition.

§ 1. Censure is a penalty by which a baptized man, delinquent and contumacious, is deprived of certain spiritual goods, or goods annexed to spiritual goods, until, withdrawing from contumacy, he is absolved.

§ 2. Let censures, especially *latae sententiae*, above all excommunication, not be inflicted except soberly and with great circumspection (Can. 2241).

Censures are distinguished in many ways, namely:

1°. Excommunication, suspension, interdict, concerning which we shall treat specifically. - Nevertheless it must be noted that excommunication is always a censure; but suspension and interdict take on the nature sometimes of a censure, sometimes of a vindicative penalty. But you will recognize that they are vindicative penalties both if they are brought on account of a merely past delict, and if they are inflicted perpetually, or even for a determinate time, for example for two or three months; for these things are a certain indication that not the amendment of the guilty person, but his punishment, is intended.

2°. § 1. Some censures are reserved, others non-reserved.

§ 2. A censure *ab homine* is reserved to him who inflicted the censure or pronounced the sentence, and to his competent Superior, or successor, or delegate; but of censures reserved *a iure* some are reserved

to the Ordinary, others to the Apostolic See.

§ 3. Of those reserved to the Apostolic See, some are reserved simply, others in a special mode, others in a most special mode.

§ 4. A censure *latae sententiae* is not reserved unless this is expressly said in the law or precept; and in doubt whether of law or of fact, the reservation does not press (Can. 2245).

3°. Notorious or occult censures, according as it is publicly established that someone has incurred them on account of a fact which is so known that now it cannot any longer be concealed; or otherwise.

4°. Just or unjust censures; valid or invalid; according as the superior has consulted justice, truth, and law, or not, in imposing the censure.

The conditions required for the validity of censures are that the sin, on account of which it is inflicted, be mortal, external, consummated, not merely past, and that it be conjoined with contumacy.

§ 1. By censure only an external, grave, consummated delict, conjoined with contumacy, is punished; but censure can also be brought against unknown delinquents.

§ 2. If there is question of censures *ferendae sententiae*, he is contumacious who, notwithstanding the admonitions of which in can. 2233, § 2, does not desist from the delict or refuses to do penance for the perpetrated delict with due reparation of damages and scandal; but for incurring a censure *latae sententiae* the transgression of the law or precept to which a penalty *latae sententiae* is attached suffices, unless the guilty person is excused from this by a legitimate cause.

§ 3. Contumacy must be said to have ceased when the guilty person has truly repented of the committed delict and at the same time has given congruous satisfaction for damages and scandal, or at least has seriously promised it; but to judge whether the penance is true, whether the satisfaction is congruous or the promise of the same serious, or not, belongs to him from whom absolution from the censure is sought (Can. 2242).

Questions

Question 1. In what way is a censure *latae sententiae* discerned from a censure *ferendae sententiae?*

Resp. Generally a censure will be *latae sententiae*: 1°. if the words by which it is expressed exclude the action or ministry of any other, for example, if it is brought by these words: by the fact itself - by the law itself - by that very thing - without any other sentence; 2°. if the words are of the present or past time, for example, we excommunicate - we have excommunicated, etc.; 3°. if the words are of the imperative mode, for example, let him fall into excommunication - let him remain suspended - interdicted, etc.

But a censure must be held as *ferendae sententiae*: 1°. if the words by which it is brought demand the work and ministry of another, for example, let him be excommunicated by the Bishop; 2°. if they are only threatening, for example, we prescribe under threat of anathema, unless something else is gathered from the adjuncts; 3°. if they express future time, for example, he will be excommunicated - he will be excommunicated, etc. - Cf. St. Alphonsus, nn. 7 and 8.

Question 2. Must he be judged to have incurred a censure who doubts whether he has incurred it?

Resp. Negatively, whether he doubts whether he has gravely offended, or whether the case falls under the censure.

§ 1. In penalties the more benign interpretation must be made.

§ 2. But if it is doubted whether a penalty, inflicted by a competent Superior, is just or not, the penalty must be observed in both forums, except the case of an appeal in suspensive effect (Can. 2219).

Question 3. Is someone bound by a censure which he knows to be manifestly unjust?

Resp. Negatively, whether the superior, relying on a false presumption, has condemned an innocent man as guilty, or whether he has omitted legal forms, or has exceeded the limits of jurisdiction. Nevertheless the danger of hallucination in one's own cause must be carefully avoided; and if it is not publicly established that the censure is null, this must altogether be observed in order to avoid scandal. - Cf. St. Alphonsus, n. 68.

Question 4. Does ignorance excuse from censure?

Resp. Ignorance of fact certainly excuses, namely when someone does not know that he is placing an act prohibited under censure. Thus, for example, if someone strikes a priest, thinking him to be a layman, he does not incur the censure brought against strikers of clerics, and the reason is that the censure ought to be known to the sinner, so that he may be contumacious. - Ignorance of ecclesiastical law prescribing or prohibiting something under censure also excuses. This is clear from the same reason just given; for he cannot be called contumacious against the Church who does not know her law, as is clear from canon law, in VI°, lib. 1, tit. 2, de Constit., cap. 2, where it is said: "We do not will the ignorant to be bound, provided nevertheless that the ignorance was not crass or supine." - Cf. St. Alphonsus, nn. 43 and following; Can. 2242, § 2.

Question 5. Does vincible ignorance excuse from censure?

Resp. Affected ignorance excuses from none. If the law has the words: has presumed, has dared, any diminishment of imputability excuses. If the law does not have those words, crass or supine ignorance does not excuse; but that which is not crass or supine excuses. - Cf. Can. 2229.

Question 6. Does grave fear excuse from censure?

Resp. Affirmatively, speaking generally, and the reason is that ecclesiastical penal laws do not seem to press with such rigor; for since ecclesiastical laws themselves, if very grave fear presses, cease to oblige, the penalty itself annexed to them must necessarily fall.

§ 3. Grave fear, if the delict inclines toward contempt of the faith or of ecclesiastical authority or toward public harm of souls, in no way exempts from penalties *latae sententiae* (Can. 2229, n. 3). - Cf. Can. 2205.

Question 7. Is it required that admonition of the delinquent precede the censure?

Resp. No admonition is required for censures brought *a iure*, because the law itself, brought and known, sufficiently admonishes subjects.

§ 1. No penalty can be inflicted unless it is certainly established that the delict has been committed and has not been legitimately prescribed.

§ 2. Although this is legitimately established, if there is question of inflicting a censure, let the guilty person be reprehended and admonished to withdraw from contumacy according to the norm of can. 2242, § 3, with a congruous time for returning to his right mind being given, if in the prudent judgment of the same judge or Superior the case bears this; if contumacy persists, the censure can be inflicted (Can. 2233).[1]

[1] Cf. Addenda, p. 1106, n. 48.

Question 8. Does he incur a censure if it repents him of the fact which he placed before the consummation, or before the effect follows?

Resp. He does not incur it if he was able to prevent the effect and did prevent it. But if he was not able to prevent the effect, although he tried, it is controverted: those affirming say that contumacy is in this, that someone knowingly and willingly violated the law, nor does contrition impede the effect. But others deny it, because the censure is brought against the contumacious; but this man, when the effect actually follows, is not contumacious; therefore censure cannot be brought upon him; concerning which opinion D'Annibale, n. 333, says: "Which either is the truer, for to what purpose is medicine when the disease has been healed? Or it is the more equitable." And in a note, applying this opinion, which from St. Alphonsus he made his own, he says: "As, behold, if he gave an abortive to a girl, or to someone counsel, a mandate of killing; and before she expelled, or this one killed, it repented him of the fact." - Cf. Ferreres, 8°, n. 1189, 3°.

Article II. On the Principle or Author of Censures

I say. § 1. It is the native and proper right of the Church, independent of any human authority, to coerce delinquents subject to her by penalties both spiritual and also temporal.

§ 2. But let there be kept before the eyes the admonition of the Council of Trent, sess. XIII, de ref., cap. 1: "Let Bishops and other Ordinaries remember that they are shepherds, not strikers, and that it is fitting for them so to preside over those subject to them that they do not dominate them, but love them as sons and brothers, and labor by exhorting and admonishing to deter them from illicit things, lest, when they have offended, they be compelled to coerce them with due penalties; nevertheless, if it should happen that they sin in anything through human frailty, that precept of the Apostle must be observed by them, that they reprove, entreat, rebuke them in all goodness and patience, since benevolence toward those to be corrected often does more than austerity, exhortation more than threat, charity more than power; but if, on account of the gravity of the delict, there shall be need of the rod, then rigor is to be employed with meekness, judgment with mercy, severity with mildness, so that discipline, salutary and necessary for peoples, may be preserved without harshness, and those who have been corrected may be amended, or, if they refuse to return to their right mind, others, by the salutary example of punishment upon them, may be deterred from vices" (Can. 2214).

Who are adorned with this power is clear from the canon:

§ 1. Those who are strong with the power of bringing laws or imposing precepts can also attach penalties to a law or precept; those who have only judicial power can only apply legitimately established penalties according to the norm of law.

§ 2. The Vicar General without a special mandate does not have the power of inflicting penalties (Can. 2220).

Questions

Question 1. Can heretical, excommunicated, and suspended Bishops validly bring censures?

Resp. Affirmatively, if they are occult heretics, excommunicated, or suspended. The reason is that the Church, on account of the common good, does not take from them the use of jurisdiction. But one must respond negatively if they are excommunicated to be avoided, or not tolerated, because then they are deprived of all ecclesiastical jurisdiction. But what if indeed they are notorious but not to be avoided? Or if a declaratory or condemnatory sentence has been brought against them? - Cf. Can. 2264, below, n. 960.

Question 2. Can a Bishop bring a censure if he is outside the diocese?

Resp. Affirmatively, if the censure is brought by way of precept or statute for guarding against future crimes, or by way of sentence, which nevertheless does not need cognition of the cause and judicial formality, or, even if it needs judicial formality, nevertheless permission has been given by the Ordinary of the territory. - But one must respond negatively if the censure must be brought with judicial formality, and the Ordinary of the place denies permission. Except, unless the Bishop has been expelled by force from his own territory; for then permission asked from the Ordinary of the place suffices, even if not obtained. - Cf. Schmalzgr., lib. 5, tit. 39, n. 26; St. Alphonsus, n. 21; Can. 201, §§ 2, 3; 1637.

Question 3. Conversely, can a Bishop existing in his own diocese bring a censure against a subject existing outside the diocese?

Resp. Affirmatively, if there is question of a crime committed in his own diocese. The reason is that otherwise the delinquent could be punished by no one; and although he has gone away, nevertheless he does not cease to be subject to the jurisdiction of his own Bishop. Nor does it stand in the way that citation cannot be made outside the territory. Although after the delict the guilty person has departed from the place, the judge of the place has the right of citing him to appear and of bringing sentence against him. Indeed the Bishop can bring a censure against a subject delinquent outside the diocese, if there is question of a matter pertaining to his own diocese; thus clerics who, ordered to come to the Synod, do not obey can be excommunicated; but otherwise, at least more probably, if the crime were consummated outside the territory, unless the discussion is of a censure brought against someone by way of special precept for preventing crime, as St. Alphonsus, n. 23, more probably teaches, and Laymann confirms with valid reasons, lib. 1, tract. 5, part. 1, cap. 4, n. 7. Can. 1717, § 2; 1561; 1566.

Question 4. Can a Bishop bind by censure an alien subject delinquent in his own diocese?

Resp. Affirmatively, and the reason is that every delinquent obtains the forum of the place in which he offends. Thus from canon law, lib. 2, tit. 2, *De foro competenti*, cap. 3. But although the Bishop more probably cannot bring a censure against a sojourner before admonition, nevertheless he can after he has offended in the place and he has cited him. Then by reason of the delict the Bishop can punish the sojourner when that delict is prohibited by ecclesiastical law of common law under excommunication or other penalties to be inflicted by the ecclesiastical judge. But a sojourner cannot

be inflicted with penalties while he is traveling, whether he has violated laws of his own or of another diocese, for while staying outside his own diocese he is not obliged by the particular laws of his diocese, nor by the laws of this diocese, as is clear from what was said on Laws, n. 80, Q. 3°. - Cf. St. Alphonsus, n. 26; and on the Sacrament of Penance, n. 591. - Cf. Can. 14, § 1.

Article III. On the Subject of Censures

I say 1°. The subject of censure can be only a baptized man, capable of reason, and a subject. Therefore 1°. he must be baptized, because, according to the Apostle, the Church does not judge concerning those who are outside; 2°. capable of reason, because censure is ordered to the correction of the delinquent, which certainly does not have place in him who lacks the use of reason; 3°. a subject, because censure is an act of jurisdiction, which cannot be exercised except over subjects.

I say 2°. Those under puberty are excused from penalties *latae sententiae*, and are to be corrected rather by educative punishments than by censures or other more grave vindicative penalties; but those of puberty who have induced them to violate the law or have concurred with them in a delict according to the norm of can. 2209, §§ 1-3, themselves indeed incur the penalty established by law (Can. 2230).

Among those under puberty, on account of defect of age, rigor must be tempered with meekness. c. 60, X, v. 39. In children much is usually left alone which, in others of more advanced age, human laws say must be punished more severely; in them sins seem not to be punished in the same way as in adults. But those of puberty who induce them to violate the law, or physically concur with them by common design, or join themselves to them in a delict which demands an accomplice, or as those commanding, or inducing toward the consummation of the delict or concurring toward it, themselves incur the penalty.

Questions

Question 1. Are Cardinals and Bishops subject to censures?

Resp. § 2. Unless expressly named, Cardinals of the Holy Roman Church are not comprehended under a penal law, nor Bishops under penalties *latae sententiae* of suspension and interdict (Can. 2227).

Question 2. Can exempt Religious be bound by episcopal censures by the Bishop of the place?

Resp. Affirmatively, they can be punished by the Ordinary of the place in all things in which they are subject to him. - Cf. Can. 619.

Question 3. Can the subject of censure be an entire community?

Resp. § 2. Excommunication can affect only physical persons, and therefore if at any time it is brought against a moral body, it is understood to affect the individuals who have concurred in the delict; interdict and suspension can affect also the community (Can. 2255).

Question 4. Can someone be bound by several censures at the same time?

Resp. § 1. Not only a censure of diverse species, but even a censure of the same species, can be multiplied in the same subject.

§ 2. A censure *latae sententiae* is multiplied:

1°. If diverse delicts, each of which carries a censure with itself, are committed by the same or by distinct action;

2°. If the same delict, punished by censure, is repeated several times so that there are several distinct delicts;

3°. If a delict, punished by diverse censures by distinct Superiors, is committed once or several times.

§ 3. A censure *ab homine* is multiplied if several precepts or several sentences, or several distinct parts of the same precept or sentence, each inflict its own censure (Can. 2244).

Question 5. How is the subject of censure to be interpreted?

Resp. Strictly; a censure brought against the people does not strike the clergy, nor conversely does one brought against the clergy strike the people; one brought against clerics does not strike Regulars who are not clerics; one brought against Regulars holds only them and not other religious. - Cf. D'Annibale, n. 325.

Question 6. What is the law concerning censures to be reserved?

Resp. § 1. Let no censure be reserved unless attention has been paid to the peculiar gravity of the delicts and the necessity of more suitably providing for ecclesiastical discipline and of healing the consciences of the faithful.

§ 2. Reservation receives a strict interpretation.

§ 3. The reservation of a censure impeding the reception of the Sacraments imports the reservation of the sin to which the censure is annexed; but if someone is excused from the censure or was absolved from it, the reservation of the sin completely ceases (Can. 2246).

Question 7. Can the Ordinary bring a censure reserved to himself against a delict to which a censure reserved to the Apostolic See is attached?

Resp. Negatively; § 1. If a censure is reserved to the Apostolic See, the Ordinary cannot bring another censure reserved to himself against the same delict (Can. 2247).

Question 8. What is the law with relation to the reservation of censure in a particular territory?

Resp. § 2. Reservation of censure in a particular territory does not exert its force outside the limits of that territory, even if the censured person goes out of the territory to obtain absolution; but a censure *ab homine* is reserved everywhere, so that the censured person can nowhere be absolved without the due faculties (Can. 2247).

Question 9. If a confessor, ignorant of the reservation, absolves a penitent from censure and sin, is the absolution of the censure valid?

Resp. The absolution of the censure is valid, provided it is not a censure *ab homine* or a censure reserved in a most special mode to the Apostolic See (Can. 2247, § 3). - Cf. S. Off., 11 May, 1892.

Article IV. On Absolution from Censures

I say 1°. Censures are not loosed by the repentance alone of the delinquent or by obedience toward the mandates of the Church, nor by the death of him who brought the censure; but absolution

imparted by a legitimate judge or superior is necessary.

§ 1. Any censure, once contracted, is removed only by legitimate absolution.

§ 2. Absolution cannot be denied as soon as the delinquent has withdrawn from contumacy according to the norm of can. 2242, § 3; but he who absolves from a censure can, if the matter bears it, inflict for the perpetrated delict a congruous vindicative penalty or penance.

§ 3. A censure, removed by absolution, does not revive, except in the case in which the burden imposed under penalty of reincidence has not been fulfilled (Can. 2248).

I say 2°. Neither from censures reserved *a iure*, nor from censures *ab homine* brought by a particular sentence, can simple confessors absolve, but only 1°. he who brought censures of this kind; 2°. his superior; 3°. his successor; 4°. another delegated by any one of these. The reason is that it belongs to him to absolve whose it is to bind. - But any confessor can absolve from censures *a iure* which are not reserved to the Pope or to the Bishop. - Cf. St. Alphonsus, nn. 70 and 72.

I say 3°. Any priest, even one not approved, can absolve from any censure those who are placed in the article of death. - Cf. below, Q. 9.

I say 4°. He is said to absolve in the internal forum or forum of conscience to whom the Superior has conceded the faculty of absolving, with the right of taking cognizance of that delict in the external forum and of imposing a penalty and satisfaction for it remaining safe.

If absolution of censure is given in the external forum, it affects both forums; if in the internal forum, the absolved person, scandal having been removed, can hold himself as such even in acts of the external forum; but unless the concession of absolution is proved or legitimately presumed in the external forum, the censure can be pressed by Superiors of the external forum, whom the guilty person must obey, until absolution shall have been obtained in the same forum (Can. 2251).

Absolution from censure given in the external forum takes it away both before the Church and before God; given in the internal forum, it takes it away before God, but not before the Church, because censure is a bond of the external forum, and although absolution in the internal forum takes it away before God, the Church can regard the person as censured in the external forum. Namely, perhaps it happens that someone has been censured on account of an occult delict; and such a one, for example a priest, must minister the sacraments to the faithful asking who do not know that he is bound by censure; nor is he himself held to defame and betray himself, which nevertheless he would have to do if he were obliged to deny the sacraments. And therefore provision must be made for both: namely, that censures not lose their medicinal force, and that the faithful receive the sacraments by the valid and licit action of the censured person. Accordingly there is this medium of absolution under certain conditions in the internal forum; but the Church can press the force of the censure until absolution is obtained in the external forum.

Questions

Question 1. What comes under the name of absolution to reincidence?

Resp. Absolution to reincidence is a certain species of conditional absolution, not insofar as he who has received it is not truly absolved, but insofar as he must fulfill certain conditions placed by law or

by man; unless he fulfills these, he again falls into the same censure on account of new contumacy. - Cf. St. Alphonsus, nn. 87 and 125.

Question 2. Whether a general concession of absolving from censures reserved to the Pope suffices, so that someone can absolve even from those which are specially reserved?

Resp. Negatively, because whatever is specially reserved requires a special concession. Indeed confessors who, outside the article of death or the danger of grave scandal or infamy, presume to absolve anyone without due faculty, even under any pretext, from one of the censures which are reserved to the Supreme Pontiff in a special or most special mode, incur by the fact itself an excommunication simply reserved to the Pope. - Cf. Can. 2338, § 1.

Question 3. Is a certain determinate form of words required for absolving validly?

Resp. § 3. Absolution of censure in the sacramental forum is contained in the accustomed form of absolution of sins prescribed in the ritual books; in the non-sacramental forum it can be given in any way, but for absolution from excommunication it is regularly fitting to employ the form handed down in the same books (Can. 2250).

Question 4. Can an absent person be absolved?

Resp. Affirmatively, by force of canon 2239, § 1.

Question 5. Can an absent Bishop absolve one existing in the diocese?

Resp. Affirmatively, and the reason is that cognition of the cause and judicial formality are not required for absolution; and therefore nothing prevents the Bishop from exercising such an act of jurisdiction in another's territory. Nevertheless otherwise, if judicial formality should sometimes be required. - Cf. St. Alphonsus, n. 21.

Question 6. Can an unwilling person be absolved?

Resp. Affirmatively, and the reason is the same as that just given: for just as a penalty can be brought against an absent and unwilling person, so also it can be taken away from him; nevertheless it is not expedient that this be done without a very grave reason, and with care lest, while he does not cease from contumacy, the censure be held in contempt. - Cf. St. Alphonsus, n. 117.

Question 7. Can he who is bound by several censures be absolved from one, the others remaining?

Resp. § 1. If someone is detained by several censures, he can be absolved from one, the others in no way absolved.

§ 2. One seeking absolution must indicate all cases; otherwise the absolution is valid only for the expressed case; but if the absolution, although a particular petition had been made, was general, it is valid also for those kept back in good faith, except a censure reserved in a most special mode to the Apostolic See, but not for those kept back in bad faith (Can. 2249).

Question 8. Whether he who has not yet publicly repaired the scandal, on account of which he was subject to censure, can be absolved from censures?

Resp. Negatively, at least of itself and speaking generally, or as long as reparation is possible or does not bring excessive inconveniences. This is clear from the Declaration of the Sacred Penitentiary on the day 5 July 1827. - And altogether the same must be said of him who has not yet repaired the

damage or injury on account of which he is subject to censure. For the censured person remains deprived of spiritual goods until, withdrawing from contumacy, he is absolved. Contumacy must be said to have ceased when the guilty person has truly repented of the committed delict and at the same time has given congruous satisfaction for damages and scandal, or at least has seriously promised it; but to judge whether the penance is true, whether the satisfaction is congruous or the promise of the same serious, or not, belongs to him from whom absolution of the censure is sought (Can. 2242, § 3).

Question 9. Are those absolved in the article of death by a confessor lacking special faculty, although they themselves were bound by censures, held to furnish anything?

Resp. Those who, placed in danger of death, have received from a priest lacking special faculty absolution from some censure *ab homine* or from a censure reserved in a most special mode to the Apostolic See, are held, after they have recovered, by the obligation of recurring, under penalty of reincidence, to him who brought the censure, if there is question of a censure *ab homine*; to the Sacred Penitentiary or to a Bishop or another endowed with faculty, according to the norm of can. 2254, § 1, if concerning a censure *a iure*; and of obeying their mandates (Can. 2252).[1]

[1] Cf. Addenda, p. 1111, n. 53.

Question 10. Can a censured person ever be absolved from sins without first having been absolved from censure?

Resp. A distinction must be made between censures which do not impede and those which do impede reception of the sacraments.

§ 1. If there is question of a censure which does not impede reception of the Sacraments, the censured person, rightly disposed and withdrawing from contumacy, can be absolved from sins, the censure remaining firm.

§ 2. But if there is question of a censure which impedes reception of the Sacraments, the censured person cannot be absolved from sins, unless he shall first have been absolved from censure (Can. 2250).

Question 11. Who can absolve from censures outside the article of death?

Resp. A. Outside danger of death the following can absolve:

1°. From a non-reserved censure, in the sacramental forum any confessor; outside the sacramental forum, whoever has jurisdiction in the external forum over the guilty person;

2°. From a censure *ab homine*, he to whom the censure is reserved according to the norm of can. 2245, § 2; but he himself can concede absolution, even if the guilty person has transferred his domicile or quasi-domicile elsewhere;

3°. From a censure reserved *a iure*, he who established the censure or to whom it is reserved, and their successors or competent Superiors or delegates. Wherefore from a censure reserved to a Bishop or Ordinary, any Ordinary can absolve his subjects, but the Ordinary of the place also sojourners; from one reserved to the Apostolic See, this See, or others who have obtained from it the power of absolving, whether general, if the censure is simply reserved, or special, if reserved in a special mode,

or finally most special, if reserved in a most special mode, with the prescription of can. 2254 remaining safe (Can. 2253).

B. § 1. In more urgent cases, namely if censures *latae sententiae* cannot externally be observed without danger of grave scandal or infamy, or if it is hard for the penitent to remain in the state of grave sin for the time necessary that the competent Superior provide, then any confessor in the sacramental forum can absolve from the same censures, reserved in whatever way, with the burden of recurring enjoined, under penalty of reincidence, within at least a month by letter and through the confessor, if this can be done without grave inconvenience, the name being kept back, to the Sacred Penitentiary or to a Bishop or another Superior endowed with faculty, and of standing by his mandates.

§ 2. Nothing impedes the penitent, even after receiving absolution as above, and after recourse also has been made to the Superior, from approaching another confessor endowed with faculty, and from obtaining absolution from him, confession at least of the delict with the censure having been repeated; having obtained this, he may receive mandates from the same, without being held afterward to stand by other mandates supervening on the part of the Superior.

§ 3. But if in some extraordinary case this recourse is morally impossible, then the confessor himself, except the case in which there is question of absolution of a censure of which in Can. 2367, can concede absolution without the burden of which above, yet with those things enjoined which must be enjoined by law, and with a congruous penance and satisfaction imposed for the censure, so that the penitent, unless within a congruous time to be determined beforehand by the confessor he has done penance and given satisfaction, falls back into the censure (Can. 2254).

This canon (2254) declares itself; the case is more urgent if censures *latae sententiae* cannot be observed without danger of grave scandal or infamy (S. Off., 23 June 1886), or if it is hard for the penitent to remain in the state of grave sin for the time necessary that the superior provide, namely that the faculty of absolving from reserved censures be sought and conceded (16 June 1897), and that hard is rightly understood subjectively, with consideration of the penitent's disposition, according to which the confessor prudently judges that he sincerely wishes to obtain absolution as soon as possible; but any confessor will excite this disposition according to his powers; in the sacramental forum, therefore in the very administration of the sacrament; any confessor; wherefore henceforth these more urgent cases become like ordinary sins over which all confessors have power according to the canon rightly understood; the cases are censures *latae sententiae*, reserved in whatever way, whether papal, reserved to the Supreme Pontiff in a most special, special, or simple mode, or reserved by law to bishops, or episcopal censures reserved to themselves by the Ordinaries of places; he can absolve from the same; this absolution is direct, and touches all those cases (S. Penit., 7 Nov. 1888; 23 June 1886); not even the crime of attempted absolution of an accomplice is excepted; under penalty of reincidence into the same censures from which they have been absolved, for example, into simply or specially reserved censures, if they do not fulfill the burden enjoined: with the burden of recurring enjoined ... within at least a month by letter and through the confessor, if this can be done without grave inconvenience; but if a penitent passing by incidentally occurs to a missionary so that the missionary cannot see the penitent again, it suffices to exact from the penitent the promise of writing, with the name kept silent if he wishes, to the Sacred Penitentiary within a month, and of standing by its mandates, without the confessor himself writing (S. Penit., 7 Nov. 1885); this burden must be enjoined, even if the penitent has been perpetually impeded from personally going to Rome;

nevertheless there can be cases in which the penitent can be absolved directly by a simple confessor without the burden of writing: 1°. when neither the confessor nor the penitent can send a letter to the Sacred Penitentiary and it is hard for the penitent to approach another confessor (S. Off., 9 Nov. 1898); 2°. when the penitent, unable to write, cannot present himself to the same confessor by whom, by force of the decree of 1886 and 1897, he was absolved, and it is hard to approach another confessor. Therefore the burden of recurring presses, if this can be done without grave inconvenience; the burden of recurring within a month, at least by letters and through the confessor. Cf., however, § 3, the last clause.

Now episcopal censures can be treated in the same way, with the same burden.

Recourse can be made either to the Sacred Penitentiary or to a bishop or another superior endowed with faculty, with the burden of standing by his mandates.

But such a penitent is certainly able to approach another confessor endowed with faculty, and to confess to him that delict to which the censure is added; and to be definitively absolved by him, even if recourse has already been made to the superior; having obtained absolution from that new confessor himself, and having received mandates from the same, he is not held to stand by the mandates of the superior which are about to supervene. There are cases, as we have seen, which the Congregations have admitted as exceptions to the Decree of 2 June 1886. These now are found in the explanation of the first paragraph. S. Off., 9 Nov. 1898; 7 June 1899; 5 Sept. 1900.

But if an extraordinary case happens in which recourse truly cannot be made, morally speaking, excepting the case of attempted absolution of an accomplice, the confessor can absolve without the burden of recurring; with those things enjoined which by law are to be enjoined, namely, besides withdrawal from contumacy, satisfaction to the injured party, reparation of public scandal, must be enjoined; and a congruous penance is to be imposed, so that the penitent falls back into the censure if, within a congruous time to be determined beforehand by the confessor, he has not done penance.

Chapter III. On Censures Considered in Species

§ 1. Censures are:

1°. Excommunication;

2°. Interdict;

3°. Suspension.

§ 2. Excommunication can affect only physical persons, and therefore, if at any time it is brought against a moral body, it is understood to affect the individuals who have concurred in the delict; interdict and suspension, also a community as a moral person; excommunication and interdict, also laymen; suspension, clerics only; interdict, also a place; excommunication is always a censure; interdict and suspension can be either censures or vindicative penalties, but in doubt they are presumed censures (Can. 2255).

In the canons which follow:

1°. By the name of divine offices are understood the functions of the power of order, which by the institution of Christ or of the Church are ordained to divine worship and can be performed by clerics alone;

2°. But by the name of legitimate ecclesiastical acts are signified: to carry out the office of administrator of ecclesiastical goods; to act the parts of judge, auditor and relator, defender of the bond, promoter of justice and of the faith, notary and chancellor, courier and apparitor, advocate and procurator in ecclesiastical causes; to carry out the office of sponsor in the sacraments of baptism and confirmation; to cast a vote in ecclesiastical elections; to exercise the right of patronage (Can. 2256).

Divine offices are the public celebration of Mass, solemn celebration in choir of the canonical hours, solemn blessings; or all functions annexed to some order, ordained to worship by the institution of Christ or of the Church and accustomed to be performed by clerics alone.

Article I. On the Nature, Division, and Effects of Excommunication

§ I. On the nature and division of excommunication

Excommunication. § 1. Excommunication is a censure by which someone is excluded from the communion of the faithful with the effects which are enumerated in the canons which follow, and which cannot be separated.

§ 2. It is also called anathema, especially if it is inflicted with the solemnities which are described in the Roman Pontifical (Can. 2257).

From the first paragraph minor excommunication is excluded. One and the same signification of excommunication and anathema is clear from the Tridentine, sess. 24, de refor., c. 3; namely, they sound a total exclusion from the Church. If excommunication is made solemnly, then the word anathema is employed; but there is no substantial distinction. Excommunication simply excludes the

delinquent from the communion of the faithful with the effects to be enumerated, which cannot be separated.

§ 1. Of the excommunicated, some are *vitandi*, others tolerated.

§ 2. No one is *vitandus* unless he has been excommunicated by name by the Apostolic See, the excommunication has been publicly denounced, and in the decree or sentence it is expressly said that he must be avoided, with the prescription of can. 2343, § 1, n. 1 remaining safe (Can. 2258).

In this division of excommunicated persons this chiefly must be noted: no one is to be avoided unless these adjuncts accompany it: that, first, he has been excommunicated by name; second, by the Apostolic See; third, the excommunication has been publicly denounced; fourth, it is expressly said in the decree that he must be avoided. This one alone henceforth is *vitandus*.

§ II. On the effects of excommunication

Some effects of excommunication are mediate, but others immediate, according as they arise only from violation of the censure or from the censure itself. - Two mediate effects are chiefly numbered, namely: 1°. irregularity, which the excommunicated person incurs by exercising an act of some Order, for example, by conferring sacraments; 2°. suspicion of heresy, into which he falls who obstinately persists for a whole year in excommunication.

§ 1. If someone, with hardened soul, has for a year persisted in the censure of excommunication, he is suspected of heresy.

§ 2. If a cleric has persevered in the censure of suspension for a half-year, let him be gravely admonished, and if, after a month has passed from the admonition, he has not withdrawn from contumacy, let him be deprived of benefices or offices, if perhaps he has any in the Church (Can. 2340).

But eight immediate effects of excommunication are numbered, namely: 1°. privation of divine offices; 2°. privation of reception of the Sacraments; 3°. privation of administration of the sacraments and sacramentals; 4°. privation of indulgences, suffrages, public prayers of the Church; 5°. removal from legitimate ecclesiastical acts; 6°. privation of jurisdiction, whether of licit use or, in the adjuncts, valid use; 7°. privation of election, dignities, etc., privation of the fruits of dignities; 8°. privation of communion in profane matters.

Sacred things, rites, communion, crypt, power, Sacred estates, forum, civil rights are forbidden.

I. Privation Of Divine Offices

§ 1. Any excommunicated person lacks the right of assisting at divine offices, but not at the preaching of the word of God.

§ 2. If a tolerated person assists passively, it is not necessary that he be expelled; if he is *vitandus*, he must be expelled, or, if he cannot be expelled, the office must be ceased from, provided this can be done without grave inconvenience; but from active assistance, which carries with itself some participation in celebrating divine offices, not only a *vitandus* but also anyone after a declaratory or condemnatory sentence, or otherwise notoriously excommunicated, is to be repelled (Can. 2259).

It must be noted that that sentence carries with itself most grave effects, even in relation to him who is not *vitandus*.

II. Privation Of Reception Of The Sacraments

§ 1. Nor can an excommunicated person receive the Sacraments; indeed, after a declaratory or condemnatory sentence, not even Sacramentals.

§ 2. As regards ecclesiastical burial, let the prescription of can. 1240, § 1, n. 2 be observed (Can. 2260).

Unless he is excused by invincible ignorance or grave fear (which nevertheless was not struck in contempt of the censure), an excommunicated person sins gravely, whether *vitandus* or even tolerated, by receiving the sacraments, because he violates a grave law of the Church. But he validly receives them, with Penance excepted. Indeed not even that excepted, provided he is otherwise disposed, and approaches in good faith on account of invincible ignorance: for then the things required for the substance of the sacrament are present, namely, on the part of the penitent, matter or sufficient sorrow; on the part of the confessor, form, as is supposed, intention and jurisdiction, which is taken from him by no law.

They are deprived of ecclesiastical burial, unless before death they have given some signs of penitence after that aforesaid sentence. Again one must advert to the force of the declaratory sentence.

III. Privation Of Confection And Administration Of The Sacraments

§ 1. The excommunicated person is prohibited licitly to confect and minister Sacraments and Sacramentals, with the exceptions which follow remaining safe.

§ 2. The faithful, with the prescription of § 3 remaining safe, can for any just cause ask Sacraments and Sacramentals from an excommunicated person, especially if other ministers are lacking, and then the excommunicated person, when requested, can minister the same and is held by no obligation of questioning the cause from the requester.

§ 3. But from excommunicated persons who are *vitandi*, and also from other excommunicated persons after a condemnatory or declaratory sentence has intervened, the faithful can ask, in danger of death alone, both sacramental absolution according to the norm of can. 882, 2252, and also, if other ministers are lacking, the other Sacraments and Sacramentals (Can. 2261).

All priests, validly and licitly, even if not approved, absolve in the article of death any penitents whatever from any sins and censures whatever, with the obligation of recurring if they have been absolved from a censure *ab homine* or from one reserved in a most special mode to the Supreme Pontiff.

IV. Privation Of Indulgences

§ 1. An excommunicated person does not become a sharer in indulgences, suffrages, public prayers of the Church.

§ 2. Nevertheless, there are not prohibited:

1°. The faithful privately praying for him;

2°. Priests privately and with scandal removed applying Mass for him; but, if he is *vitandus*, only for his conversion (Can. 2262).

Therefore the excommunicated person does not gain indulgences, nor does he enjoy suffrages which arise from the sacrifice of the Mass in the name of the whole Church. Concerning Mass, let those things be compared which have been said in the Treatise on the Sacrifice of the Mass, or On the Eucharist as Sacrifice.

V. Removal From Legitimate Ecclesiastical Acts

The excommunicated person is removed from legitimate ecclesiastical acts within his limits defined by law in their places; he cannot act in ecclesiastical causes except according to the norm of can. 1654; he is prohibited from discharging ecclesiastical offices or functions, and from enjoying privileges previously conceded by the Church (Can. 2263).

VI. Privation Of Ecclesiastical Jurisdiction

An act of jurisdiction, whether of the external forum or of the internal forum, placed by an excommunicated person is illicit; and, if a condemnatory or declaratory sentence has been brought, also invalid, with the prescription of can. 2261, § 3 remaining safe; otherwise it is valid, indeed also licit, if it has been asked by the faithful according to the norm of the mentioned can. 2261, § 2 (Can. 2264).

Behold again how dreadful an effect of that sentence this is.

VII. Privation Of Election, Dignities, And Fruits

§ 1. Any excommunicated person:

1°. Is prohibited from the right of electing, presenting, nominating;

2°. Cannot obtain dignities, offices, benefices, ecclesiastical pensions, or any other function in the Church;

3°. Cannot be promoted to orders.

§ 2. Nevertheless an act placed against the prescription of § 1, nn. 1, 2, is not null, unless it was placed by an excommunicated person who is *vitandus*, or by another excommunicated person after a declaratory or condemnatory sentence; but if this sentence has been brought, the excommunicated person cannot furthermore validly obtain any pontifical grace unless mention of the excommunication is made in the pontifical rescript (Can. 2265).

After a condemnatory or declaratory sentence the excommunicated person remains deprived of the fruits of dignity, office, benefice, pension, function, if he has any in the Church; and the *vitandus* of the dignity itself, office, benefice, pension, function (Can. 2266).

The *vitandus* is deprived both of dignity, etc., and of fruits; after that sentence the excommunicated person is deprived of fruits, but not likewise of dignity, etc.

VIII. Privation Of Communion In Profane Matters

The faithful must avoid communion in profane matters with an excommunicated person who is *vitandus*, unless there is question of spouse, parents, children, servants, subjects, and generally unless a reasonable cause excuses (Can. 2267).

Article II. On the Nature, Division, and Effects of Suspension

§ 1. Suspension is a censure by which a cleric is prohibited from office or benefice, or from both.

§ 2. The effects also of suspension can be separated; but, unless something else is established, in a suspension brought generally there are comprehended all the effects which are enumerated in the canons of this article; on the contrary, in suspension from office or from benefice, only all the effects of either species (Can. 2278).

Suspension is brought only against a cleric, since it prohibits the use of his ecclesiastical power and ecclesiastical functions. Now the activities of a cleric are, as it were, embraced by two things: office, that is, order and jurisdiction, and benefice. Hence suspensions can be partial and total. A suspension brought absolutely and without restriction suspends both from office and from benefice. By canon law the effects of suspension can be separated, as will be clear from its various kinds.

Suspension from office does not take away office, but prohibits the use of order, jurisdiction, and administration: therefore the use of the power of jurisdiction for both forums, of the power of order which one receives by force of ordination or by privilege, and of all administration competent from office, except the administration of one's own benefice. Suspension can be partial, for example suspension from jurisdiction, from divine things, etc., or from some function, say, of order.

I say 1°. § 1. Suspension from benefice deprives one of the fruits of the benefice, except habitation in beneficial buildings, but not of the right of administering beneficial goods, unless the decree or sentence of suspension expressly takes away from the suspended person the very power of administering and assigns it to another.

§ 2. If, although the censure stands in the way, the beneficiary receives the fruits, he must restore the fruits and can be compelled to this restitution also by canonical sanctions, if need be (Can. 2280).

Such a suspension does not effect that he is not a beneficiary, but that he cannot accept the fruits of the benefice; it leaves the right of administration, unless it expressly takes that away. But if the suspended person receives the fruits, he does not have any right to retain them; they are not his and he is held to restitution.

§ 1. Suspension from office simply, with no limitation added, forbids every act both of the power of order and of jurisdiction, and also of mere administration competent from office, except administration of the goods of one's own benefice.

§ 2. Suspension:

1°. From jurisdiction generally, forbids every act of the power of jurisdiction for both forums, both ordinary and delegated;

2°. From divine things, every act of the power of order which someone obtains either by sacred ordination or by privilege;

3°. From orders, every act of the power of order received through ordination;

4°. From sacred orders, every act of the power of order received through ordination in sacred orders;

5°. From exercising a certain and definite order, every act of the designated order; but the suspended person is prohibited besides from conferring the same order and from receiving a higher one, and from exercising one received after suspension;

6°. From conferring a certain and definite order, from conferring that order itself, but not an inferior or higher one;

7°. From a certain and definite ministry, for example, of hearing confessions, or office, for example, with care of souls, every act of the same ministry or office;

8°. From episcopal order, every act of the power of episcopal order;

9°. From pontificals, the exercise of pontifical acts, according to the norm of can. 337, § 2 (Can. 2279).

I say 2°. Suspension brought generally, or suspension from office or from benefice, affects all offices or benefices which the cleric has in the diocese of the suspending Superior, unless something else appears (Can. 2281).

I say 3°. The local Ordinary cannot suspend a cleric from a determinate office or benefice which is found in another diocese; but a suspension *latae sententiae*, imposed by common law, affects all offices or benefices in whatever diocese they are possessed (Can. 2282).

Because the right of a cleric having an office or benefice in another diocese is his right insofar as he is a subject of the superior of that other diocese, hence he cannot be deprived of that right by another superior; besides, such a suspension would easily disturb the course of the government of dioceses. Nevertheless, since common law reigns everywhere, a suspension brought by common law affects offices and benefices which the suspended person may have also in other dioceses.

I say 4°. The things which are established concerning excommunication in can. 2265 are also to be applied to suspension (Can. 2283).

And therefore any suspended person is prohibited from various rights; he cannot obtain dignities and offices or be promoted to orders, just as was said concerning an excommunicated person in can. 2265, § 1, nn. 1, 2, 3; see also § 2.

I say 5°. If a censure of suspension has been incurred which forbids the administration of Sacraments and Sacramentals, let the prescription of can. 2261 be observed; if a censure of suspension which prohibits an act of jurisdiction in either the internal or external forum, the act is invalid, for example, sacramental absolution, if a condemnatory or declaratory sentence has been brought, or if the Superior expressly declares that he revokes the very power of jurisdiction; otherwise it is illicit only, unless it has been asked by the faithful according to the norm of the mentioned can. 2261, § 2 (Can. 2284).

Therefore, if a condemnatory or declaratory sentence has preceded, or that declaration of the superior asserted in the canon has been pronounced, the act is invalid outside the article of death; but in the

article of death it is not invalid or illicit to concede absolution to the faithful asking. If the aforesaid sentences have not preceded, the act is valid and licit if the faithful ask.

Questions

Question 1. Can a suspended priest be absolved from sins by a simple confessor before he is loosed from the censure by the superior?

Resp. Affirmatively, and the reason is that the effect of suspension is not to deprive one of reception of the sacraments. Therefore it suffices if he is disposed for the sacrament of Penance, namely if he is at least attrite for his sins, and promises that he will procure, as soon as possible, as much as will be in him, absolution from the censure, and meanwhile that he will not use the prohibited power or rights. - Cf. Can. 2250, § 1.

Question 2. In what way is suspension removed?

Resp. If suspension has the character of a censure, it is removed like excommunication, namely by absolution alone and indeed by that of the superior, if it is reserved; nevertheless if it has been brought for a certain determinate time or under a condition, it ceases by itself when the time has passed or the established condition has been fulfilled. But if it has been imposed perpetually on account of fault wholly past, it is removed, as a mere penalty, by dispensation alone of the Prelate or his delegate, because then it is not a censure.

Question 3. What form is to be employed for removing suspension?

Resp. If the suspension is occult, it is removed by absolution under the general form: I absolve you from every bond, etc. If it is public, in the internal forum it is removed by the same form; but in the external forum the solemn form determined in the Ritual is to be employed. But no one can absolve solemnly from suspension except the superior or another specially delegated for this.

Question 4. Can a simple priest absolve from censure one suspended in the article of death, whether the superior or delegate is absent or present?

Resp. Certainly he can; but according to the norm of Can. 2252. Wherefore if it is a case in which recourse is required, as if the suspension was *ab homine*, he must recur after he has recovered to the legitimate superior. - Cf. Can. 882.

Question 5. Can suspension be brought against a community of clerics?

Resp. Affirmatively, as is clear from the following canon:

§ 1. If a community or college of clerics has committed a delict, suspension can be brought either against the individual delinquent persons, or against the community as such, or against the delinquent persons and the community.

§ 2. If the first, let the canons of this article be observed.

§ 3. If the second, the community is prohibited from the exercise of the spiritual rights which belong to it as a community.

§ 4. If the third, the effects are cumulated (Can. 2285).

A community as such cannot be excommunicated; but because all the members make one moral body which has its own proper goods, it can be punished by suspension. But the mode by which it strikes the members can be diverse in diverse cases: if the individual persons are suspended, those things which have been said up to this point will have to be observed; if the college is struck, the suspension is brought against acts of jurisdiction and others which belong to it as such; but if the persons and the college are suspended, the persons are held by the preceding canons and the chapter is deprived of the exercise of the spiritual rights which are proper to it, for example, certain collations of benefices, or elections.

Appendicula: On Deposition and Degradation

Deposition and degradation are most grave penalties, very closely akin to suspension, and are accustomed to be assimilated to it, because they affect clerics alone and induce privation of ecclesiastical rights and benefices. Nevertheless they are not properly censures, because they are inflicted by reason only of penalty, not of medicine.

§ 1. Deposition, with obligations arising from the order received and clerical privileges remaining firm, carries with it both suspension from office and inability for any offices, dignities, benefices, pensions, functions in the Church, and also privation of those which the guilty person has, even if he was ordained under their title.

§ 2. But in this last case, if the cleric truly needs it, let the Ordinary, according to his charity, take care to provide for him in the better way possible, lest he be compelled to beg with dishonor of the clerical state.

§ 3. The penalty of deposition cannot be inflicted except in cases expressed by law (Can. 2303).

Cf. can. 2314, § 1, n. 2, on delicts against the faith and the unity of the Church; 2320, 2322, n. 1, 2328, on delicts against religion; 2350, § 1, 2354, § 2, on delicts against life, liberty, etc.; 2379, on delicts against the obligations proper to the clerical or religious state; 2394, n. 2, 2401, on delicts in the conferral, reception, and loss of dignities.

§ 1. Degradation contains in itself deposition, perpetual privation of ecclesiastical habit, and reduction of the cleric to the lay state.

§ 2. This penalty can be brought only on account of a delict expressed in law, or if a cleric, already deposed and deprived of clerical habit, still goes on giving grave scandal for a year.

§ 3. One kind is verbal or edictal, which is imposed by sentence alone, yet so that it has all its juridical effects immediately without any execution; another is real, if the solemnities prescribed in the Roman Pontifical are observed (Can. 2305).

Article III. On the Nature, Division, and Effects of Interdict

§ 1. Interdict is a censure by which the faithful, remaining in the communion of the Church, are prohibited from sacred things which are enumerated in the canons which follow.

§ 2. The prohibition is made either directly through personal interdict, when the use of those goods is interdicted to the persons themselves; or indirectly through local interdict, when in certain places the dispensation or reception of the same is forbidden (Can. 2268).

Interdict strikes the faithful remaining in communion with the Church, directly and indirectly: directly, by interdicting to them, through personal interdict, the use of certain goods; indirectly, by forbidding the dispensation of them in certain places, according as the interdict is personal or local.

I say 1°. § 1. A general interdict, whether local against the territory of a diocese or republic, or personal against the people of a diocese or republic, can be brought only by the Apostolic See or by its mandate; but a general interdict against a parish or the people of a parish, and a particular interdict whether local or personal, can also be brought by the Bishop.

§ 2. A personal interdict follows the persons everywhere; a local one does not press outside the interdicted place, but in the interdicted place all, even outsiders or exempt persons, with a special privilege excluded, must observe it (Can. 2269).

A general local interdict against the general territory of a diocese or republic can be distinguished from a general personal interdict against the people of a diocese or republic. Each is brought only by the Supreme Pontiff or another from his authority. The Bishop brings a general interdict against a parish or the people of a parish. By a personal interdict persons are held everywhere; by a local one they are not held outside the place; but in the place all are held, even outsiders or exempt persons, with privilege excluded.

I say 2°. § 1. A local interdict, whether general or particular, does not forbid ministering the Sacraments and Sacramentals, with the things to be observed being observed, to the dying, but it prohibits in the place any divine office or sacred rite, with the exceptions remaining safe of which in § 2 of this canon and in can. 2271, 2272.

§ 2. On the day of the Nativity of the Lord, Easter, Pentecost, the Most Holy Body of Christ, and the Blessed Virgin Mary assumed into heaven, the local interdict is suspended, and only the conferral of orders and the solemn blessing of nuptials are prohibited (Can. 2270).

Therefore the dying can receive, while a local interdict lasts, not only sacraments but also sacramentals.

On those solemn feast days the local interdict is suspended, so that the people may fully enjoy the spiritual joy proper to these days; two things are forbidden: the conferral of orders and solemn nuptials.

I say 3°. If the interdict was general local and in the decree of interdict something else is not expressly provided:

1°. Clerics are permitted, provided they are not themselves personally interdicted, to perform all divine offices and sacred rites privately in any church or oratory, with doors closed, voice lowered, and bells not rung;

2°. But in the cathedral church, parish churches, or in the church which is the only one in the town, and in those alone, there are permitted the celebration of one Mass, reservation of the Most Holy Sacrament, administration of baptism, the Eucharist, penance, assistance at marriages, with the nuptial blessing excluded, funerals of the dead, yet with any solemnity forbidden, blessing of baptismal water and of the sacred oils, preaching of the word of God. Nevertheless in these sacred functions there is prohibited chant and pomp in sacred furnishings and the sound of bells, organs, or other musical instruments; but sacred Viaticum is to be carried privately to the sick (Can. 2271).

I say 4°. § 1. In a particular local interdict, if an altar or chapel of some church has been interdicted, no sacred office or sacred rite is to be celebrated in them.

§ 2. If a cemetery has been interdicted, the bodies of the faithful indeed can be buried there, but without any ecclesiastical rite.

§ 3. If it has been brought against a certain church or oratory:

1°. If the church was capitular and the Chapter has not been interdicted, the prescription of can. 2271, n. 1, is valid, unless the decree of interdict prescribes that conventual Mass be celebrated and the canonical hours recited in another church or oratory;

2°. If it was parochial, let the prescription of the cited can. 2271, n. 2, be observed, unless the decree of interdict substitutes another church for it for the time of the interdict (Can. 2272).

I say 5°. When a city is interdicted, accessory places also remain interdicted, even exempt ones, and the cathedral church itself; when a church is interdicted, contiguous chapels are interdicted, but not the cemetery; when a chapel is interdicted, the whole church is not interdicted, nor, when a cemetery is interdicted, is the church contiguous to it interdicted, but all oratories erected in the cemetery are interdicted (Can. 2273).

I say 6°. § 1. If a community or college has perpetrated a delict, interdict can be brought either against the individual delinquent persons, or against the community as such, or against the delinquent persons and against the community.

§ 2. If the first, let the prescription of can. 2275 be observed.

§ 3. If the second, the community or college cannot exercise any spiritual right which belongs to it.

§ 4. If the third, the effects are cumulated (Can. 2274).

In the first case the things to be said concerning personally interdicted persons are valid; in the second, it loses the spiritual right of electing to certain offices; in the third, they both lose rights and are prohibited from all those things which it is forbidden for personally interdicted persons to do.

Questions

Question 1. What is prohibited to personally interdicted persons?

Resp. Personally interdicted persons:

1°. Cannot celebrate divine offices or assist at them, with the preaching of the word of God excepted; those assisting passively need not be expelled; but from active assistance, which carries with itself some participation in celebrating divine offices, interdicted persons are to be repelled after a condemnatory or declaratory sentence has been brought, or otherwise notoriously interdicted persons;

2°. They are prohibited from ministering, confecting, and receiving Sacraments and Sacramentals, according to the norm of can. 2260, § 1, 2261;

3°. They also are bound by the prescription of can. 2265;

4°. They lack ecclesiastical burial according to the norm of can. 1240, § 1, n. 2 (Can. 2275).

Therefore these sin gravely, 1°. by celebrating these offices or assisting at them, unless it is preaching at which the interdicted person assists; those assisting passively are not to be expelled; after sentence or notoriously interdicted persons are to be repelled from active assistance; 2°. by ministering or confecting sacraments or sacramentals, unless according to the norm for excommunicated persons, they sin gravely.

Question 2. Is it licit for him who is subject to interdict and has not given cause for it to receive the sacraments?

Resp. He who is subject to a local interdict or to an interdict against a community or college, without having given cause for the same, and is prohibited by no other censure, can, if he is rightly disposed, receive the Sacraments, according to the norm of the preceding canons, without absolution from the interdict or any other satisfaction (Can. 2276).

Question 3. What prohibition does interdict from entering a church carry with it?

Resp. Interdict from entering a church carries with it the prohibition lest someone celebrate divine offices in a church or assist at the same or have ecclesiastical burial; but if he assists, it is not necessary that he be expelled, nor, if he is buried, is it necessary that the corpse be removed (Can. 2277).

The celebration of offices in a church, assistance at the same, and ecclesiastical burial are prohibited by this interdict.

Appendicula: On Ecclesiastical Burial

§ 1. The bodies of the faithful departed are to be buried, their cremation being reproved.

§ 2. If someone has in any way commanded that his body be cremated, it is illicit to execute this will; and if it has been attached to a contract, testament, or any other act, it is to be regarded as if not attached (Can. 1203).

Ecclesiastical burial consists in the transfer of the corpse to the church, the funeral rites celebrated over it in the same, and its deposition in a place legitimately deputed for the faithful departed to be laid away (Can. 1204).

§ 1. The corpses of the faithful are to be buried in a cemetery which, according to the rites handed down in approved liturgical books, has been blessed, whether by a solemn or simple blessing given by those of whom in can. 1155, 1156.

§ 2. Corpses are not to be buried in churches, unless there is question of the corpses of residential Bishops, Abbots or Prelates nullius to be buried in their own church, or of the Roman Pontiff, royal persons, or Cardinals of the Holy Roman Church (Can. 1205).

§ 1. Those who have died without baptism are not to be admitted to ecclesiastical burial.

§ 2. Catechumens who die without baptism by no fault of their own are to be counted among the baptized.

§ 3. All baptized persons are to be given ecclesiastical burial, unless they are expressly deprived of the same by law (Can. 1239).

Questions

Question 1. Who, in particular, are to be deprived of ecclesiastical burial?

Resp. § 1. The following are deprived of ecclesiastical burial, unless before death they have given some signs of repentance:

1°. Notorious apostates from the Christian faith, or those notoriously addicted to a heretical or schismatical sect, or to a masonic sect or other societies of the same kind;

2°. Excommunicated or interdicted persons after a condemnatory or declaratory sentence;

3°. Those who have killed themselves by deliberate design;

4°. Those dead in a duel or from a wound received from it;

5°. Those who have commanded that their body be handed over to cremation;

6°. Other public and manifest sinners.

§ 2. When some doubt occurs in the aforesaid cases, let the Ordinary be consulted, if time permits; if the doubt remains, let the corpse be handed over to ecclesiastical burial, yet so that scandal be removed (Can. 1240). - Cf. can. 2260, § 2; 2275, n. 4; 2350, § 2.

Ecclesiastical burial is not to be denied if the Parish Priest alone is witness of the repulse and impenitence of the dying person. Indeed rather let him himself take care to remain with the dying person without witnesses when he doubts concerning his conversion, and let him try to bring him to confession, and, if he cannot dispose him, let him conceal this. - Cf. Alberti, *De Sepultura Ecclesiastica*.

And since ecclesiastical burial is part of the communion of saints, the reason is clear why all these are to be deprived of it; nor are those dying without baptism to be admitted to it, except catechumens, of whom above.

Question 2. What does this denial of ecclesiastical burial import?

Resp. To one excluded from ecclesiastical burial there are also to be denied both any funeral Mass, even anniversary, and other public funeral offices (Can. 1241).

Question 3. Can the corpse of some non-Catholic ever be buried in a Catholic cemetery?

Resp. Concerning this matter it is thus held in the Second Plenary Council of Baltimore, n. 389: "According to the mind of the Apostolic See, it is tolerated that in family tombs, namely those which are built as private and peculiar for Catholic families of laymen, the bodies also of non-Catholic blood relatives and relatives by marriage be entombed." But what comes here under family tombs is not easy to define; but both from the word are built, and from common interpretation, a family tomb seems to be a certain crypt (*vault*) decently adorned, and not some simple part of the earth (*a lot*) surrounded by marble stones and planted with flowers or shrubs. But that must carefully be attended to, as is clear from a recent declaration of the Congregation of the Holy Office, namely, that this tolerance of the Apostolic See is not positive and absolute, but merely passive for avoiding greater evils. - Cf. *Amer. Eccl. Rev.*, Vol. 1, pp. 113, 266 and following.

Question 4. Can the corpse of some Catholic departed ever be buried in a non-Catholic cemetery?

Resp. By strict law this was prohibited by the Fathers of the First Plenary Council in these words: "We do not will ecclesiastical rites to be employed in the burial of the faithful whenever their bodies are buried in cemeteries of sects; or even in profane cemeteries, when Catholic cemeteries are present." Nevertheless, lest the minds of non-Catholics be alienated from the Church, the rigor of that law was tempered both by the Second Plenary Council and especially by the Third Plenary Council, where n. 318 it is established thus:

"Therefore for guarding against these evils, and for removing all ambiguity from the words of the Fathers: when there is question of the burial of those who were converted to the faith, and whose surviving non-Catholics have a domestic plot in another cemetery; or also of those Catholics who likewise before the law was brought had their own plot, or certainly without any fraud acquired one after the law, we declare that in these cases it is licit for ecclesiastical rites to be employed, whether at home or in church, as often as this has not been interdicted by the Bishop for grave reasons; and we declare besides that the correction of the Sacred Congregation de Propaganda Fide concerning the niche to be blessed, and attached to the aforesaid decree, is to be observed also in these cases. These cases excepted, it will never be licit for a rector of souls to employ the said rites in the burial of the faithful in another cemetery, unless by the express permission of the Ordinary."

Question 5. Is it licit to give ecclesiastical burial to the burned ashes of some Catholic departed?

Resp. Negatively, as is openly gathered from the recent Decree concerning cremations of corpses, which was given on the day 19 May 1886 by the Sacred Congregation of the Supreme Roman and Universal Inquisition, and then was approved and confirmed by the Supreme Pontiff Leo XIII, who besides willed that the Ordinaries of places "take care that Christ's faithful be opportunely instructed concerning the detestable abuse of burning human bodies, and that with all their strength they deter from it the flock entrusted to them." And the same seems to have to be said of the more recent form of destroying corpses which is called desiccation. But from another Decree given on the day 15 Dec. 1886, as often as there is question of those whose bodies are subjected to cremation not by their own will but by another's, the rites and suffrages of the Church can be employed both at home and in Church, but not all the way to the place of cremation, with scandal removed. But scandal can also be removed if it becomes known that cremation was not chosen by the proper will of the deceased.

Cf. *Acta S. Sedis*, vol. 19, p. 46 and vol. 25, p. 63. - *Amer. Eccl. Review*, vol. 4, pp. 15 and following, and vol. 12, p. 499. The same Sacred Congregation declared on 27 July 1892: "it is never licit to cooperate in cremation by mandate or counsel. But material cooperation can sometimes be tolerated provided that: 1°. Cremation is not held as a protest-sign of the masonic sect; 2°. Nothing is contained in it which of itself directly and uniquely expresses reprobation of Catholic doctrine and approbation of the sect; 3°. Nor is it established that officials and workers are bound or called to the work in contempt of the Catholic religion. Besides, although in these cases they are to be left in good faith, they are nevertheless always to be admonished not to intend to cooperate in cremation."

Where the civil government authoritatively hands over the corpses of the dead to cremation, without the deceased, while they lived, having given consent to this, and without their relatives having in any way sought cremation, the Sacred Congregation de Propaganda Fide permitted that in the cited cases funeral ceremonies could be performed with the customary ceremonies in the cemetery. 26 Jan. 1911. - Cf. *Nouv. Rev. Théol.*, v. 43, p. 296. - *Analecta Ecclesias.*, an. 1911, p. 58.[1]

[1] Cf. Addenda, p. 1153, n. 129.

Question 6. Are amputated members of Catholics to be buried in a sacred place?

Resp. Affirmatively, according to the response of the Holy Office, 3 Aug. 1897: "Hence, if it can be done, let some small space of earth be deputed in the proper garden attached to the house of the hospitals for these members to be buried, after it has been blessed."

Question 7. "In what way ought the parish priest or priest conduct himself who, called by a man (or Catholic woman) placed in the article of death and already joined with an infidel by a civil bond, finds him almost destitute of senses? When the parish priest has excited him to contrition and has absolved him under condition, can he also admit him to Ecclesiastical burial?"

Resp. In these or similar cases, signs of returning to one's right mind having been made known, ecclesiastical burial can be given, yet with ecclesiastical pomps and solemnities of funerals forbidden. "If in some case extraordinary circumstances concur, let the parish priest consult the Ordinary, and stand by his mandates." S. Off., 6 July 1898.

Question 8. What ought Ordinaries, parish priests, and Superiors to beware of?

Resp. Let the Ordinaries of places, parish priests, and Superiors, to whom it pertains, beware lest in cemeteries epitaphs, funeral praises, and ornaments of monuments bear before themselves anything discordant with Catholic religion and piety (Can. 1211).

This prescription of the greatest moment must be carefully guarded, lest empty ceremonies and worldly praises gradually mingle themselves with the holy rites of the Church.

Chapter IV. On Censures in Individual Delicts

I. On Delicts Against Faith And The Unity Of The Church

§ 1. All apostates from the Christian faith, and all and each heretic or schismatic:

1°. Incur by the fact itself excommunication;

2°. Unless, having been admonished, they return to their right mind, let them be deprived of benefice, dignity, pension, office, or other function, if they have any in the Church; let them be declared infamous; and clerics, the admonition having been repeated, are to be deposed;

3°. If they have given their name to a non-Catholic sect or publicly adhered to it, by the fact itself they are infamous, and, with the prescription of can. 188, n. 4 remaining firm, clerics, admonition having been fruitlessly sent beforehand, are to be degraded.

§ 2. Absolution from the excommunication of which in § 1, to be imparted in the forum of conscience, is reserved to the Apostolic See in a special mode. But if the delict of apostasy, heresy, or schism has been brought in any way to the external forum of the local Ordinary, even through voluntary confession, the same Ordinary, but not the Vicar General without a special mandate, after juridically performed abjuration has preceded and the other things to be observed by law have been observed, can by his ordinary authority in the external forum absolve the one returning to his right mind; but one thus absolved can then be absolved from the sin by any confessor in the forum of conscience. But abjuration is held to have been juridically performed when it is made before the local Ordinary himself or his delegate and at least two witnesses (Can. 2314).

Explanation. - The subject of this censure is threefold, namely, apostates, heretics, schismatics.

§ 2. After baptism has been received, if someone, retaining the Christian name, pertinaciously denies some truth from among those to be believed by divine and Catholic faith, or doubts concerning it, he is a heretic; if he totally withdraws from the Christian faith, an apostate; if finally he refuses to be subject to the Supreme Pontiff or refuses to communicate with the members of the Church subject to him, he is a schismatic (Can. 1325).

Therefore, whether these apostates embrace a false religion, such as Judaism, Mohammedanism, etc., or not, as free-thinkers, here they come under the name of apostates. In a similar way also one must speak of heretics. It is not required that they form some new sect.

In the second paragraph the species, as it were, of this censure is declared. Absolution of excommunication incurred for these delicts in the forum of conscience is reserved in a special mode to the Supreme Pontiff. But the Ordinary, if the delict has been brought to his forum, can by his ordinary power in the external forum absolve the one returning to his right mind; one so absolved can now be absolved from the sin by any confessor, for the censure has already been removed by the Bishop. But prior to absolution there must be juridically performed abjuration, as, for example, when it is made before the Ordinary himself or his delegate and at least two witnesses.

Schismatics are those who pertinaciously withdraw themselves from the center of the unity of the Church and therefore withdraw from communion of the faithful and from due subjection toward the

Roman Pontiff.

Question. Is it licit to dedicate oneself to some association whose end is to propagate heresy everywhere?

Resp. It is not licit, by whatever title finally that sect may be called, whether Christian or by another name, evangelical religion or interconfessional religion. For the end intended by him who becomes a member does not change the nature of the act by which he associates himself. He who gives his name to this society dedicates himself by that very fact to the end of the society, whether he wishes it or not. For a society is an assembly of members conspiring toward one end, and he himself is a member. The end is intrinsically evil, and the end determines the morality of the use of indifferent things. Therefore it is not licit to dedicate oneself on account of a bodily good obtained by indifferent means. For the motive of your action does not take away the intrinsic malice conjoined with the propagation of heresy promoted by these means. Besides, what greater favor can be furnished to such an assembly than by this very association of yourself, to say nothing of the monies contributed each year by whatever members, which the ringleaders use for propagating their interconfessional religion, which, as Pius X says, "is spread with empty commendation of Christian fellowship, while nevertheless manifestly nothing is more contrary to the preaching of Jesus Christ." Const. *Singulari quadam*. And this must be held before the eyes, whether the question is of adolescents or of children about to dedicate themselves to an association of this kind.

One suspected of heresy who, having been admonished, does not remove the cause of suspicion, is to be prohibited from legitimate acts, and a cleric besides, the admonition having been repeated uselessly, is to be suspended from divine things; but if within six full months from the contracted penalty the one suspected of heresy has not amended himself, let him be held as a heretic, liable to the penalties of heretics (Can. 2315).

§ 1. Into an excommunication *latae sententiae* reserved to the Apostolic See in a special mode, by the fact itself, once the work has been made of public right, fall the publishers of books of apostates, heretics, and schismatics which defend apostasy, heresy, or schism; likewise those defending those same books or others prohibited by name through apostolic letters, or knowingly reading or retaining them without due license.

§ 2. Authors and publishers who, without due license, take care that books of Sacred Scriptures or their annotations or commentaries be printed, fall by the fact itself into an excommunication reserved to no one (Can. 2318).

Explanation. - In the first paragraph there are excommunicated (1) publishers, who cause certain books to be printed, namely, books of apostates, heretics, and schismatics, which defend apostasy, heresy, or schism; (2) those defending these books or others prohibited by name through apostolic letters, or (3) those knowingly reading them without due license, or (4) those retaining them. Publishers at last are excommunicated when the work has been made of public right; but if this has not occurred, the extremes required by the law for incurring the penalty are not present.

To read is to scan writing with the eyes and perceive the sense. To retain is to have books with oneself, whether one's own or another's, loaned or deposited, in one's own house or in another's. To print is proximately to cooperate in the printing of a book. To defend in any way is, whether by voice or by writing, to defend the false doctrine of the book, or to impede the book from being handed over

to a superior or destroyed. Apostates or heretics or schismatics, by whatever name they are called or of whatever sect they exist. If an anonymous author defends heresy with evident pertinacity, he is held as a heretic. To defend heresy is to defend it by reasons brought forward. For this, that the whole book be prohibited, it suffices if one heresy is defended in it. Apostolic Letters are those in which the Supreme Pontiff speaks immediately, whether in the form of a Brief, or in the form of a Bull, or in any other form. By name, and indeed, according to the common opinion, under the penalty of excommunication reserved to the Pope. Knowingly: this word, placed at the beginning, affects those reading and those retaining. Therefore it must be known that the book was written by a heretic, and that heresy is defended in it; or that it has been condemned by the Apostolic See; and that reading, etc., is prohibited under penalty of excommunication reserved to the Pope. Therefore whoever, knowing these things, reads or retains the book, incurs this censure. And the same must be said of him who reads periodical publications bound in fascicles and defending heresy, as is clear from the response of the Holy Office, 13 Jan. 1892. But he does not incur the censure who scans a book with the eyes without understanding the language, or who hears another reading, or who does not read a notable part; for smallness of matter is admitted in this matter; light matter is held to be a rather long but harmless part, say three pages, but grave matter is a brief part defending heresy. Likewise free from censure are those reading newspapers defending heresy (S. Off., 2 April 1880).

In the second paragraph there are struck with an excommunication reserved to no one authors, then publishers, who take care that books of Sacred Scriptures or their annotations or commentaries be printed without due license. Author and publisher are now affected by the penalty; formerly those who print or cause to be printed were affected. *Officiorum ac Munerum*, n. 47.

§ 1. Catholics are subject to excommunication *latae sententiae* reserved to the Ordinary:

1°. Who enter marriage before a non-Catholic minister against the prescription of can. 1063, § 1;

2°. Who are united in marriage with an explicit or implicit pact that all or some offspring be educated outside the Catholic Church;

3°. 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.

§ 2. Those of whom in § 1, nn. 2-4, are besides suspected of heresy (Can. 2319).

Explanation. - (1) Those are struck who act against the prescription of canon 1063, § 1, by which spouses are prohibited, even if a dispensation upon the impediment of mixed religion has been obtained from the Church, from going, either before or after marriage entered before the Church, whether by themselves or through a proxy, to a non-Catholic minister as one devoted to sacred things, for matrimonial consent to be given or renewed.

In the second paragraph there is question of those who enter marriage with an explicit or implicit pact of educating the offspring, whether all or some, outside the Church; and therefore those are struck who agree about permitting boys to be educated in the religion of the father and girls in the religion of the mother. In the third there is question of children to be handed over to some non-Catholic minister to be baptized, with knowledge and presumption.

In the fourth there is question of the penalty affixed to the delict of handing over offspring to be educated in a non-Catholic religion; and it touches parents and those who hold the place of parents.

Four delicts are struck: of giving or renewing matrimonial consent before a non-Catholic minister, whether before or after marriage entered in the face of the Church; of making a pact concerning the education of offspring outside the Catholic religion; of handing over children to a non-Catholic minister to be baptized; of handing them over so that they may be educated in a non-Catholic religion. Those committing these crimes and punished by this penalty are Catholics.

II. On Delicts Against Religion

He who has cast away the consecrated species, or has carried them away or retained them for an evil end, is suspected of heresy; he incurs an excommunication *latae sententiae* reserved in a most special mode to the Apostolic See; he is by the fact itself infamous, and a cleric besides is to be deposed (Can. 2320).

Explanation. - This excommunication is the first from those reserved in a most special mode. The delict is a nefarious crime against the Most August Sacrament of the Eucharist: the casting away of the consecrated species, as if someone were to cast away a consecrated host in a public road or in an occult place, because he does not wish to retain it with himself, or were to throw it into a thorn-bush or into a marsh; the carrying away of the same for an evil end, or retaining them for the same evil end. - Cf. Bened. XIV, Const. *Ab Augustissimo*.

One not promoted to the priestly order:

1°. If he has simulated the celebration of Mass or has heard sacramental confession, he contracts by the fact itself an excommunication reserved in a special mode to the Apostolic See; and besides, if indeed a layman, let him be deprived of a pension or function, if he has any in the Church, and let him be punished by other penalties according to the gravity of the fault; but if a cleric, let him be deposed;

2°. If he has usurped other priestly functions, let him be punished by the Ordinary according to the gravity of the fault (Can. 2322).

Explanation. - How immense the sacrilege is is clear from this, that those acting thus thrust themselves into the ministry of the New Law, which is altogether prohibited to them by divine law, since they are not ministers of these mysteries; but especially from this, that by celebrating nullly and invalidly they publicly expose to the people the pure substance of bread and wine to be adored, and, although the people are ignorant, induce them, as much as lies in them, into the crime of Idolatry; and sitting in the Tribunal of Penance they miserably deceive the people, who, regarding them as judges of souls, confess their sins to men trampling upon the Sacrament of reconciliation and endowed with no authority. - Cf. C. 16, X, v, 28; Bened. XIV, Const. *Sacerdos in aeternum*.

He who makes false relics, or knowingly sells, distributes, or exposes them to public veneration of the faithful, contracts by the fact itself an excommunication reserved to the Ordinary (Can. 2326).

Explanation. - Therefore all who by their own action falsify relics, or prepare things which in no way are relics so that they may be held true; or knowing them to be false nevertheless sell, distribute, or

publicly expose them to veneration, incur an excommunication reserved to the Ordinary. Knowingly: this word affects those selling, distributing, exposing.

Those making gain from indulgences are struck by the fact itself with an excommunication simply reserved to the Apostolic See (Can. 2327).

Explanation. - To understand who they are who are struck by this censure, it is necessary to know what is the gain condemned by St. Pius V in the Const. *Quam plenum*. Moreover, that gain is the one which is obtained by conceding, even under pretext of repairs of churches or of other pious causes, to those paying a certain sum of money, various spiritual graces, namely: Indulgences. Therefore those who concede such graces on this condition, that a certain money be paid as due for the concession, even with a view to promoting some pious work, incur the excommunication of this canon. The reason of the prohibition and censure is that such acts either contain a disguised simony or open the way to simony, or at least smell of simony and generate scandal among the faithful. - Cf. Varceno, vol. 2, p. 494. - Baller., note (d), p. 998.

III. On Delicts Against Authorities, Persons, Ecclesiastical Things

As regards penalties established against delicts which can be committed in electing the Supreme Pontiff, one must stand only by the constitution of Pius X, *Vacante Sede Apostolica*, 25 Dec. 1904 (Can. 2330).

Explanation. - In that constitution, ch. VI, n. 79, we read: "The crime of simony, detestable by divine as well as human law, in the election of the Roman Pontiff, is established as having been altogether reproved, and we reprove and condemn it, and bind the guilty of this crime with the penalty of excommunication *latae sententiae*."

"Under penalty of excommunication we prohibit anyone, even if he should shine with the honor of the Cardinalate, while the Roman Pontiff is living and without his having been consulted, to presume to treat of the election of his successor, or to promise some vote, or for this cause, private little meetings having been made, to deliberate and decree anything." Ibid., n. 80. The excommunication *latae sententiae* from the Constitution *Commissum Nobis*, concerning the Veto or Exclusive, is renewed. Ibid., n. 81. "Furthermore, let Cardinals abstain from all pacts, conventions, promises, and any other obligations whatever by which they could be bound to give or not give a vote to someone or to some persons ... and those acting against this we from now bind with the penalty of excommunication." Ibid., n. 82.

All and each, of whatever status, grade, or condition, even if royal, episcopal, or cardinalitial, who appeal from the laws, decrees, mandates of the Roman Pontiff existing at the time to a Universal Council, are suspected of heresy and by the fact itself contract an excommunication reserved in a special mode to the Apostolic See; but Universities, Colleges, Chapters, or other moral persons, by whatever name they are called, likewise incur an interdict reserved in a special mode to the Apostolic See (Can. 2332).

Explanation. - In this canon there is contained the excommunication of the Constitution *Apostolicae Sedis*, § 1, n. 4, and the interdict of the same Constitution, § 6, n. 1: the first against physical persons, the other against moral persons; each penalty is reserved in a special mode to the Supreme Pontiff. Physical persons are also suspected of heresy. All who appeal from laws, decrees, mandates of the

living Supreme Pontiff to a Universal Council, of whatever status, even Kings, princes, Cardinals, Bishops, are struck with the penalty.

The delict arises from a spirit of rebellion against the Vicar of Jesus Christ and Head of the Church, injurious to the Roman Pontiff himself. The appeal must be made while the Pontiff is living; and whether it is made to a present Council or to a future one is the same, for now in the canon the word future has been omitted, which was contained in the Constitution *Apostolicae Sedis*. Concerning cooperators, let canons 2231 and 2209 be recalled. Excommunication is incurred by the fact itself and is reserved in a special mode to the Supreme Pontiff. And just as the aforesaid persons are punished by this excommunication, likewise Universities and other moral persons are struck with an interdict reserved in a special mode. Cf. Pius II, Const. *Exsecrabilis*.

Those recurring to lay power for impeding letters or any acts whatever proceeding from the Apostolic See or from its Legates, or directly or indirectly prohibiting their promulgation or execution, or on account of them injuring or terrifying either those to whom the letters or acts pertain or others, are by the fact itself subject to excommunication reserved in a special mode to the Apostolic See (Can. 2333).

Explanation. - It is clear to all that the end of this penalty is to preserve the authority and honor of the Holy See, and to apply remedies of opportune foresight, by which each one may obtain his right and the evil arts of those striving to trample justice may be met. Namely, because Letters and Acts proceeding from the Apostolic See or from its legates provide for public and private goods, hence it is that malicious men take care to impede those, lest they be promulgated or handed over to execution; wherefore they recur to lay power, directly or indirectly prohibit the promulgation and execution of letters or acts in this way, or on account of them injure and terrify those to whom they pertain or others. Cf. Innoc. VIII, Const. *Officii Nostri*; Pius IX, Const. *Apostolicae Sedis*, § 1, n. 8.

There are struck with excommunication *latae sententiae* reserved in a special mode to the Apostolic See:

1°. Those who issue laws, mandates, or decrees against the liberty or rights of the Church;

2°. Those who directly or indirectly impede the exercise of ecclesiastical jurisdiction, whether of the internal or external forum, by recurring for this to any lay power (Can. 2334).[1]

[1] Cf. Addenda, p. 1143, n. 114.

Explanation. - In the first paragraph those issuing laws, decrees, mandates against the liberty and rights of the Church are excommunicated; the canon strikes all issuing them; against the liberty and rights of the Church, that is, against every right which belongs to the Church; hence against the liberty and right of duly celebrating Mass, of administering the Sacraments, against the liberty of Bishops in ruling a diocese, against clerics by compelling them to military service, against monasteries of religious; in a word, whatever intercepts the liberty or any right of the Church herself. Those issuing such laws, decrees, mandates are struck with excommunication; hence if a mandate were issued against the liberty and right of the Church, by which the Bishop of a diocese would be impeded in the exercise of his power, the publishers of that mandate would be excommunicated. Cf. Pius IX, Allocut. *Acerbissimum*; Const. *Apostolicae Sedis*, § 1, n. 7.

In the second paragraph there is contained the excommunication of the Constitution *Apostolicae Sedis*, § 1, n. 6.

This censure has been established for protecting the liberty of ecclesiastical jurisdiction, whether of the internal or external forum; wherefore the following are struck with excommunication: 1°. those directly or indirectly impeding its exercise by themselves; 2°. those recurring, so that it may be impeded, to the secular forum; 3°. those procuring and issuing mandates of the secular forum to the same end.

Wherefore that particle and those recurring for this must be understood disjunctively, not copulatively, as is clear both from the text of the Bull *Coenae*, and from the scope of this censure, which is that all the principal actions by which the exercise of ecclesiastical jurisdiction can be impeded should be subjected to excommunication, and from the common opinion of those who have written on this Constitution. - Cf. Baller., note (b), p. 983; Bucceroni, n. 33.

Those giving their name to the masonic sect or other associations of the same kind which machinate against the Church or legitimate civil powers contract by the fact itself an excommunication simply reserved to the Apostolic See (Can. 2335).

Explanation. - Here one must carefully distinguish between societies damned under censure and societies simply dishonest or evil. The former are only those which set before themselves the purpose of plotting something against the Church or legitimate civil authority, "whether they do this secretly or openly, whether they exact or do not exact from their followers an oath of preserving secrecy." - But other societies, which are called simply evil, are such either because they labor under intrinsic depravity, or by reason of dangers and other circumstances, but especially by reason of inviolable secrecy and blind obedience to be furnished to an unknown authority. Concerning each kind, something will be said here briefly.[1]

[1] Cf. Addenda, p. 1124, n. 80.

Questions

Question 1. How manyfold is the subject of this censure?

Resp. The subject of this censure, as is clear to the reader, comprehends all who give their name to condemned sects.

Question 2. For some society to fall under this censure, is it required that it be condemned by name?

Resp. Negatively, for in the Third Plenary Council of Baltimore, n. 246, it is read thus: "Nor are the declarations of the Holy See to be restricted only to those societies which, like the Masonic or Carbonarian sect, are found to have been condemned by name; but they must be understood to extend also to those which, although the name is omitted, nevertheless in reality are of the same kind as the Masonic or Carbonarian. 'There are various sects of men, which, although differing in name, rite, form, and origin, nevertheless, since they are contained among themselves by a certain communion of purpose and by similarity of their chief opinions, agree in reality with the sect of the Masons, which is like a certain center, whence all go out and to which all return.'" (Cited Encycl. *Humanum Genus*.)

Question 3. Is it licit for some priest or Bishop to condemn some society by name, or solemnly declare that it is one of the condemned societies?

Resp. Negatively, for the Fathers of the last Plenary Council, n. 255, have these things: "Furthermore, for guarding against confusion of discipline, when, with great scandal of the faithful and detriment to ecclesiastical authority, the same society is condemned in one diocese and tolerated in another, we do not will any society, as falling under one of the indicated classes, to be condemned by name before the Ordinary has referred the matter to the Commission which we now constitute for judging causes of this kind, and which will consist of all the Archbishops of these provinces. But if the society has not seemed to all to be condemned, recourse must be made to the Holy See, that a certain judgment may be received and discipline be preserved uniform in our provinces."

Question 4. Can at least a confessor refuse sacramental absolution to someone who belongs to one of the forbidden societies, relying only on his private judgment?

Resp. Affirmatively; indeed he not only can, but even must, with the principles of probabilism and the rules of prudence nevertheless being observed in the right administration of the sacraments. For the Baltimore Fathers in the Third Plenary Council speak thus under n. 247: "But if doubt should arise whether some society exists as condemned by the Holy See, abstraction having now been made from the censures of which below, by the application of either of these principles it must be resolved whether at least it is forbidden.

Namely, if a society of this kind either so enjoins secrecy to be preserved that it does not permit that secrecy to be manifested even to the authority of the Church; or if it exacts an oath or promise of blind and absolute obedience, that society, even apart from censures, will have to be counted among the forbidden societies, and those enrolled are to be deprived of sacramental absolution until by the effect itself they entirely withdraw from it, or at least seriously promise that they will withdraw at once."

Question 5. What must be said of those societies of workers which seek mutual protection in the exercise of their own art or labor?

Resp. Concerning this matter the Baltimore Fathers in the Third Plenary Council under n. 253 have these things: "Finally, here we judge it opportune to recall to the mind of the faithful the salutary admonitions which the Fathers of the preceding Plenary Council gave, under the title On Secret Societies, n. 519, concerning certain societies about whose liceity a question was sometimes raised. Having carefully weighed these, to us indeed no reason appears on account of which the prohibition of the Church against the Masonic and other occult sects should be extended to those guilds of workers which are not established to set anything before themselves other than the mutual protection and assistance of members in exercising their own art. Yet one must beware lest, under this pretext, anything be admitted which favors condemned sects; or lest workers who give their name to these societies be induced by the depraved and crafty arts of evil men to withdraw from the labor owed by them against the laws of justice, or in any other way injure the rights of those to whom they are subject. ... Those assemblies also are altogether illicit in which members are joined together in so tight a bond for mutual defense that from this there arises danger of disturbances or slaughter."

Question 6. What must be said concerning the three societies which recently were condemned among us?

Resp. Having inspected the two decrees given 20 June 1895 and 18 Jan. 1896, the following seem able to be held certainly: 1°. the three Societies called Knights of Pythias, Odd Fellows, and Sons of Temperance are not condemned under censure, but only because they are evil; 2°. this evil is intrinsic, because it arises from the rituals which are employed, from the secrecy which is required, from the dangers which are created, and from other circumstances; 3°. with four conditions enumerated in the decree given 18 Jan. 1896 intervening, namely that good faith was present, that scandal is removed, that grave temporal harm would follow from renunciation, and that there is no danger of perversion, with special consideration of the case of death, this evil seems to cease, and therefore then it can be tolerated that notice not be sent; 4°. judgment concerning the verification of the aforesaid conditions in individual cases must be made not by the confessor, but by the Apostolic Delegate; otherwise the desired uniformity would not be obtained. Cf. *Amer. Eccl. Review*, vol. 13, p. 67 and vol. 14, p. 361. The Supreme Pontiff conceded that, the faculties of the Apostolic Delegate remaining firm, the faculty of conceding to the faithful who are enrolled in the aforesaid societies permission to remain passively in them be extended to the individual Archbishops, to each for his respective province, with absolutely all the conditions of the decree of the 18th day of January 1896 being observed, their conscience being burdened. S. Offic., 27 June 1913.

Consult altogether those things which are held concerning dishonest societies in the Third Plenary Council of Baltimore, nn. 244 and following. - Consult also the Instruction of the Sacred Roman and Universal Inquisition on the sect of Masons, in the *Acts and Decrees of the Third Plenary Council of Baltimore*, Appendix, pp. 282 and following. - Cf. *Amer. Eccl. Rev.*, vol. 1, pp. 125 and following and pp. 179 and following.

Question 7. What must be said concerning the absolution of those who are enrolled in the masonic sect?

Resp. A priest having the faculty of absolving from this case, according to the clauses customarily placed by the Holy See, must exact these things from the penitent: 1°. that he separate himself entirely from the sect; 2°. that he abjure it at least before the confessor himself, scandal having been repaired, in that better mode in which it can be done; 3°. that he hand over to the confessor books, manuscripts, and signs relating to the sect, if he retains any, to be cautiously transmitted to the Ordinary as soon as possible, or, if grave causes prohibit this, to be burned. Besides, the Confessor must enjoin a salutary penance, with frequency of sacramental confession.

§ 2. The obligation of denunciation presses as often as someone is driven to this either by law or by a peculiar legitimate precept, or from the natural law itself on account of danger of faith or religion or some other imminent public evil (Can. 1935). Nevertheless, those not denouncing are immune from excommunication.

§ 1. Clerics who have committed a delict of which in can. 2334, 2335, besides the penalties established in the cited canons, are to be struck with the penalty of suspension or privation of the benefice itself, office, dignity, pension, or function, if perhaps they have any in the Church; but religious are to be struck with privation of office and of active and passive voice and with other penalties according to the norm of the constitutions.

§ 2. Besides, clerics and religious giving their name to the masonic sect and to other similar associations must be denounced to the Sacred Congregation of the Holy Office (Can. 2336).[1]

§ 1. Those presuming to absolve without due faculty from an excommunication *latae sententiae* reserved to the Apostolic See in a most special or special mode incur by the fact itself an excommunication simply reserved to the Apostolic See.

§ 2. Those furnishing any help or favor to an excommunicated person who is *vitandus* in the delict on account of which he was excommunicated; likewise clerics knowingly and spontaneously communicating in divine things with the same and receiving him in divine offices, incur by the fact itself an excommunication simply reserved to the Apostolic See.

§ 3. Those knowingly celebrating divine things, or causing divine things to be celebrated, in interdicted places, or admitting to the celebration of divine offices forbidden by censure excommunicated, interdicted, or suspended clerics after a declaratory or condemnatory sentence, contract by the law itself an interdict from entering the church, until, at the judgment of him whose sentence they have contemned, they have congruously satisfied.

§ 4. Those who have given cause for a local interdict or for an interdict against a community or college are by the fact itself personally interdicted (Can. 2338).

[1] Cf. Addenda, p. 1092, n. 24.

Explanation. - In the first paragraph of Can. 2338 those are struck with an excommunication simply reserved to the Apostolic See who presume to absolve without faculty from an excommunication reserved to the Apostolic See either in a most special mode or in a special mode. Cf. Pius IX, Const. *Apostolicae Sedis*.

In the second paragraph there is question of participating in a criminal crime. He who does such things is struck with excommunication simply reserved to the Supreme Pontiff. - Cf. can. 2258, § 2; 2343. In this place the question is of an excommunicated person who is *vitandus*. Cf. can. 2250, § 2 and 2260, 2261. - Cf. Pius IX, Const. *Apostolicae Sedis*, § 2, 16, 17.

To communicate in a criminal crime is the same as to cooperate in the crime or contumacy on account of which another has been excommunicated, for instance if someone furnishes aid or favor to an excommunicated person so that he does not desist from the crime and contumacy on account of which he was excommunicated. You have an example: Titius, who gives help to someone excommunicated on account of retaining a concubine or another's thing, lest he dismiss the concubine or make restitution, is affected by this censure, because he participates in a criminal crime; otherwise if he merely greets him, speaks to him, or prays with him, because so to act is not to participate in that crime on account of which the excommunication was brought. Besides, it is required that he with whom one communicates be *vitandus*.

In the second part of the second paragraph two things come to be noted, namely:

1°. Each part of it is commonly understood by Authors conjunctively, or is held as necessarily connected to the other, so that the communication in divine things which is interdicted to clerics under penalty of reserved excommunication is only that by which they admit *vitandi* to the performance of divine offices.

2°. The censure is inflicted only on a cleric knowingly and spontaneously communicating in divine things with an excommunicated person; whence it happens that any ignorance or any grave fear excuses from incurring it, whether it was struck by threats, by force, or in another way.

In the third paragraph there is contained the interdict from entering the Church. - Cf. Pius IX, Const. *Apostolicae Sedis*. - Cf. Can. 2209, §§ 1-3 and 2231.

In the fourth paragraph, those are personally interdicted who have given cause for a local interdict or for an interdict against a community or college.

Those who have dared to command or compel infidels, apostates from the faith, or heretics, schismatics, or others, whether excommunicated or interdicted, to be handed over to ecclesiastical burial against the prescription of Can. 1240, § 1, contract an excommunication *latae sententiae* reserved to no one; but those spontaneously giving burial to the same contract an interdict from entering the church reserved to the Ordinary (Can. 2339).

Explanation. - Those commanding, who give the command by their own authority, those compelling by force or fear that infidels, apostates from the faith, heretics, schismatics, or others, whether excommunicated or interdicted, unless before death they gave signs of repentance, be handed over to ecclesiastical burial, are subject to an excommunication reserved to no one. The Parish Priest who, unwilling and compelled, hands these over to burial does not incur it; but if he does it spontaneously, he incurs an interdict from entering the Church reserved to the Ordinary, just as all those acting spontaneously incur it.

If someone, against the prescription of can. 120, has dared to drag before a lay judge some one of the Cardinals of the Holy Roman Church, or Legates of the Apostolic See, or major Officials of the Roman Curia on account of affairs pertaining to their function, or his own Ordinary, he contracts by the fact itself an excommunication reserved in a special mode to the Apostolic See; if another Bishop, even merely titular, or an Abbot or Prelate nullius, or one from the major Superiors of religions of pontifical right, an excommunication *latae sententiae* simply reserved to the Apostolic See; finally, if, without having obtained permission from the Ordinary of the place, another person enjoying the privilege of forum, then a cleric indeed incurs by the fact itself suspension from office reserved to the Ordinary, but a layman is to be punished by his own Ordinary with congruous penalties according to the gravity of the fault (Can. 2341).

Explanation. - Here Canon 120 must be held before the eyes, concerning clerics to be convened in contentious and criminal causes only before an ecclesiastical judge, except cases in which due permission is had for convening them before a lay judge. Since permission of various Superiors is owed according to the dignity of clerics, likewise varied is the penalty inflicted against the delict committed against this canon: he who without permission of the Holy See has dared to drag before a lay judge a Cardinal, a Legate of the Apostolic See, or Major Officials of the Roman Curia on account of affairs pertaining to their function, or his own Ordinary, incurs an excommunication reserved in a special mode to the Apostolic See; he who drags another Bishop, even titular, an Abbot or Prelate nullius, or one from the major Superiors of religions of pontifical right, incurs an excommunication simply reserved to the Holy See; he who without permission of the Ordinary of the place drags another person having the privilege of forum, if a cleric, incurs suspension from office reserved to the Ordinary; if a layman, let him be punished by his own Ordinary. Pius IX, *Apostolicae Sedis*, § 1, VII.

There are struck by the fact itself with an excommunication simply reserved to the Apostolic See:

1°. Those violating the enclosure of nuns, of whatever kind or condition or sex they may be, by entering their monasteries without legitimate permission, and likewise those introducing or admitting them; but if they are clerics, besides let them be suspended for a time to be defined by the Ordinary according to the gravity of the fault;

2°. Women violating the enclosure of male regulars, and Superiors and others, whoever they may be, introducing or admitting them, of whatever age they may be; and besides, religious introducing or admitting them are to be deprived of office, if they have any, and of active and passive voice;

3°. Nuns illegitimately going out from enclosure against the prescription of can. 601 (Can. 2342).

Explanation. - By nuns here are understood those who are strictly such and emit solemn vows. Wherefore he who violates the enclosure of Nuns imposed upon them by the Bishop, or that to which one is held by force of rule or of some special vow, does not incur this censure. - Among us, therefore, a case in which the present censure is incurred can occur very rarely indeed. - Cf. Varceno, vol. 2, p. 488. Under the name of male Regulars in this censure are comprehended only those who emit solemn vows and who alone are obliged everywhere by papal enclosure, with no region excepted. - But by women are understood all females, except Queens and Empresses with their daughters and a decent retinue. Cf. Varceno, ibid., p. 490.

No exit is licit to any nun, not even for a brief time, except with permission of the Roman Pontiff, except the case of some most grave evil. This danger, if there is time, must be recognized in writing by the Ordinary of the place. - Cf. Canon 2209, §§ 1-3 and Canon 2231.

§ 1. He who has laid violent hands upon the person of the Roman Pontiff:

1°. Contracts an excommunication *latae sententiae* reserved in a most special mode to the Apostolic See; and is by the fact itself *vitandus*; ...

§ 2. He who upon the person of a Cardinal of the Holy Roman Church or a Legate of the Roman Pontiff:

1°. Incurs an excommunication *latae sententiae* reserved in a special mode to the Apostolic See;

§ 3. He who upon the person of a Patriarch, Archbishop, Bishop even merely titular, incurs an excommunication *latae sententiae* reserved in a special mode to the Apostolic See.

§ 4. He who upon the person of other clerics or religious of either sex is subject by the fact itself to excommunication reserved to his proper Ordinary, who besides may punish him with other penalties, if the matter bears it, according to his prudent judgment (Can. 2343).

Explanation. - To lay violent hands imports striking a cleric injuriously in any way, whether with hands or feet or some instrument, or at least affecting him with an injury in such a way that his person is externally touched. - Wherefore he is not subject to this excommunication who utters insulting words or only simulates or threatens a blow by some sign; on the contrary, he is subject who spits upon a cleric, tears his garment, etc. It is required for excommunication that the blow be gravely sinful, both by reason of matter or exterior force or injury, and by reason of advertence and intention. Nevertheless it must be noted that a blow, whether by reason of exterior violence or by reason of injury but not by reason of sin, is called one thing enormous, another middling or grave

only, another light, so that what is light by reason of exterior action can be enormous or grave by reason of injury. - Cf. St. Alphonsus, nn. 273 and 277.

Just as there are grades of dignities, so there are grades in the penalty by which this delict is punished. He who committed it against the august person of the Roman Pontiff is bound by the bond of an excommunication reserved in a most special mode; he who against Cardinals, Bishops, Legates, incurs an excommunication reserved to the Pope in a special mode; in other cases the excommunication is reserved to the proper Ordinary. Pius IX, *Apostolicae Sedis*, § 11, n. 2.

Clerics: those who have been assigned to divine ministries at least through first tonsure are called clerics. - Cf. Canon 108, § 1. Religious, even laymen and novices, and all women religious enjoy this privilege.

Those usurping or detaining, by themselves or through others, goods or rights pertaining to the Roman Church are subject to excommunication *latae sententiae* reserved in a special mode to the Apostolic See; and if they were clerics, besides let them be deprived of dignities, benefices, offices, pensions, and declared incapable of the same (Can. 2345).

Explanation. - To usurp imports occupying by force some thing as one's own, or as if one had a right in it; to detain, that is, to have in one's power, with oneself or with others, goods and rights of the Church. Goods and rights which pertain to the Roman Church are, among other things, those which the Roman Church needs for duly performing her functions: land, places, and principal rights; all things once possessed by her are bound to her now by no lesser right, even though usurped and detained by others. As regards cooperators, see can. 2231, 2209. Pius IX, Const. *Apostolicae Sedis*, § 1, n. 12.

If someone has presumed to convert and usurp for his own uses ecclesiastical goods of any kind, whether movable or immovable, whether corporeal or incorporeal, by himself or through others, or to impede the fruits or revenues of the same from being received by those to whom by law they pertain, let him be subject to excommunication until he has restored the goods themselves integrally, removed the aforesaid impediment, and then obtained absolution from the Apostolic See; ... (Can. 2346).

... He who has presumed illegitimately to alienate ecclesiastical goods, or in alienating them to furnish consent against the prescriptions of can. 534, § 1, and can. 1532: ...

3°. But if the apostolic good pleasure prescribed in the mentioned canons has knowingly been passed over, there remains besides an excommunication *latae sententiae* reserved to no one for all in any way guilty, whether by giving or receiving or furnishing consent (Can. 2347).

Explanation. - § 1. With the prescription of Can. 1531 remaining firm, if there is question of alienating precious things or other goods whose value exceeds the sum of thirty thousand francs or lire, or of contracting debts and obligations beyond the indicated sum, let the contract lack force, unless apostolic good pleasure has preceded (Can. 534).

If this good pleasure has knowingly been passed over, then indeed excommunication enters against the aforesaid; alienation designates all pacts by which dominion is transferred; those giving are struck, those receiving, those furnishing consent.

The Constitution *Ambitiosae* of Paul II, 1467, prohibits alienation of all ecclesiastical things and goods, and every pact by which dominion over them is transferred, concession, hypothec, leasing and hiring beyond three years, as also infeudation or emphyteutic contract, except in cases expressed by law and with evident utility of the Churches, and concerning fruits which, by being preserved, cannot be preserved according to the exigency of the present time, ... to be made. Then it establishes thus: "If anyone against the series of this our prohibition should presume to alienate anything concerning the same goods and things, let alienation, hypothec, concession, leasing, hiring, and infeudation of this kind be of no force or moment whatever. And both he who alienates and he who receives the aforesaid alienated things and goods incurs the sentence of excommunication." - Finally, it prescribes that alienation of these goods never be made without the Roman Pontiff having been consulted.

IV. On Delicts Against Life, Liberty, Property, Good Fame, And Good Morals

§ 1. Those procuring abortion, the mother not excepted, incur, the effect having followed, an excommunication *latae sententiae* reserved to the Ordinary; and if they are clerics, besides let them be deposed (Can. 2350).[1]

[1] Cf. Addenda, p. 1139, n. 99.

Explanation. - Sixtus V, in the Bull *Effraenatam*, issued 29 Oct. 1588, subjected to all temporal penalties by which homicides are struck in civil and canon law, § 1, "all who, by themselves or through interposed persons, have procured abortion, or the ejection of an immature fetus, whether animated or inanimate, formed or unformed, by blows, poisons, medicines, potions, burdens and labors imposed upon a pregnant woman, and also by other unknown or especially contrived means, so that in reality abortion has followed from it." Then, beyond the aforesaid temporal penalties, he fined with excommunication to be incurred by the fact itself and reserved to the Apostolic See, § 7, "all and each ... men or women ... who, as principals or as associates, have knowingly given aid, counsel, favor, a potion, or other medicines of any kind whatever for committing such a crime, and also by writing private letters or notes or by other words or signs have helped or counseled." - But Gregory XIV, Const. *Sedes Apostolica*, 31 May 1591, moderated the Sixtine Constitution under a twofold head; namely, he removed excommunication for abortion of an inanimate fetus, but willed that absolution from excommunication for abortion of an animated fetus be reserved only to Bishops. - But Pius IX, by his Constitution confirming the episcopal reservation of this case, omitted in the censure the distinction of animated and inanimate fetus, and for the enumeration made by Sixtus of those who would incur excommunication, he substituted these few words: those procuring abortion, the effect having followed. - For greater clarity of the matter, however, three things must here be examined: one which regards the object, and two which touch the subject of this censure. Wherefore the following are set down.

Questions

Question 1. Whether a craniotomic operation can be called the matter of this censure?

Resp. Negatively, because it is not procurement of abortion; indeed it is also probable, saving a better judgment, that extraction of the fetus in a case of extrauterine pregnancy is not procurement of abortion, because this, otherwise than that, is the ejection of an immature fetus from the womb of the mother.

Question 2. Who are procurers?

Resp. Procurers are principal agents who physically, immediately, by themselves and in their own name, or morally through others, procure abortion.

"All, both men and women, who hereafter by themselves or through interposed persons have procured abortion, or the ejection of an immature fetus, whether animated or even inanimate, formed or unformed, by blows, poisons, medicines, potions, burdens and labors imposed upon a pregnant woman, and also by other unknown or especially contrived means, so that in reality abortion has followed from it." Sixtus V, Const. *Effraenatam*.

Question 3. Is a mother procuring abortion for herself subject to excommunication?

Resp. Affirmatively. The mother is no longer excepted.

The delict is supposed as explained by Sixtus V, and consummated by the effect having followed, and indeed in such a way that the very ejection of the fetus, or the abortion itself, is the effect of the procurement by the various means employed - which must be carefully noted. - Cf. Pius IX, Const. *Apostolicae Sedis*, § 3, n. 2.

Question 4. Are others also subject to excommunication?

Resp. Affirmatively, according to the canon often cited, 2231: If several have concurred in perpetrating a delict, although only one is named in the law, those also of whom in Can. 2209, §§ 1-3, are held, unless the law has expressly provided otherwise, by the same penalty; but the others not likewise.

§ 1. Those who by common design of offending physically concur together in a delict are all held guilty in the same way, unless the adjuncts increase or diminish the culpability of someone.

§ 2. In a delict which by its nature demands an accomplice, each party is culpable in the same way, unless from the adjuncts something else appears.

§ 3. Not only the one commanding, who is the principal author of the delict, but also those who induce toward the consummation of the delict or concur toward this in any way, contract no lesser imputability, other things being equal, than the executor of the delict himself, if the delict would not have been committed without their work (Can. 2209).

Wherefore all co-delinquents are struck with excommunication who, by common design, physically accomplish the thing, for example, the physician and others without whose aid and cooperation the abortion would not have followed.

§ 1. With the prescription of can. 1240, § 1, n. 4, being observed, those perpetrating a duel, or simply provoking to it or accepting it, or furnishing any work or favor, as also those who deliberately watch it and permit it or, as much as is in them, do not prohibit it, of whatever dignity they may be, are by the fact itself subject to excommunication simply reserved to the Apostolic See.

§ 2. But the duelers themselves and those who are called their seconds are besides by the fact itself infamous (Can. 2351).

Explanation. - All perpetrating a duel, or simply provoking to it, namely even when the effect has not followed, or accepting it, are affected by this censure primarily; but secondarily all accomplices,

whoever furnish favor or work, and therefore also a physician who assists at a duel with the intention of imposing a quicker end on the fight, or simply of binding wounds, if nevertheless this last is done by agreement. - Formerly it could be doubted whether all spectators were subjected to excommunication, but by this present censure it is clearly indicated that only those are subject who deliberately watch. - Cf. Bucceroni, nn. 52 and following.

At least probably he is not affected by excommunication who, with the intention of not fighting, and when the fight has not followed, nevertheless for the sake of empty honor or by any motive whatsoever accepted a duel or provoked another, for the censure is inflicted on account of formal, but not on account of material, provocation or acceptance, that is, on account of provocation and acceptance which refer to a true, not a fictitious, duel. Yet certainly he who acts in this way sins most gravely by reason of scandal, or also by the danger to which he exposes himself. But if a true, that is, formal acceptance or provocation has preceded, excommunication is most certainly incurred, even if the fight has not been carried into effect, or the duel by agreement ought to have ceased after only the first shedding of blood. This is clear from Const. *Detestabilem*, § 6, Bened. XIV, and Const. *Illius Vicis*, Clem. VIII. - Cf. Baller., note (d), p. 992. Students of the universities of Germany who commit a duel in that manner in which in these times it is accustomed to be done among them contract this censure. - Cf. Resp. S. C. Concilii, 9 Aug. 1890.[1]

All, shining even with any 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 religious profession, whether solemn or simple, whether perpetual or temporary, are struck by the fact itself with excommunication reserved to no one (Can. 2352).

[1] Cf. Addenda, p. 1140, n. 100.

Explanation. - Coercion toward the clerical state, not toward priesthood only, is the delict which is punished here together with coercion toward the religious state, not only toward the regular state; and just as coercion toward embracing the clerical state can be done even if it is only toward minor orders, so also coercion toward any religion, or coercion toward any profession. Coercion in either case is understood with respect to persons who are fit for embracing the states: with respect to men for clerical life, with respect to men and women for religious life; as regards religion, there is considered coercion either toward entrance into the state or toward profession, and toward religion with solemn, or perpetual, or temporary vows.

V. On The Crime Of Falsity

§ 1. All fabricators or forgers of letters, decrees, or rescripts of the Apostolic See, or those knowingly using the same letters, decrees, or rescripts, incur by the fact itself an excommunication reserved in a special mode to the Apostolic See . . . (Can. 2360).

Explanation. - Cf. Pius IX, *Apostolicae Sedis*, § 1, 9, § 3, 3. In this title there is punished the crime of falsity, or the deceitful alteration or suppression of truth made to the harm of another; and provision is made for public faith, honor, and good fame. Fabricators or forgers who fabricate false letters, decrees, rescripts, thus by applying to false letters a false bull, or a false seal, and in this way fabricating false ones, or adulterating true ones by changing, adding, deleting, etc., some notable thing in them; likewise those knowingly using fabricated or adulterated documents: all these incur by the fact itself an excommunication reserved in a special mode to the Roman Pontiff. C. 5, X, v. 20.

If someone, by himself or through others, has falsely denounced a confessor before Superiors for the crime of solicitation, by the fact itself he incurs an excommunication reserved in a special mode to the Apostolic See, from which in no case can he be absolved unless he has formally retracted the false denunciation, and has repaired, according to his powers, the damages, if any have followed from it, with a grave and lasting penance imposed besides, the prescription of can. 894 remaining firm (Can. 2363).

Canon 894 runs thus: The only sin reserved to the Holy See by reason of itself is false delation, by which an innocent priest is accused of the crime of solicitation before ecclesiastical judges. Therefore now by canon 2363 there is added to this crime an excommunication reserved in a special mode to the Apostolic See, from which he cannot be absolved unless the guilty person has first made a formal retraction and has repaired the damages. It is a case altogether singular. The false delation here condemned is that which is made before ecclesiastical judges, not before Superiors, even the major Superiors of some religious. Now this reservation was made so that, by the greatness of the penalty, men might be deterred from the crime itself. - Cf. Benedict XIV, Const. *Sacramentum Paenitentiae*. And therefore those ignorant seem to be excused from this penalty.

VI. On Delicts In The Administration Or Reception Of Orders And Of The Other Sacraments

A priest who without the necessary jurisdiction has presumed to hear sacramental confessions is, by the fact itself, suspended *a divinis*; but he who has presumed to absolve from reserved sins is, by the fact itself, suspended from hearing confessions (Can. 2366).

Explanation. - A priest who has presumed: any immunity of imputability, whether on the part of the intellect or on the part of the will, exempts from this excommunication. He who knowingly acts as confessor without due jurisdiction, and he who absolves from reserved sins: the former is, by the fact itself, suspended *a divinis*; the latter, from hearing confessions. - Cf. Can. 2279. In the first case the delict is the simple hearing of confession without jurisdiction. In the second there is question of absolving someone from reserved sins, not from reserved censures.

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

§ 2. He does not escape the same excommunication who absolves, or feigns to absolve, an accomplice who indeed does not confess the sin of complicity, from which he has not yet been absolved, but conducts himself in this way because he has been induced to this by the accomplice-confessor, either directly or indirectly (Can. 2367).

Cf. Above, n. 784.

§ 2. But a faithful person who knowingly has omitted to denounce within a month the one by whom he has been solicited, contrary to the prescription of can. 904, incurs an excommunication *latae sententiae* reserved to no one, not to be absolved unless after he has satisfied the obligation or has seriously promised that he will satisfy it (Can. 2368).

Cf. Above, n. 786.

§ 1. The excommunication reserved in a most special mode to the Apostolic See awaits the confessor who has presumed to violate directly the sacramental seal; but he who has violated it only indirectly is subject to the penalties of which in can. 2368, § 1 (Can. 2369).

It can be that others are bound by the seal. In this canon there is treatment only of the confessor violating the seal directly. Direct violation of the seal consists in the express revelation of matter known under the sacramental seal together with the manifestation of the penitent. The excommunication is reserved in a most special mode.

A Bishop consecrating someone as Bishop, the Bishops or, in place of Bishops, the assisting presbyters, and he who receives consecration without apostolic mandate contrary to the prescription of can. 953, are suspended by the law itself until the Apostolic See shall dispense them (Can. 2370).

Explanation. - Now canon 953 contains the following prescription: Episcopal consecration is reserved to the Roman Pontiff in such a way that it is permitted to no Bishop to consecrate anyone as Bishop, unless first there is certainty concerning the pontifical mandate.

Suspended are the consecrating Bishop, the Bishops or, in place of Bishops, the assisting presbyters, and the one consecrated.

Note. - Clerics who through simony knowingly have been promoted to orders, or have administered or received other Sacraments, incur a suspension reserved to the Apostolic See. - Cf. Can. 2371. S. C. de Prop. Fide, 13 Apr. 1807, n. VIII.

They contract by the fact itself a suspension *a divinis*, reserved to the Apostolic See, who presume to receive orders from one excommunicated or suspended or interdicted after a declaratory or condemnatory sentence, or from a notorious apostate, heretic, schismatic; but he who in good faith has been ordained by any one of these lacks the exercise of the order thus received until he is dispensed (Can. 2372).

They incur by the fact itself a suspension for a year from the conferring of orders, reserved to the Apostolic See:

1°. Those who, contrary to the prescription of can. 955, have ordained another's subject without the dimissorial letters of his proper Ordinary;

2°. Those who have ordained their own subject, who has stayed elsewhere for so long a time that he could have contracted a canonical impediment there, contrary to the prescription of can. 993, n. 4, 994;

3°. Those who have promoted someone to major orders without a canonical title, contrary to the prescription of can. 974, § 1, n. 7;

4°. Those who, saving legitimate privilege, have promoted a religious belonging to a community which is outside the territory of the one ordaining, even with dimissorial letters of his own Superior, unless it has been legitimately proved that one of the cases occurs of which in can. 966 (Can. 2373).

Explanation. - In the first number of can. 2373 there is treatment of the penalty inflicted on him who ordains another's subject without dimissorial letters; but in the second, of him who ordains his own

without testimonials of the Ordinary of the place in which the one to be ordained has stayed for so much time that he could have contracted a canonical impediment; in the third, of him who ordains someone without a title; in the fourth, of him who unduly ordains a religious. - Cf. Pius IX, Const. *Apostolicae Sedis*, § V, n. 2-4. A religious Superior can send dimissorial letters to another Bishop only then when the diocesan Bishop has given permission, or is not going to have an ordination at the next legitimate time, or finally when the diocese is vacant, and it is not governed by one who possesses episcopal character. - Cf. Can. 966.

He who without letters or with false dimissorial letters, or before the canonical age, or by a leap, has maliciously approached orders, is by the fact itself suspended from the order received; but he who has approached without testimonial letters, or while held by some censure, irregularity, or other impediment, is to be punished with grave penalties according to the adjuncts of things (Can. 2374).

Explanation. - A malicious or deceitful approach to orders without letters or with false dimissorial letters, or before age, or with some lower order passed over, is the delict punished in this canon.

VII. On Delicts Against The Obligations Proper To The Clerical Or Religious State

The prescription of can. 646 remaining firm, a religious apostate from religion incurs by the law itself an excommunication reserved to his own major Superior, or, if the religion is lay or not exempt, to the Ordinary of the place in which he dwells; he is excluded from legitimate ecclesiastical acts, deprived of all the privileges of his religion; and if he returns, he perpetually lacks active and passive voice, and besides must be punished by the Superiors with other penalties, according to the gravity of the fault, according to the norm of the constitutions (Can. 2385).

Explanation. - An apostate from religion is said to be a professed person bound by perpetual vows, whether solemn or simple, who, having illegitimately gone out from a religious house, does not return, with this intention, that he may withdraw himself from religious obedience. - Cf. Can. 644, § 1. The excommunication is reserved to his own major Superior or, if the religion is lay or not exempt, to the Ordinary of the place in which he dwells. And therefore if any man or woman thus were to go out while bound by those vows, he or she would be excommunicated.

A fugitive religious incurs by the fact itself privation of office, if he has any in religion, and suspension reserved to his own major Superior, if he is in sacred orders; but when he has returned, he is to be punished according to the constitutions, and if the constitutions provide nothing concerning this, the major Superior is to inflict penalties according to the gravity of the fault (Can. 2386).

Explanation. - A fugitive is one who without the permission of the Superiors deserts the religious house with the intention of returning to religion. Council of Trent, sess. 25, *de regular.*, c. 4. The suspension is reserved to the major Superior.

A religious cleric whose profession has been declared null on account of deceit admitted by him, if he is constituted in minor orders, is to be cast out from the clerical state; if in major orders, he remains suspended by the fact itself, until it shall have seemed otherwise to the Apostolic See (Can. 2387).

Explanation. - The delict is to obtain deceitfully, that is, by evil arts, for instance by deceiving the judge, or by lies employed in the relation of the fact, a declaration of the nullity of profession. The

present canon restrains this. - Cf. Benedict XIV, Const. *Si datam*. The subject is a religious cleric. The suspension is reserved to the Apostolic See.

§ 1. Clerics constituted in sacred orders, or regulars or nuns after a solemn vow of chastity, and likewise all those presuming to contract marriage even civilly only with any person from the aforesaid persons, incur an excommunication *latae sententiae* simply reserved to the Apostolic See; clerics besides, if having been warned they have not come to their senses within the time prefixed by the Ordinary according to the diversity of the adjuncts, are to be degraded, the prescription of can. 188, n. 5 remaining firm.

§ 2. But if they are professed of perpetual simple vows, both in Orders and in religious Congregations, the excommunication *latae sententiae* reserved to the Ordinary holds all, as above (Can. 2388).

Explanation. - 1°. The cleric constituted in sacred orders, or regulars or nuns after a solemn vow of chastity, contract the censure, and all presuming to contract with any one of them; even if the marriage was civil only, or, besides the impediment of solemn vow, other impediments were present. - Cf. Pius IX, Const. *Apostolicae Sedis*, § III, n. 1; S. Off., 22 Dec. 1880; 13 Jan. 1892. The censure is excommunication simply reserved to the Apostolic See.

2°. Excommunication reserved only to the Ordinary awaits those if they are professed of perpetual simple vows, both in Orders and in religious Congregations, and all those contracting with any one of them.

VIII. On Delicts In The Conferring, Reception, And Resignation Of Ecclesiastical Dignities, Offices, And Benefices

The prescription of can. 729 remaining firm, those perpetrating the delict of simony in any ecclesiastical offices, benefices, or dignities:

1°. Incur an excommunication *latae sententiae* simply reserved to the Apostolic See; . . . (Can. 2392).

Cf. Pius IX, Const. *Apostolicae Sedis*, § II, nn. 8, 9.

But chapters, convents, and all others to whom it belongs, admitting elected, presented, or named persons of this kind before exhibition of the letters, remain by the fact itself suspended, by the law, from the right of electing, naming, or presenting, at the good pleasure of the Apostolic See (Can. 2394, n. 3).

Explanation. - Those words "at the good pleasure of the Apostolic See" signify that the suspension has not been borne for a determined time, but that it will last as long as it shall please the Holy See, or, as Boniface VIII says, "until the suspended shall have merited to obtain the grace of the same See concerning this."

A cleric who has presumed to resign an ecclesiastical office, benefice, or dignity into the hands of laymen incurs by the fact itself a suspension *a divinis* (Can. 2400).

Explanation. - This renunciation or resignation ought to be made according to the canons. Therefore knowingly or presumptuously to resign ecclesiastical offices, benefices, and dignities into the hands of laymen is a delict which is punished with suspension.

An Abbot or Prelate *nullius* who, contrary to the prescription of can. 322, § 2, has not received benediction, is by the fact itself suspended from jurisdiction (Can. 2402).

Explanation. - These Abbots or Prelates *nullius*, who by apostolic prescription or by the constitutions of the religion ought to be blessed, must receive benediction within three months from the Apostolic letters having been received, the impediment ceasing, from the Bishop whom they prefer. Those acting against this prescription are suspended from jurisdiction.

IX. On Abuse Of Ecclesiastical Power Or Office

A Capitular Vicar, or all others whether from the Chapter or outsiders, who, either by themselves or through another, have taken away, destroyed, hidden, or substantially altered any document whatever pertaining to the episcopal Curia, incur by the fact itself an excommunication simply reserved to the Apostolic See, and by the Ordinary will also be able to be punished with privation of office or benefice (Can. 2405).

A Capitular Vicar granting dimissorial letters for ordination contrary to the prescription of can. 958, § 1, n. 3, by the fact itself is subject to suspension *a divinis* (Can. 2409).

Religious Superiors who, contrary to the prescription of can. 965-967, have presumed to send their subjects to an outside Bishop to be ordained, are by the fact itself suspended for a month from the celebration of Mass (Can. 2410).

Explanation. - The Bishop to whom a religious Superior ought to send dimissorial letters is the Bishop of the diocese in which is situated the religious house to whose family the one to be ordained belongs; but when that Bishop has given permission, or is of a different rite, or is absent, or is not going to have ordinations at the next time, etc., it is permitted to send the letters to another Bishop. But these facts must be notified to the Bishop who is to ordain. Moreover the Superior ought not in fraud to send the subject to another religious house or purposely defer the concession of the letters to a time when the Bishop is going to be absent or is not going to have ordinations. If he acts contrary to these prescriptions, by the fact itself he is suspended for a month from the celebration of Mass. Cf. Can. 965-967.

Pontifical Commission — For Authentically Interpreting The Canons Of The Code — Doubts — Resolved In The Plenary Meetings Of The Days 2-3 June 1918

On delicts against the obligations proper to the clerical or religious state.

Whether canons 2386, 2387, 2389, 2410, 2411, 2413 are applied to clerical societies without vows.

Resp. Affirmatively as regards cann. 2386, 2387, 2389, insofar as the members lead common life; as regards can. 2410 insofar as the society enjoys the privilege of granting dimissorial letters for Orders to its subjects; as regards the first part of can. 2411, saving the constitutions as regards the rest; and as regards can. 2413.

(*A. A. S.* An. X, n. 8 - 1 August 1918.)

Collection Of Excommunications

I. They incur an excommunication reserved in a most special mode to the Apostolic See.[1]

1°. He who has cast away the consecrated species or carried them away or retained them for an evil end (Can. 2320).

2°. He who has laid violent hands upon the person of the Roman Pontiff (Can. 2343).

3°. One absolving, or feigning to absolve, an accomplice in a base sin incurs by the fact itself an excommunication reserved in a most special mode to the Apostolic See; and this even in the article of death. He does not escape the same excommunication who absolves or feigns to absolve an accomplice who indeed does not confess the sin of complicity, from which he has not yet been absolved, but conducts himself in this way because he has been induced to this by the accomplice-confessor, either directly or indirectly (Can. 2367, §§ 1, 2).

4°. A confessor who has presumed directly to violate the sacramental seal (Can. 2369, § 1).

II. They incur an excommunication reserved in a special mode to the Apostolic See:

1°. All apostates from the Christian faith, and all and each heretics or schismatics (Can. 2314, § 1).

2°. . . . The work having become of public right, publishers of books of apostates, heretics, and schismatics, which defend apostasy, heresy, schism, and likewise those defending the same books or others prohibited by name through apostolic letters, or knowingly reading or retaining them without due license (Can. 2318, § 1).

3°. One not promoted to the priestly order, if he has simulated the celebration of Mass or has received sacramental confession (Can. 2322, n. 1).

4°. All and each, of whatever state, grade, or condition they may have been, even royal, episcopal, or cardinalitial, appealing from the laws, decrees, mandates of the Roman Pontiff for the time existing to a Universal Council . . . (Can. 2332).

5°. Those having recourse to lay power for impeding letters or any acts whatever proceeding from the Apostolic See or from its Legates, or 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 . . . (Can. 2333).

6°. Those who issue laws, mandates, or decrees against the liberty or rights of the Church (Can. 2334, § 1).

7°. 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 (Can. 2334, § 2).

8°. If anyone, contrary to the prescription of can. 120, has dared to drag before a lay judge any of the Cardinals of the Holy Roman Church or Legates of the Apostolic See, or major Officials of the Roman Curia on account of affairs pertaining to their office, or his own Ordinary (Can. 2341).

9°. Those who have laid violent hands upon the person of a Cardinal of the Holy Roman Church or Legate of the Roman Pontiff, or upon the person of a Patriarch, Archbishop, Bishop, even only titular (Can. 2343, § 2, 1°, § 3).

10°. Those usurping or detaining, by themselves or through others, goods or rights pertaining to the Roman Church (Can. 2345).

11°. All fabricators or forgers of letters, decrees, or rescripts of the Apostolic See, or those knowingly using the same letters, decrees, or rescripts (Can. 2360, § 1).

12°. If someone, by himself or through others, has falsely denounced a confessor before Superiors for the crime of solicitation, from which he cannot in any case be absolved unless he has formally retracted the false denunciation and has repaired, according to his powers, the damages, if any have followed from it, with a grave and lasting penance imposed besides, the prescription of Can. 894 remaining firm (Can. 2363).

III. They incur an excommunication simply reserved to the Apostolic See:

1°. Those making gain from indulgences (Can. 2327).

2°. Those giving their name to the masonic sect or to other associations of the same kind (Can. 2335).

3°. Those presuming to absolve without due faculty from an excommunication *latae sententiae* reserved in a most special or special mode to the Apostolic See (Can. 2338, § 1).

4°. Those expending any assistance or favor to an excommunicated *vitandus* in the delict on account of which he was excommunicated; and likewise clerics knowingly and willingly communicating with him in divine things and receiving him in divine offices (Can. 2338, § 2).

5°. If anyone, contrary to the prescription of Can. 120, has dared to drag before a lay judge another Bishop, besides his own, even merely titular, or an Abbot or Prelate *nullius*, or any of the major Superiors of religions of pontifical right (Can. 2341).

6°. Those violating the enclosure of nuns, of whatever kind or condition or sex they may be, by entering their monasteries without legitimate license, and likewise those introducing or admitting them.

7°. Women violating the enclosure of regular men, and Superiors and others, whoever they may be, introducing or admitting them of whatever age.

8°. Nuns illegitimately going out from enclosure contrary to the prescription of Canon 601 (Can. 2342, nn. 1, 2, 3).

9°. Those perpetrating a duel, or simply provoking to it or accepting it, or furnishing any work or favor, and also those deliberately watching it, and permitting it or, as much as is in them, not prohibiting it, of whatever dignity they may be (Can. 2351, § 1).

10°. Clerics constituted in sacred orders, or regulars or nuns after a solemn vow of chastity, and likewise all those presuming to contract marriage, even civilly only, with any of the aforesaid persons (Can. 2388, § 1).

11°. Those perpetrating the delict of simony in any ecclesiastical offices, benefices, or dignities (Can. 2392).

12°. A Capitular Vicar, or all others whether from the chapter or outsiders, who have taken away, destroyed, hidden, or substantially altered any document whatever pertaining to the episcopal Curia, either by themselves or through another (Can. 2405).

13°. If anyone has presumed to convert to his own uses and usurp ecclesiastical goods of any kind, whether movable or immovable, whether corporeal or incorporeal, by himself or through others, or to impede that the fruits or revenues of the same be perceived by those to whom they pertain by right, let him be subject to excommunication until he has entirely restored the goods themselves, removed the aforesaid impediment, and then obtained absolution from the Apostolic See (Can. 2346).

[1] In this collection the canons are not always cited entire.

They incur an excommunication reserved to the Ordinary:

§ 1. Catholics:

1°. Who enter marriage before an acatholic minister contrary to the prescription, Can. 1063, § 1.

2°. Who are united in marriage with an explicit or implicit pact that all or some offspring be educated outside the Catholic Church.

3°. Who knowingly presume to offer their children to be baptized by acatholic ministers.

4°. Parents or those holding the place of parents who knowingly hand over children to be educated or instructed in an acatholic religion.

§ 2. Those of whom in § 1, nn. 2-4, are besides suspected of heresy (Can. 2319).

Those who make false relics, or knowingly sell, distribute, or expose them to the public veneration of the faithful (Can. 2326).

One who has laid violent hands upon the person of other clerics or religious of either sex (Can. 2343, § 4). This censure is reserved to his own Ordinary. - Cf. above n. 1022, I, 2°, II, 9°, and the whole canon 2343, concerning those casting violent hands upon the person of the Roman Pontiff, Cardinals, Bishops.

Those procuring abortion, the mother not excepted, the effect having followed (Can. 2350, § 1).

. . . A religious apostate from religion, reserved to his own major Superior, or, if the religion is lay or not exempt, to the Ordinary of the place in which he dwells (Can. 2385).

Professed persons of perpetual simple vows, both in Orders and in religious Congregations, and likewise all those presuming to contract marriage, even civilly only, with any of the aforesaid persons (Can. 2388, §§ 2, 1).

They incur an excommunication reserved to no one:

Authors and publishers who without due license take care that books of sacred Scriptures, or annotations or commentaries on them, be printed (Can. 2318, § 2).

Those who have dared to command or compel that infidels, apostates from the faith, or heretics, schismatics, or others, whether excommunicated or interdicted, be handed over to ecclesiastical burial contrary to the prescription, Can. 1240, § 1 (Can. 2339).

. . . Those who have presumed to alienate ecclesiastical goods, or to furnish consent in alienating them contrary to the prescriptions, Can. 534, § 1, and Can. 1532 (Can. 2347).

. . . If the apostolic good pleasure prescribed in the mentioned canons has knowingly been passed over, all in any way guilty, whether by giving or receiving or furnishing consent (Can. 2347, n. 3).

All, shining even with any 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 religious profession, whether solemn or simple, whether perpetual or temporary (Can. 2352).

A faithful person who knowingly has omitted to denounce within a month the one by whom he has been solicited, contrary to the prescription of Can. 904 (Can. 2368, § 2).

Suspensions

They incur a suspension reserved to the Apostolic See:

A Bishop consecrating someone as Bishop, the Bishops, or, in place of Bishops, the assisting presbyters, and he who receives consecration without apostolic mandate contrary to the prescription of can. 953 (Can. 2370).

Clerics through simony knowingly promoted to orders, or administering or receiving other Sacraments (Can. 2371).

. . . Those who presume to receive orders from one excommunicated or suspended or interdicted after a declaratory or condemnatory sentence, or from a notorious apostate, heretic, schismatic: suspension *a divinis* is incurred; but he who in good faith has been ordained by any one of them lacks the exercise of the order thus received until he is dispensed (Can. 2372).

They incur a suspension for a year from the conferring of orders, reserved to the Apostolic See:

1°. Those who, contrary to the prescription of can. 955, have ordained another's subject without the dimissorial letters of his proper Ordinary;

2°. Those who have ordained their own subject, who has stayed elsewhere for so long a time that he could have contracted a canonical impediment there, contrary to the prescription of can. 993, n. 4, 994.

3°. Those who have promoted someone to major orders without a canonical title, contrary to the prescription of can. 974, § 1, n. 7;

4°. Those who, saving legitimate privilege, have promoted a religious belonging to a community which is outside the territory of the one ordaining, even with dimissorial letters of his own Superior, unless it has been legitimately proved that one of the cases occurs of which in can. 966 (Can. 2373).

A religious cleric whose profession has been declared null on account of deceit admitted by him, . . . if he shall have been in major orders, . . . until it shall have seemed otherwise to the Apostolic See (Can. 2387).

Chapters, convents, and all others to whom it belongs, admitting such elected persons, presented or nominated to a benefice, office, or ecclesiastical dignity before exhibition of the letters, from the right of electing, naming, or presenting (Can. 2394, n. 3).

They incur a suspension reserved to the Ordinary:

. . . If any cleric, permission not having been obtained from the Ordinary of the place, has dared to drag before a lay judge another person enjoying the privilege of the forum (besides the Roman Pontiff, Cardinals, Legates of the Roman Pontiff, major Officials of the Roman Curia on account of affairs pertaining to their office, Bishops, Abbots or Prelates *nullius*, major Superiors of religions of pontifical right, of whom above), he incurs suspension from office reserved to the Ordinary (Can. 2341).

A fugitive religious, if he is in sacred orders, incurs a suspension reserved to his own major Superior (Can. 2386).

They incur a suspension reserved to no one:

1°. A priest who without the necessary jurisdiction has presumed to hear sacramental confessions: *a divinis*; but he who has presumed to absolve from reserved sins: from hearing confessions (Can. 2366).

2°. He who without letters or with false dimissorial letters, or before the canonical age, or by a leap, has maliciously approached orders: from the order received (Can. 2374).

3°. A cleric who has presumed to resign an ecclesiastical office, benefice, or dignity into the hands of laymen: *a divinis* (Can. 2400).

4°. An Abbot or Prelate *nullius* who, contrary to the prescription of can. 322, § 2, has not received benediction: from jurisdiction (Can. 2402).

5°. A Capitular Vicar granting dimissorial letters for ordination contrary to the prescription of can. 958, § 1, n. 3: *a divinis* (Can. 2409).

6°. Religious Superiors who, contrary to the prescription of can. 965-967, have presumed to send their subjects to an outside Bishop to be ordained: for a month from the celebration of Mass (Can. 2410).

A religious cleric in sacred orders who has emitted perpetual vows, if he is dismissed on account of delicts lesser than those of which in can. 670, remains suspended by the fact itself until he has obtained absolution from the Holy See. - Cf. Can. 671.

Interdicts

They incur interdict:

. . . Universities, Colleges, Chapters, or other moral persons, by whatever name they are called, appealing from the laws, decrees, mandates of the Roman Pontiff for the time existing to a Universal Council: reserved in a special mode to the Apostolic See (Can. 2332).

Those knowingly celebrating or causing divine things to be celebrated in interdicted places, or admitting to the celebrating of divine offices forbidden by censure clerics excommunicated, interdicted, or suspended after a declaratory or condemnatory sentence: from entrance into church until they have satisfied him whose sentence they have contemned;

Those who have given cause for a local interdict or an interdict upon a community or college: personally interdicted (Can. 2338, §§ 3, 4).

Those voluntarily granting burial to infidels, apostates, etc.: from entrance into church, reserved to the Ordinary (Can. 2339).

Treatise XX. On Irregularities

Chapter I. On Irregularities in General

Irregularity is a perpetual impediment to this, that someone be enrolled among the clergy, or that he receive Orders or exercise those received. Irregularity is alienation from the rule; rule in Greek is called canon; canon formerly meant the catalogue of clerics who were enrolled under some Title (Church) and were called canons; irregulars with us anciently were those alien from the canon.

Irregularity therefore signifies a prohibiting impediment by which someone is prevented from being enrolled among the clergy, warding him off from Order or from its exercise; it signifies a perpetual impediment, namely one which is judged such that it does not cease by the fact itself, but which is removed only by legitimate power. And in this respect perpetuity is to be held as the essential character of irregularity; on the contrary, things which cease naturally by the course of time, by study, etc., are not, nor are they to be held as, irregularities properly so called. Therefore temporal irregularity is excluded. Irregularity derives its origin from defect or from delict, because that impediment, stain-note, arises on account of some defect, for instance, some defect of body, or on account of some delict, for instance apostasy from the faith.

I say. No irregularity is ever incurred unless it is expressed in canon law.

Thus in the new Code it is clearly declared:

No perpetual impediment which comes under the name of irregularity, whether it is from defect or from delict, is contracted, except what shall have been expressed in the canons which follow (Can. 983).

And therefore the things which are named in canons 984, 985 alone come under the name of irregularities. However many other things there may be which by natural or divine law prohibit one from the clergy, unless they are found expressed in the new Code, they are not irregularities.

Chapter II. On Irregularities in Particular

Article I. On Irregularities from Defect

They are irregular from defect:

1°. The illegitimate, whether the illegitimacy is public or occult, unless they have been legitimated or have professed solemn vows;

2°. Those defective in body who, safely because of weakness, or decently because of deformity, cannot discharge the ministry of the altar. Yet for impeding the exercise of an order legitimately received, a graver defect is required; nor because of this defect are acts prohibited which can be duly placed;

3°. Those who are epileptics or insane or possessed by a demon, or have been so; but if after Orders have been received they have become such, and it is certain that they are now free, the Ordinary can again permit his subjects the exercise of the orders received;

4°. Bigamists, namely those who successively contracted two or more valid marriages;

5°. Those who are marked by infamy of law;

6°. A judge who bore a sentence of death;

7°. Those who have undertaken the office of executioner, and their voluntary and immediate ministers in the execution of a capital sentence (Can. 984).

1°. Legitimate children are children conceived or born from a valid or putative marriage, unless to the parents, on account of solemn profession or a sacred order received, the use of a marriage previously contracted was prohibited at the time of conception. Illegitimate children are children conceived and born from fornication, adultery, incest, or sacrilegious intercourse between parents to whom at the time of conception the use of marriage was prohibited on account of solemn religious profession or sacred order.

They are legitimated: 1°. by subsequent marriage, provided the parents were able to enter marriage between themselves at the time of conception or pregnancy or birth; 2°. by decree of the prince. - Cf. Can. 1116.

2°. Those defective in body are those who, because of a defect of body, cannot perform the functions of the altar either safely because of weakness or decently because of deformity. Concerning this defect note that a graver one is required for impeding the exercise of an Order received, and not all functions of the order are prohibited. To this defect are reduced any defects, and only those, which have as a consequence either weakness, so that the functions of Order cannot be exercised safely, or deformity, so that they cannot be exercised decently, without scandal. Truly the canon itself explains the matter.

This irregularity is incurred under a twofold head: 1°. if someone is unfit for the exercise of Order; 2°. if he brings notable horror to others, or presents indecency.

Hence the following are held irregular: 1°. the mutilated, those wearing a wooden leg, those unable to use the hand, thumb, or index finger; 2°. the blind, totally lacking sight or so becoming blind that

they cannot read in the Missal; 3°. the deaf, who hear nothing, so that in no way can they hear the voice of the minister responding; 4°. the mute or stammering, who cannot pronounce whole words, or cannot except with great difficulty, so that they move the laughter or contempt of those standing by; 5°. the lame, who cannot present themselves at the altar without a staff; 6°. those lacking a nose, or having one enormously distorted, lowered, or extended; 7°. the monstrous, for example, those having an enormous hump, which induces great deformity, etc. - Cf. St. Alph., nn. 403 and following.

Question. Whether one who lacks one eye is irregular?

Resp. Negatively, if he lacks only the right eye, because it is less necessary for the celebration of Mass, provided no notable deformity is born from it. But it must be said otherwise if he lacks the left eye, which is called the eye of the canon, because it is necessary for reading the canon of the Mass. Except, unless he can read the canon with the right eye without deformity. But this is to be subjected to the judgment of the Bishop. - Cf. St. Alphons., n. 404.[1]

3°. Epileptics; see the Canon, n. 3.

[1] Cf. Addenda, p. 1087, n. 5.

4°. Bigamists: this irregularity has now become simple by force of this canon; it arises from the fact that someone successively and validly entered two or more marriages, because in bigamy the perfect signification of the indissoluble union of one Christ with one Church is lacking. This irregularity is called from defect of Sacrament; in the second valid marriage, or third, the perfect signification of that great sacrament, concerning which St. Paul to Ephes. V. 32, is lacking. True bigamy, and it alone, constitutes irregularity. A bigamist is not said to have sinned, "but to have lost the norm of the sacrament necessary not for the merit of life but for the seal of ecclesiastical ordination." C. 2, D. XXVI.

5°. Those who are marked by infamy of law are irregular. That infamy of law is that which is established in cases expressed by law. But cases, *latae sententiae*, are:

He who has cast away the consecrated species or carried them away or retained them for an evil end is, by the fact itself, infamous (Can. 2320).

He who has violated the corpses or tombs of the dead for theft or another evil end is, by the fact itself, infamous (Can. 2328).

He who has laid violent hands upon the person of the Roman Pontiff is infamous by the law itself (Can. 2343, § 1).

The duelers themselves and those who are called their seconds are besides infamous by the fact itself (Can. 2351, § 1).

Bigamists, that is, those who, with the conjugal bond standing in the way, have attempted another marriage, even only civil, as they say, are by the fact itself infamous (Can. 2356).

Laymen legitimately condemned for delicts against the sixth with minors below the age of sixteen years committed, or for rape, sodomy, incest, pandering, are by the fact itself infamous (Can. 2357).

Infamy of law *ferendae sententiae*:

All apostates from the Christian faith and all and each heretics or schismatics, unless having been warned they have come to their senses, are to be declared infamous (Can. 2314, § 1, n. 2).

Clerics, if they have admitted a delict against the sixth precept of the decalogue with minors below the age of sixteen years, or have practiced adultery, rape, bestiality, sodomy, pandering, incest with blood-relatives or relatives by affinity in the first degree, are to be declared infamous (Can. 2359, § 2).

Infamy of law ceases only by dispensation granted by the Apostolic See (Can. 2295).

6°. A judge who bore a sentence of death; those who have undertaken the office of executioner, and their voluntary and immediate ministers in the execution of a capital sentence. Christ Our Lord taught meekness both by words and by example; clerics ought to imitate it. Therefore the Church abhors a judgment of blood, and on account of defect of gentleness makes irregular: judges who bore a judgment of death; those taking up the office of executioner; voluntary and immediate ministers of the execution of a capital sentence voluntarily involving themselves in this execution, but not others. And therefore this irregularity also is much restricted.

Article II. On Irregularities from Delict

They are irregular from delict:

1°. Apostates from the faith, heretics, schismatics;

2°. Those who, except in a case of extreme necessity, have allowed baptism to be conferred upon themselves in any way by acatholics;

3°. Those who have dared to attempt marriage or to place only a civil act, either themselves bound by a matrimonial bond or sacred order or religious vows, even simple and temporary, or with a woman bound by the same vows or joined by a valid marriage;

4°. Those who have perpetrated voluntary homicide or procured the abortion of a human fetus, the effect having followed, and all cooperating;

5°. Those who have mutilated themselves or others, or have attempted to take life from themselves;

6°. Clerics exercising the medical or surgical art forbidden to them, if death follows from it;

7°. Those who place an act of order reserved to clerics constituted in sacred order, either lacking that order, or being prohibited from its exercise by a canonical penalty, whether personal, medicinal or vindicative, or local (Can. 985).

These delicts do not beget irregularity unless they have been grave sins, perpetrated after baptism, with the prescription of can. 985, n. 2 saved, and likewise external, whether public or occult (Can. 986).

1°. Apostasy from the faith is total defection from the Christian faith; heresy is the voluntary error of some Christian against some truth of faith; schism is voluntary withdrawal from the unity of the Church and from obedience to the Head, the Roman Pontiff.

2°. Irregularity from bad reception of Baptism arises. Voluntary acceptance of Baptism from an apostate, heretic, schismatic, or infidel outside a case of necessity is understood; it is said: if he knew,

that is, if knowingly he permitted himself to be baptized by any one of these outside a case of extreme necessity, then he is irregular.

3°. They contract irregularity:

Paul, married, attempting marriage with Martha, unmarried, or with Bertha, married, or with Titina, bound even by temporary vows.

Paul, a religious from solemn vows, attempting marriage with Martha, unmarried, or with Margaret, a religious bound by vows;

Paul, a subdeacon or deacon or priest, attempting marriage with Martha, unmarried, or Marthina, a religious;

Paul, unmarried, attempting marriage with a nun bound by solemn vow;

Paul, professed from temporary vows, attempting marriage with Martha, a nun bound by solemn vow;

John, a professed member of the Society of Jesus from perpetual simple vows, attempting marriage with Bertha, unmarried, or professed from vows whether solemn or simple temporary.

By like reason those who have dared to place only a civil act contract irregularity according to the adjuncts of this canon n. 3.

4°. It arises from homicide and procurement of abortion:

In this irregularity there seem altogether to be included all homicides properly and strictly so called, all procuring abortion, all cooperators who truly incur the guilt of homicide. Therefore those killing by physical act; those procuring abortion by a physical act, the effect having followed; those incurring by a moral act the guilt of homicide or of abortion, the effect having followed; those cooperating efficaciously.

Nor are they irregular who kill someone in the just defense of themselves or of another person, the moderation of blameless defense having been observed.

5°. To mutilate is to cut off a member of the body which has a proper and distinct office: foot, hand, eye, tongue, the breast of a woman. To perpetrate suicide, that is, to attempt to take life from oneself. Therefore those who have mutilated either themselves or others, or have attempted to take life from themselves, become irregular.

Vasectomy is certainly grave damaging of a man, for it deprives him of an immense good; and therefore it is a grave lesion. According to many it is grave mutilation in the technical sense, for it is a cutting-off of a member, although not an excision; it renders the vessels useless for their end. But others say that it is not certainly established concerning irregularity, because the member is not cut out, which is required for irregularity.

One emasculated is not irregular if this has happened to him on account of necessity, or an injury exercised upon him, or on account of defect of nature in birth; otherwise if without necessity he asked this to be done in himself.

6°. Clerics are gravely prohibited from exercising medicine or surgery without apostolic indult; these, although not indecorous, are certainly alien from the clerical state. If death follows from this exercise,

they become irregular. This irregularity strikes the clerics themselves exercising this medical or surgical art.

7°. Those who place some act of order reserved to clerics constituted in sacred order, not having that order - for example, a deacon celebrating Mass, a cleric in minors solemnly baptizing - become irregular; or if they have the order whose exercise, however, is prohibited to them by canonical penalty, and nevertheless they exercise it. And laymen also incur irregularity when exercising an act of order reserved to a cleric constituted in major orders, but not when exercising an act proper to minor orders.

Article III. On Impediments

They are simply impeded:

1°. Children of acatholics, as long as the parents remain in their error;[1]

2°. Men having a wife;

3°. Those who hold an office or administration forbidden to clerics, of which they ought to render accounts, until, the office and administration having been laid down and accounts rendered, they have been made free;

4°. Slaves, with slavery properly so called, before liberty has been received;

5°. Those who by civil law are bound to ordinary military service before they have completed it;

6°. Neophytes, until, by the judgment of the Ordinary, they have been sufficiently proved;

7°. Those who labor under infamy of fact, while it endures, by the judgment of the Ordinary (Can. 987).

[1] Cf. Addenda, p. 1093, n. 26; p. 1106, n. 48.

These impediments are not perpetual; and when the causes have been removed, the obstacle to receiving ordination is removed in the various cases. In the first case a great change has been introduced; namely the impediment holds the children of acatholics as long as the parents remain in their error; it is no longer an irregularity, nor does the impediment proceed beyond the first degree. In the second case married men are impeded from ascending to Orders. In the third there is treatment of those who exercise functions prohibited to clerics, of which they ought to render accounts; but if the office is laid down and accounts are rendered, they become free and are no longer detained by the impediment; see the canon where some such functions are designated. - Cf. C. un., X. 1, 19. In the fourth are understood bondmen, slaves strictly so called, as long as they remain slaves. In the fifth there is treatment of a matter difficult in our days, of military service imposed by civil law; the impediment remains until the law is fulfilled.

Notes. - Pontifical Commission for Authentically Interpreting the Canons of the Code. Doubts resolved in the plenary meetings of the days 2-3 June 1918. On irregularities and other impediments. 1. Whether, according to the sense of canon 987, n. 5, those are impeded who perhaps will be called to military service, but in fact have not yet been called, either because they are unequal in age, or because, the examination having been rightly performed, they have been declared unfit for a time (Can. 987, n. 5). And insofar as negatively: 2. Whether the aforesaid can licitly be promoted not only

to first tonsure and minor Orders, but also to major Orders, nevertheless observing, as long as this war shall endure, the Decree *Ut jus certum*.

Resp. To the 1st Affirmatively. To the 2nd, provision has been made in the first. (*A. A. S.* An. X, n. 8 - 1 August 1918).

In the sixth are understood neophytes, namely those who in adult age have been converted to the faith.

Hardly do disciples with difficulty become teachers, such as priests ought to be. The judgment of sufficient probation belongs to the Ordinary. Finally in the seventh there is treatment of infamy of fact, which is contracted when someone, on account of a perpetrated delict or on account of depraved morals, has lost good estimation among upright and grave faithful, concerning which the judgment belongs to the Ordinary.

Ignorance of irregularities, whether from delict or from defect, and of impediments, does not excuse from the same (Can. 988).

In this matter also the new Code removed ambiguity. And indeed since a stain from some defect or delict is present, whether the subject in whom it is present knows or does not know the law concerning irregularity, the unworthiness of the ministry exercised by this man branded with such a stain is clearer than midday light. Wherefore ignorance of impediments or irregularities does not excuse from incurring them.

Irregularities and impediments are multiplied from diverse causes of the same, but not from repetition of the same cause, unless there is question of irregularity from voluntary homicide (Can. 989).

Titius, a judge, bore a sentence of death, procured abortion with the effect having followed, is the son of a heretic father still dwelling on the earth. There are two irregularities and one impediment. Namely there are diverse causes.

§ 1. It is permitted to Ordinaries, by themselves or through another, to dispense their subjects from all irregularities proceeding from occult delict, except that of which in can. 985, n. 4, or another brought to the judicial forum.

§ 2. The same faculty belongs to any confessor in more urgent occult cases in which the Ordinary cannot be approached and danger threatens of grave damage or infamy, but only for this, that the penitent may licitly be able to exercise orders already received (Can. 990).

Under the name of Ordinaries here come those who are designated in the law, Can. 198, § 1. The faculty itself of dispensing is conceded, not from irregularities from defect, but from all those arisen from occult delict, except the irregularity from voluntary homicide and procurement of abortion with the effect having followed, and an irregularity brought to the judicial forum. In an irregularity from defect, in an irregularity from public delict, in an irregularity from homicide and procurement of abortion with the effect having followed, the Ordinary can do nothing. He can also do nothing in an irregularity brought to the judicial forum. The same faculty belongs to any confessor under certain conditions: the case must be occult and more urgent; recourse to the Ordinary cannot be made; there is danger of infamy or of grave damage. Finally the penitent is dispensed only for the exercise of orders received.

§ 1. In petitions for dispensation from irregularities and impediments, all irregularities and impediments must be indicated; otherwise a general dispensation will indeed be valid also for those withheld in good faith, except those which are excepted in can. 990, § 1, but not for those withheld in bad faith.

§ 2. If there is question of irregularity from voluntary homicide, even the number of delicts must be expressed under penalty of nullity of the dispensation to be conceded.

§ 3. A general dispensation for orders is valid also for major orders; and the dispensed person can obtain non-consistorial benefices, even with cure, but cannot be announced as a Cardinal of the Holy Roman Church, Bishop, Abbot or Prelate *nullius*, major Superior in an exempt clerical religion.

§ 4. A dispensation conceded in the internal non-sacramental forum is to be committed to writing; and it ought to be established concerning it in the secret book of the curia (Can. 991).

Treatise XXI. On Indulgences

Chapter I. On Indulgences Considered Generally

Indulgence, taken in a broader sense, imports any remission whatever of sins, or concession of grace and mercy; but accepted in the stricter sense, Indulgence can be defined: the remission before God of temporal penalty owed for sins, already blotted out as regards guilt, which ecclesiastical authority concedes from the treasury of the Church, for the living by way of absolution, for the dead by way of suffrage (Can. 911).

Indulgence accepted in this strict sense is distinguished in many ways; for it is: 1°. plenary or partial, according as the whole temporal penalty is remitted or only a part of the same; 2°. personal or local or real, according as it is conceded immediately to persons, or is affixed to some place, or is attached to some thing; 3°. temporal or perpetual, according as it is conceded for a determined time or without any fixed term.

I say 1°. The Church has the power of conceding Indulgences; but this power, in the concrete, is found only among those who are called and are true Prelates of the Church. The reason for the first is taken both from the Council of Trent, sess. 25, Decree on Indulgences, where those are condemned with anathema who "deny that there is in the Church the power of conceding them (Indulgences)"; and because Christ conceded to the Apostles the general power of loosing whatever would impede the attainment of eternal beatitude. But the reason for the second is both because only the Prelates of the Church are successors of the Apostles, to whom alone that general power of loosing was conceded, and because only the Prelates of the Church can dispense from its treasury, since to them alone belongs full power over the mystical body of Christ. - Hence:

1°. Besides the Roman Pontiff, to whom the dispensation of the entire spiritual treasury of the Church was committed by Christ the Lord, only those can by ordinary power lavish indulgences to whom this has been expressly conceded by law (Can. 912).

2°. Cardinals . . . enjoy the faculty of conceding indulgences of two hundred days, to be gained even as often as, in places or institutes and for persons of their jurisdiction or protection; likewise in other places, but to be gained only by those present, each time (Can. 239, § 1, n. 24).

From possession having been taken, residential Bishops have the right of conceding indulgences of fifty days in the places of their jurisdiction (Can. 349, § 2, n. 2).

In suffragan dioceses the Metropolitan can concede indulgences of one hundred days, just as in his own diocese (Can. 274, n. 2).

§ 3. When a church or altar is consecrated, the consecrating Bishop, although he lacks jurisdiction in the territory, concedes an indulgence of one year to those visiting the church or altar on the day itself of consecration; but on the anniversary day one of fifty days, if he is a Bishop; one hundred, if an Archbishop; two hundred, if a Cardinal of the Holy Roman Church (Can. 1166).

Cf. Can. 294, §§ 1, 2; Can. 323, §§ 1, 2.

3°. A delegate, according to the measure which the delegating one has established, can concede indulgences no otherwise than he by whom he was delegated, because an act of jurisdiction, as is the

faculty of conceding indulgences, can be exercised through a delegate.

Those inferior to the Roman Pontiff cannot:

1°. Commit to others the faculty of conceding indulgences, unless this has been expressly granted to them by the Apostolic See;

2°. Concede indulgences applicable to the dead;

3°. Attach other indulgences to the same thing or act of piety or sodality to which indulgences have already been conceded by the Apostolic See or by another, unless new conditions to be fulfilled are prescribed (Can. 913).

4°. The Church has always taken care to exercise moderation, lest through indiscreet and superfluous indulgences the keys of the Church be contemned and the satisfaction of penance be weakened (Cap. *Cum ex eo*, 14, *de Poenitent. et Remiss.*). Wherefore Bishops cannot attach other indulgences to crosses, etc., already legitimately enriched with indulgences, unless the fulfilling of a new condition is prescribed. - Cf. S. C. Indulg., 12 Jan. 1878.

5°. Prelates inferior to a Bishop cannot concede any indulgences, neither Vicars general nor Capitular Vicars, the see being vacant, and by like reason administrators among us; much less Parish Priests. - Cf. Lacroix, lib. 6, part. 2, nn. 1323 and following. - Ferraris, under the word *Indulgentiae*.

6°. An indulgence of fifty days, applicable also to the dead, has been conceded to those kissing the ring of Cardinals and Bishops. S. Off., 18 Mar. 1909.

I say 2°. § 1. That someone may be capable of gaining indulgences for himself, he must be baptized, not excommunicated, in the state of grace at least at the end of the prescribed works, and a subject of the conceding one.

§ 2. But that a capable subject may really gain them, he must have at least a general intention of acquiring them and fulfill the enjoined works at the appointed time and in the due manner according to the tenor of the concession (Can. 925).

The principal conditions which are required in the subject for gaining indulgences are the following: 1°. that he be baptized, because the treasury of the Church cannot be dispensed to infidels, and that he not be excommunicated, because otherwise he is deprived of the communion of spiritual goods; 2°. that he duly fulfill the enjoined works, according as they have been prescribed as to time, mode, and place, because under these conditions indulgences are conceded; 3°. that he be in the state of grace, at least when he places the last prescribed work, because penalty is not remitted unless guilt has been dismissed; except probably, if they are applied to the dead; 4°. that he have the intention of gaining them.[1]

[1] Cf. Addenda, p. 1092, n. 22.

Questions

Question 1. Whether the concession of an Indulgence made without cause is valid?

Resp. Negatively, and the reason is because the Prelates of the Church are only delegates of Christ for dispensing the treasury of the Church. But Christ cannot hold ratified the lavish distributions of his treasury made by prodigal dispensers. Moreover, it does not belong to the faithful, nor to simple

priests, to judge concerning the sufficiency of the cause on account of which an Indulgence is conceded; for they ought simply to judge that it is just, because presumption always stands for superiors, unless the contrary is certainly established. Cf. St. Alphons., *de Sacram. Paenit.*, n. 532. - Lehmkuhl, nn. 535 and following.

Question 2. Whether venial sin is an obstacle to gaining an Indulgence?

Resp. Negatively, and the reason is because, although the penalty owed to such a sin cannot be remitted, nevertheless the penalty owed for other sins already blotted out can be remitted: for just as it is not repugnant that the guilt of some venial sin be remitted without the guilt of others being remitted, so neither is it repugnant that the penalty of some remitted venial or mortal sins be blotted out, although the penalty for one or several other venials remains to be paid. Nevertheless, from these reasons it is manifest that venial sin is an obstacle to gaining a plenary indulgence as such. - Cf. St. Alphons., *de Sacram. Paenit.*, n. 534.

Question 3. Whether an Indulgence which is conceded as plenary can be obtained at least partially, if there is present an obstacle impeding it from being obtained entirely, for example, affection toward some venial?

Resp. Affirmatively. A plenary indulgence conceded in such a way is understood so that if someone cannot gain it plenarily, nevertheless he gains it partially according to the disposition which he has (Can. 926).

Question 4. What is understood by Indulgences of 10 or 15 days, years, quarantines, etc., etc.?

Resp. There is understood, according to the common opinion, the remission of so much penalty as formerly was remitted, or would have been remitted, through canonical penance of the same time. Thus, for example, through an indulgence of seven years so much penalty is remitted as was remitted through penance of seven years accustomed to be enjoined according to the ancient canons. But how much canonical penances were worth before God, and how much partial indulgences of so many days or years are now worth, is altogether hidden from us; because we are ignorant what proportion our satisfactions have with the penalty owed for our sins. - Thus commonly the theologians.

Question 5. Whether he gains Indulgences who does not complete the work prescribed for them entire?

Resp. Negatively, if he omits a notable part of the work, so that according to moral estimation he does not complete it as to substance; because he is not judged simply to satisfy the required conditions. But otherwise if he passes over a very small part; because then morally, or as to substance, the prescribed work is judged to be completed. - But a very small part is to be taken respectively. Thus in the Rosary the omission of one *Pater* and *Ave* seems very small; but otherwise if five *Pater* and *Ave* are required, because omission of the fifth part of the work is notable. - Cf. St. Alphons., ibid.

Question 6. Whether and how Indulgences can be applied to the dead?

Resp. They can be applied if the two following conditions are present: 1°. that they be specially conceded in the rescript of the Pontiff as applicable to them; 2°. that there be present the intention of making such an application. - Yet observe that an indulgence cannot be applied to the dead by way of absolution, but only by way of suffrage, namely by beseeching God that he may benignly will to

accept such application and lavish it upon the souls of Purgatory. The reason is because the Pontiff does not have jurisdiction over the souls of the dead, and therefore cannot absolve them from penalties, as by sentence. Cf. Lacroix, n. 1336 - Lugo, *de Paenit.*, disp. 27, n. 58.

When the Supreme Pontiff concedes an indulgence to the living, he absolves them from penalties owed to sins already remitted, and at the same time exhibits payment from the treasury of the Church. For every indulgence conceded to the living imports these two things, absolution and payment. Not likewise when an indulgence applicable to the dead is conceded. Now he who gains some indulgence is not an administrator of the treasury of the Church, nor are the satisfactions of Christ subjected to his administration. And therefore he cannot himself transfer them to others according to his own pleasure. Since the Supreme Pontiff can concede by way of absolution and suffrage, he himself is able to exercise this power. In fact, when he concedes an indulgence applicable to the dead, he certainly does not lavish it so that it may profit both the living person gaining it and the dead person, but so that it may profit the living person, if he so wishes, or, if he prefers, so that it may be applied to the dead: if he retains it for himself, it profits him by way of absolution; if he offers it to the dead, it profits these by way of suffrage. Payment and absolution are had for the living; not absolution, but payment is offered to God by asking him that he may will to accept that application in favor of the dead.

Question 7. Whether an Indulgence infallibly profits the souls of Purgatory to whom it is applied?

Resp. It is controverted; for some affirm, because Christ gave the Church an infallible power by these words: "Whatever you shall loose" . . ., etc. But the concession of an Indulgence for the dead is truly an act of the keys, since it proceeds from Apostolic authority; but the key always opens, the due conditions having been placed: therefore an Indulgence is always efficacious and infallible both for the dead and for the living, provided the requisites are present. But others deny, because no divine promise is present by force of which God is judged certainly to accept the offered Indulgence. Hence he seems to admit it to be applied only according to his good pleasure. Besides, the Church keeps the usage of celebrating anniversary Masses for several years and for the same souls, even at privileged altars, or those to which inheres the privilege of a plenary indulgence. But that practice would be vain if immediately in the first Mass applied to them their liberation took place. - Cf. Suarez, disp. 53, sect. 3, n. 3. - St. Alphons., *de Sacram. Paenit.*, n. 534. - Lehmkuhl, nn. 530 and following.

But it is certain that indulgences profit the dead at least for the most part; for otherwise the Church would act in some useless thing by applying them to those souls; which certainly cannot be said without impiety.

Question 8. Whether a special application must be made to certain determined souls, or whether a general one suffices?

Resp. A general application made to all souls dwelling in Purgatory suffices, because suffrages are divisible, and therefore can be distributed among all souls. It shines forth besides from the practice of the Church, which orders Masses to be celebrated for the dead in general, especially on the second day of November. Likewise when collections are made in Churches for the souls of Purgatory, the Masses to be celebrated from them ought to be applied for all in general. But if someone wishes to restrict his application, then he ought to determine certain souls specially, whether expressly or implicitly and equivalently.

Question 9. Whether the state of grace is required for gaining an Indulgence for the dead?

Resp. It is controverted among theologians, of whom some affirm, because no one can apply an indulgence to another unless he has first made it his own; but others deny, because the application is made directly and immediately to the dead, and the work is placed only as a condition, not for gaining the indulgence for oneself, but so that it may be applied to the dead. The first opinion, which seems truer to St. Alphonsus, is to be counseled in practice as safer. - Cf. St. Alphons., loc. cit., n. 534. - Baller., note (c), p. 1051.

Question 10. Whether confession and absolution are required even for venials for gaining Indulgences which are conceded with the clause: to the contrite and confessed?

Resp. Affirmatively, as regards confession, notwithstanding the state of grace; and the reason is because, although confession then is not necessary for remitting sins, nevertheless it is required as a condition or prescribed work. It is established from the Decree of the S. Congregation of Indulgences approved by Clement XIII, on the day 19 May 1759. But as regards absolution, one must answer negatively, as is clear from the Declaration of the same S. Congregation of Indulgences given on the day 15 Dec. 1841.

Question 11. Whether confession is required as often as a plenary Indulgence is to be gained?

Resp. Affirmatively, as regards most of them, as is proved from the rescripts of many concessions. - I said most, for although for all the state of grace is certainly required, nevertheless confession is not likewise required, as is clear by the example of the plenary indulgence conceded for the exercise of the Way of the Cross. - But here it must be observed:

1°. § 1. For gaining any indulgences whatever, confession perhaps required can be performed within eight days which immediately precede the day to which the indulgence was affixed; but communion on the vigil of the same day; but both also within the whole subsequent octave.

§ 2. Likewise, for gaining indulgences conceded for pious exercises led through a triduum, week, etc., confession and communion can also be made within the octave which immediately follows the completed exercise.

§ 3. The faithful of Christ who are accustomed, unless legitimately impeded, to approach the sacrament of penance at least twice in a month, or to receive holy communion daily in the state of grace and with a right and pious mind, although once or twice in the week they abstain from the same, can obtain all indulgences, even without actual confession which otherwise would be necessary for gaining them, except indulgences either of the ordinary and extraordinary jubilee or after the manner of a jubilee (Can. 931).

2°. Not a few Bishops have obtained an equivalent privilege in favor of those who are accustomed to confess twice in a month, namely in any space of fourteen days.

3°. Those privileges do not regard the plenary indulgence which is conceded after the form of a Jubilee, for whose right understanding the very words and tenor of the concession must always be attended to. - Cf. Prinzivalli, n. cclix. - *Acta S. Sedis*, vol. 11, pp. 358 and following, and vol. 18, p. 412.

Question 12. What do the clauses import: to the contrite - with contrite heart - with heart at least contrite - and other similar ones?

Resp. They certainly do not signify that an act of contrition is required as an enjoined work, but express only the necessity of the state of grace for gaining an indulgence. - Cf. *Acta S. Sedis*, vol. 6, p. 388.

Question 13. Whether someone can on the same day gain diverse Indulgences, or several times the same Indulgences?

Resp. § 2. A partial indulgence, unless the contrary is expressly noted, can be gained several times in a day, the same work being repeated (Can. 928).

Question 14. Whether several Indulgences can be attached to one and the same thing, or place, or work?

Resp. Several indulgences can be attached to one and the same thing or place under various titles; but by one and the same work, to which indulgences have been attached under various titles, several indulgences cannot be acquired, unless the required work is confession or communion, or unless something else has expressly been provided (Can. 933).

Question 15. Whether several plenary Indulgences can be acquired on the same day?

Resp. § 1. A plenary indulgence, unless something else has expressly been provided, can be acquired only once in a day, even if the same prescribed work is placed several times (Can. 928).

Provision has been made as regards indulgences which are called of the Portiuncula, and certain few others. Likewise it must be noted that the decree of Innocent is to be understood concerning gaining the same plenary indulgence several times by placing the same work several times on the same day. For it is certain that someone can obtain, even with one confession and communion, several plenary indulgences which are conceded on account of diverse actions on the same day. But it is evident that someone cannot gain for himself several plenary indulgences on the same day unless, sin having been committed after the first one has been obtained, he has duly received its remission; but if nevertheless the plenary indulgences are applicable to the dead, then he can gain one for himself and others for the souls in Purgatory. - Cf. Beringer, *Die Ablässe*, p. 95, n. 10.

Question 16. Whether, or what kind of, intention is required for gaining Indulgences?

Resp. § 2. But that a capable subject may really gain them, he must have at least a general intention of acquiring them . . . (Can. 925).

When, for gaining indulgences, a prayer is prescribed for a determined end, for example, for the extirpation of heresies, an explicit intention, expressed each time, is not required. S. Cong. Indulg., 12 July 1847.

Question 17. Whether, if the faculty of commuting the works enjoined for gaining Indulgences is conceded, the commutation must necessarily be made in confession?

Resp. Negatively, unless in the concession of a faculty of this kind such a condition is expressly provided. - Which is drawn out, as we think, from the response of the S. C. of Indulg., 20 Feb. 1801. In the new Code the faculty has now been handed over to all confessors.

Pious works enjoined for gaining indulgences can be commuted by confessors into others for those who, detained by a legitimate impediment, cannot perform the same works (Can. 935).

Question 18. Whether, and how, deaf-mutes can gain Indulgences to which vocal prayers are attached?

Resp. Mutes can gain indulgences attached to public prayers, if together with the rest of the faithful praying in the same place they raise their mind and pious affections to God; and if there is question of private prayers, it is enough that they recollect them in the mind, or pour them forth by signs, or merely run through them with the eyes (Can. 936).

Question 19. Whether those who, impeded by chronic infirmity, cannot visit a church and frequently receive communion, can nevertheless gain Indulgences, when the two aforesaid conditions are required?

Resp. Affirmatively, from the special concession of Pius IX, provided nevertheless that the other conditions are fulfilled. For on the day 18 Sept. 1862, "His Holiness graciously granted that the aforesaid faithful of Christ [the habitually infirm chronically, unable to go out from home on account of some physical permanent impediment], excepting nevertheless those who dwell in a Community, can acquire all and each plenary Indulgences already conceded or to be conceded in the future, and whatever others they could acquire in the places in which they live, if they were not in that physical state, for whose acquisition Sacred Communion and visitation of some Church or public Oratory in the same places is prescribed, provided that, truly penitent and confessed, and with all the other conditions fulfilled, if any have been enjoined, in place of Holy Communion and Visitation they faithfully fulfill other pious works to be enjoined by the respective confessor. The present to be valid in perpetuity without any expedition of a Brief. Notwithstanding whatever things make to the contrary."

The faithful of either sex who, for pursuit of perfection, or for instruction or education, or even for reason of health, live common life in houses lacking a church or public chapel, constituted with the consent of the Ordinaries, and likewise all persons dwelling there for ministering to them, as often as for gaining indulgences there is prescribed the visitation of some church not determined, or of some indeterminate public oratory, can visit the chapel of their own house in which they can by law satisfy the obligation of hearing Mass, provided they have duly performed the other enjoined works (Can. 929).

Question 20. Whether Indulgences are lost if a movable thing to which they are attached is handed over to another?

Resp. Negatively, by force of canon 924, § 2.

Question 21. To what things can Indulgences be applied?

Resp. Indulgences can be applied to any solid things whatever, not even iron or wood being excepted, as formerly. Even a rosary made of solid glass can be blessed with attached indulgences. Therefore only things which can easily be broken or torn, such as paper, blown glass, etc., must be excepted. - Cf. Prinzivalli, n. CDXX.

Question 22. What are the rules for discerning true Indulgences from false ones?

Resp. The Sacred Congregation of Indulgences, by the Decree *Urbis et Orbis*, confirmed by the Supreme Pontiff on 10 Aug. 1899, established the following rules. Rule I. "All Indulgences are authentic which are contained in the newest Collection edited by the S. Congregation of

Indulgences." Rule II. "General Indulgences which are not exhibited in the above-mentioned Collection, or which are said to have been conceded after the Collection was edited, will then only have to be held as authentic when the autograph document of their concession has been recognized by the S. Congregation of Indulgences, to which, under penalty of nullity, it must be exhibited before they are published." Rule III. "Indulgences conceded to Orders and religious Congregations, Archconfraternities, Confraternities, Archsodalities, Sodalities, pious Unions, pious Societies, certain more celebrated Churches, pious Places, and Objects of devotion are to be held authentic, which are contained in summaries recognized and approved by the S. Congregation of Indulgences, and printed by its authority or permission." Rule IV. "Indulgences, whether general or particular, are not to be held as authentic which are contained in books, booklets, summaries, sheets, small papers, or even in images, printed without the approbation of the competent authority; which approbation will have to be conceded after diligent recognition and distinctly expressed." Rule V. "Apocryphal, or now altogether revoked, are all Indulgences of a thousand or more years, at whatever time they are said to have been conceded." Rule VI. "Plenary Indulgences which are asserted to have been conceded to those reciting merely a few words are to be held suspect, with the exception of Indulgences in the article of death." Rule VII. "Indulgences are to be rejected as apocryphal which are circulated in booklets, sheets, or little printed or manuscript papers, in which, from slight or even superstitious causes and uncertain revelations, or under illusory conditions, Indulgences and graces exceeding use and measure are promised." Rule VIII. "As counterfeit are to be rejected sheets and booklets in which liberation of one or several souls from Purgatory is promised to the faithful reciting one or another prayer; and the Indulgences which are accustomed to be added to the said promise are to be held as apocryphal." Rule IX. "Indulgences of more recent asserted concession are to be held apocryphal, or at least gravely suspect, if they are extended to an unusual number of years or days." An authentic declaration of these rules and other things necessary to know concerning Indulgences are found in Beringer, *Die Ablässe*, pp. 808 and following.

Question 23. How is the faculty of blessing crucifixes with application of a plenary indulgence, called *toties quoties*, conceded by the Apostolic See in whatever way, to be understood?

Resp. "It is to be understood thus and not otherwise, that any faithful Christian constituted in the article of death, having kissed one of such blessed crucifixes, even if it does not belong to him, or having touched it in any way, provided that, confessed and refreshed by sacred communion, or if he could not do this, at least contrite, he devoutly invokes the Most Holy name of Jesus, by mouth, if he can, but if not, by heart, and patiently receives death as the wage of sin from the hand of the Lord, can acquire a plenary indulgence." S. C. S. Offic., 10 June 1914.

Question 24. If prayer in general is prescribed for gaining Indulgences, what kind is required?

Resp. § 1. If for gaining indulgences prayer in general according to the mind of the Supreme Pontiff is prescribed, merely mental prayer does not suffice; but vocal prayer can be chosen at the judgment of the faithful, unless some particular one is assigned.

§ 2. If a particular prayer has been assigned, indulgences can be acquired in whatever language the prayer is recited, provided the fidelity of the version is established from the declaration either of the Sacred Penitentiary or of one of the Ordinaries of the place where the language is common into which the prayer is translated; but indulgences entirely cease on account of any addition, subtraction, or interpolation.

§ 3. For the acquisition of indulgences it is enough to recite the prayer alternately with a companion, or to follow it in the mind while it is recited by another (Can. 934).

You Will Resolve. - Unless something else appears from the tenor of the concession, indulgences conceded by a Bishop can be gained both by subjects outside the territory, and by pilgrims, wanderers, and all exempt persons dwelling in the territory (Can. 927).

2°. No one acquiring indulgences can apply them to others dwelling in life; but all indulgences conceded by the Roman Pontiff, unless something else is established, are applicable to souls detained in purgatory (Can. 930).

Concerning this matter Cardinal De Lugo says: "Commonly the faculty of gaining indulgences for other living persons is not conceded, because, since they themselves can also come to their own aid, it is not expedient to foster their laziness, so that they take care neither to satisfy nor even to gain indulgences for themselves." - Cf. Lugo, disp. 27, n. 77. - Lacroix, n. 1328. - Baller., note (a), n. 1056.[1]

3°. § 1. According to the norm of can. 75, indulgences attached to some church do not cease if the church is utterly destroyed and again is built within fifty years in the same or nearly the same place and under the same title.

§ 2. Indulgences attached to rosaries or other things cease only then when the rosaries or other things altogether cease to be or are sold (Can. 924).

Nor are they lost if through successive repairs they should be totally renewed, since they would remain morally the same. Therefore a rosary also does not lose indulgences which is repaired successively, although the beads have afterward been renewed entirely by parts. - Cf. Prinzivalli, CDLXXXII.

4°. Indulgences do not expire by the death of the one conceding them, since they are graces, nor before notice of revocation. Indulgences are to be accepted as they sound; nevertheless, since they are graces, they are to be interpreted broadly, while nonetheless preserving the propriety of the words. Hence they are to be judged perpetual if they have been given without restriction of time. - Cf. St. Alphons., n. 534.

5°. Blessed things enriched with indulgences ought not to be sold, and if they are sold, they lose the indulgences. - Cf. Can. 924, § 2.

6°. Cardinals have the faculty:

Of blessing everywhere, by the sign of the cross alone, with all indulgences usually conceded by the Holy See, rosaries and other prayer-beads, crosses, medals, statues, scapulars approved by the Apostolic See, and of imposing them without the burden of enrollment;

Of erecting, under one blessing, in churches and Oratories, even private ones, and other pious places, Stations of the Way of the Cross with all indulgences which have been imparted to those performing a pious exercise of this kind: and also of blessing, for the faithful who by reason of infirmity or another legitimate impediment cannot visit the sacred stations of the Way of the Cross, images of the Crucified with the application of all indulgences attached by the Roman Pontiffs to the devout exercise of the same Way of the Cross (Can. 239, § 1, nn. 5, 6).

7°. For gaining an indulgence affixed to some day, if visitation of a church or oratory is required, this can be made from noon of the preceding day up to midnight which closes the stated day (Can. 923).

8°. By a work which one is bound to perform by law or precept an indulgence cannot be gained, unless something else is expressly said in its concession; yet he who performs a work enjoined on him as sacramental penance and perhaps enriched with indulgences can at the same time both satisfy the penance and gain the indulgences (Can. 932).

9°. Our Most Holy Lord Benedict XV deigned to concede that indulgences, for the gaining of which the recitation of prayers together with some bodily act is enjoined, which the mutilated are unequal to performing, can be gained by them merely with prayers poured forth. Sac. Poen. Apost., 22 Oct. 1917.

10°. § 3. A plenary indulgence conceded as daily, perpetual, or for a time, to those visiting some church or public oratory is to be understood in such a way that it can be acquired by each faithful person on any day whatever, but only once in a year, unless something else is expressly said in the decree (Can. 921).

11°. The daily morning intention in the Apostleship of Prayer must be expressed by a vocal formula. - S. Off., 10 June 1915.

12°. If crosses of the Way of the Cross first blessed perish entirely, a canonical erection is again necessary; if they perish in the smaller part, it is permitted to substitute others for them without any blessing; if for some particular reason they are completely removed, and only for a time so that they may be restored again to the same place, neither erection nor blessing is needed for gaining indulgences. S. C. Indulg., 30 Jan. 1839.

Note. - To understand the nature of the Jubilee Indulgence, just as also the other concessions of the same, one must attend especially to the words and tenor of the Constitution by which the Jubilee itself is promulgated. For the latest Jubilees have borne a certain diversity with respect to the required conditions, and therefore one would argue badly from one to another, independently of the apostolic words themselves.

[1] Cf. Addenda, p. 1112, n. 57.

Chapter II. On Certain Indulgences in Particular

I. On Apostolic Indulgences

Apostolic Indulgences are called those which the Roman Pontiff is accustomed to attach to pious objects, such as crosses, prayer-beads and medals, while he blesses them.

Questions

Question 1. What are the conditions for gaining these Indulgences?

Resp. They are the following: 1°. That the faithful of Christ carry some one of the stated objects on their own person.

2°. But if this is in no way done, it is required that they keep it in their own room, or another decent place of their habitation, and before it devoutly recite the prescribed prayers.

3°. Images engraved by printing, painted images, and likewise crosses, crucifixes, small statues, and medals made of tin, lead, or other fragile or consumable material are excluded from the concession of the apostolic blessing.[1]

4°. Images must represent Saints who either have already been canonized in the customary form, or have been described in duly approved martyrologies. - S. Off., 5 Sept. 1914. - *A. A. S.*, vol. 6, p. 503.

[1] Cf. Addenda, p. 1140, n. 101.

Question 2. Whether our Priests could, by delegation, concede Apostolic Indulgences?

Resp. Affirmatively, speaking generally, for to our Bishops there was conceded not only the faculty of applying these Indulgences, but also "of communicating this same faculty with presbyters functioning in the sacred ministry." - I said, speaking generally, because in fact this communication was not found in all dioceses. - Cf. now S. C. Consistorialis, 25 Apr. 1918. See Can. 349, § 1; 239, § 1, n. 6; 913, n. 1.

Question 3. How practically is the application of these Indulgences made?

Resp. Our Most Holy Lord Pius X "deigned to decree and declare:

"In blessing several similar or diverse objects of religion, which are offered joined or commingled to a priest furnished with several faculties, and to be enriched in themselves with indulgences by force of diverse faculties, one sign suffices for several blessings and attachments of indulgences. And the declaration is not extended to metallic medals to be substituted for scapulars, concerning which in the decree of the S. Office given on the day 16 December, in the year 1910." S. C. S. Off. (S. D. I.), 18 May 1914.

II. On Indulgences Of The Scapular

Many scapulars are given today, but here briefly there will be spoken only of the scapular of the Blessed Virgin Mary of Mount Carmel, which is the most ancient and more common. But for the other scapulars special treatises can be consulted.

Questions

Question 1. What are the Indulgences attached to the scapular of the Blessed Virgin Mary of Mount Carmel?

Resp. They are many, and both partial and plenary; these latter are conceded on the following days:

1°. On the day of reception of the scapular, with confession, communion, and some prayer made according to the intention of the Supreme Pontiff nevertheless supposed.

2°. On the feast day of the Blessed Virgin Mary of Mount Carmel, or on the Sunday next following, or also on any day whatever within the Octave, with the same aforesaid conditions nevertheless observed.

3°. On the day of the Immaculate Conception, Nativity, Presentation, Annunciation, Visitation, Purification, and Assumption of the Blessed Virgin Mary: likewise on the feast day of St. Joseph, St. Simon Stock [16 May], St. Anne, St. Michael, and St. Teresa: likewise on one of the fourth weekdays of any month and besides on any day whatever, once in the year. Cf. *Acta S. S.*, vol. 19, p. 557. But to gain these indulgences, besides the aforesaid conditions, the visitation of some church of the Carmelite Order is required, and where this is lacking, of the parish church; and if not even this can be performed, the faculty of making a commutation is given to the confessor.

4°. In the article of death. - Cf. Maurel-Beringer, n. 88.

Question 2. What are the other privileges of this scapular?

Resp. Besides plenary indulgences, and not a few other partial ones, two great privileges of this scapular must be remembered, namely that of a happy death, and that which is called Sabbatine. To obtain the first privilege, which rests upon the very words of the Blessed Virgin Mary, "Dying in this, he will not suffer eternal fire," it is required that someone has been duly marked with the scapular, and die with it suspended from the neck. But to gain the other privilege, which consists in this, that someone will be freed from the penalties of Purgatory shortly, or at least on the Sabbath after death, the following conditions are required: 1°. that chastity be observed according to one's own state; 2°. that the little office of the Blessed Virgin Mary be said daily, and for those who do not know how to read, that abstinence be observed on every Wednesday and Sabbath through the year, except the case in which the Nativity of Our Lord Jesus Christ has fallen on one of these days. - Yet observe: 1°. that those who recite the Roman Breviary daily are not held to recite the little office of the Blessed Virgin Mary; 2°. that in a case of necessity a confessor, furnished with due faculty, can commute this recitation and abstinence into another pious work. - Cf. Benedict XIV, *de Festis*, lib. 2, cap. 6. - Maurel, n. 88.

Question 3. What are the conditions that someone may be said to be duly marked with this scapular?

Resp. On the part of the scapular it is required that it be of due material and color. On the part of the subject, that it be worn continuously and in the manner of a scapular. But on the part of the one giving it, that it be blessed and imposed by a priest having the faculty. Now:

1°. The material of this scapular is wool, and indeed woven, although some ornaments can be added.[1]

2°. The color ought to be dark brown, or almost black.

3°. Continuous wearing imports that it not be deserted for a long time, or indeed for a short time but with the intention of rejecting it altogether, so that in either case someone can be said to have willed to renounce such devotion.

4°. Wearing in the manner of a scapular signifies that this is had suspended from the neck in such a way that one part is over the breast and the other between the shoulders, and therefore he would not observe this condition who carried the scapular with himself in some pocket of his garment, or somehow sewn upon the clothes.

5°. The blessing and imposition of the scapular ought to be done by a priest having the faculty, and through the prescribed formula which is had in the Roman Ritual, p. 476. Our Bishops were able to communicate the faculty of erecting the Confraternity of the Blessed Virgin Mary of Mount Carmel, as is clear from the Extraordinary Faculties T. n. 21, in which is contained the faculty of enrolling the faithful in those Confraternities, of blessing and imposing the scapulars of the same. Thus S. Off., 11 May 1898.

[1] Cf. Addenda, p. 1153, n. 130.

It is helpful here to report the following responses of the S. Congregation of Indulgences:

I. "Whether one and the same scapular, once blessed, can validly be imposed upon several in turn, only the formula of reception or imposition being repeated over each?

II. Whether the formula of this kind accustomed to be employed in the act of imposition of scapulars is essential, so that someone is judged duly to have received the scapular and has the right to the Indulgences conceded to those bearing it; or whether, without loss of the Indulgences, it can be omitted, especially in sickness or another urgent case?

To I. Affirmatively; yet in such a way that the first Scapular, which the one enrolled ought thereafter to put on, be blessed.

To II. Both as regards the first and as regards the second part, the words which are substantial are to be pronounced, according to the form of the Decree of this S. Congregation of the day 24 August 1844, which has itself thus: - Urbis - Whether the enrollment of the Faithful in the Confraternity of the Blessed Virgin of Mount Carmel is valid, which is made indeed by priests having the faculty, yet the form described in the Ritual and Breviary of the Order of Carmelites not having been observed? - The Sacred Congregation responded: Affirmatively, provided priests having the faculty are not deficient in substantial things, namely in the Blessing and imposition of the habit, and in reception into the Confraternity." Thus declared the S. C. on the day 24 Aug. 1844.

On The Scapular Medal

By the general twofold Decree of the S. Office, 16 Dec. 1910 and 5 June 1913: 1. To all the faithful duly enrolled, or to be enrolled, in one or several approved scapulars (except those proper to Third Orders), it is permitted hereafter to wear decently upon their own person one single medal of metal in place of the same, whether one or several; 2. By carrying this thus, they can gain all spiritual favors, with the proper laws of each being observed, and all indulgences attached to each; 3. This medal ought to bear on one side the image of the Most Holy Our Lord Jesus Christ showing his Most Sacred Heart, on the other, that of the Blessed Virgin Mary; 4. This medal must be blessed with as many distinct blessings as there are scapulars regularly imposed for which, according to the pleasure

of those asking, it is to suffice; 5. The several blessings can be given by one sign of the cross: for example, one for the scapular of the Blessed Virgin Mary of Mount Carmel, another for the second approved scapular, etc., or according to the order in which one was enrolled in the diverse scapulars; 6. These blessings ought to be made by a priest powerful with the ordinary or delegated faculty of blessing the respective scapulars; they are licitly made by such a privileged priest distinct from the one enrolling; 7. A priest powerful with the faculty of imposing scapulars can, by one sign of the cross for each scapular, publicly bless all the Most Holy Medals which the faithful have in the Church or in some convent, although these Medals are not seen nor known individually; 8. The blessing can be imparted to Most Holy Medals for persons not yet enrolled by imposition, but to be enrolled afterward or later; but the medals will finally enjoy the favors of the scapulars when the persons shall have been enrolled through regular imposition, and therefore it is not necessary that the persons already be enrolled before the Most Holy Medals can be blessed for them; 9. Many medals can be blessed, which afterward are to be distributed to any persons whatever, of whom some are already inscribed in the scapulars, and others not enrolled; 10. The faithful are held to wear the medal either at the neck or otherwise, yet decently, upon their own person; Hilgers is of the opinion that if someone has the medal attached to the prayer-beads or rosary which he continually carries with himself, it does not seem necessary at night to wear it around the neck or in another way upon the person, but it suffices if he leaves it in the clothes near himself; but others speak more strictly, although these also say that attention should not be paid to a brief interruption; 11. Each medal must be blessed; but, on the contrary, not the scapular, for when someone already duly enrolled in the Confraternity has lost the scapular or lays aside one worn out, the new scapular does not need a new blessing. Nevertheless Pius X vehemently desired that the faithful continue to carry scapulars in the same way as they had been accustomed until now.

Pius X benignly conceded that all soldiers from the land and maritime forces constituted under arms could, at their pleasure, legitimately at any time be enrolled in sacred scapulars, and remain definitively enrolled in them, and gain the attached indulgences and graces, on this condition only, that they carry the metallic medal prescribed by decree of the supreme S. Congregation of the S. Office of the day 16 December 1910 and duly blessed, nor nevertheless be held first by the law of receiving the cloth scapulars, as is proper: indeed, during the present war Benedict XV granted to every priest the faculty of enriching medals with the several blessings of scapulars for the utility of soldiers. S. Off., 10 Nov. 1914.

III. On Indulgences Of The Way Of The Cross

According to Benedict XIV, that pious exercise which is commonly called the Way of the Cross is to be numbered among the principal acts of piety to be performed by the faithful, both because it is excellent in itself, and because it has been enriched with many indulgences. The origin of this pious exercise was the very devotion of the faithful visiting those holy places which have been marked by the Passion of Our Lord Jesus Christ; for to these the Church had conceded many indulgences, and in the course of time extended them also to those who would recollect with pious meditation certain imitations of those places. Therefore we know that several indulgences have been attached to the pious exercise of the Way of the Cross, but it is difficult, indeed even prohibited, to enumerate them. - Cf. Maurel-Beringer, n. 60.

Questions

Question 1. What is required for the canonical or valid erection of the Way of the Cross to be made by a priest?

Resp. Before the erection of the Way of the Cross the following formalities are required for validity: 1. A written faculty given by competent authority to the priest who is to erect the Way of the Cross; 2. Before each erection, permission of the Ordinary given in writing, Decr. Auth. n. 445 ad 3; 3. Consent of the Parish Priest given in writing, if the erection is made in places which are subject to the jurisdiction of the Parish Priest; 4. Consent given in writing of the Superior of the monastery or church in which the Way of the Cross is to be erected. *Acta S. Sedis*, v. 25, 317 ad 9, ad 10 and ad 11. - Cf. Beringer, *Die Ablässe*, pp. 278 and following. Certainly the license of the Bishop is not required for those places which are exempt from his jurisdiction.

Question 2. What does the clause "in places . . . in which there are no Franciscan Fathers" import?

Resp. "By places in which the Order of Friars Minor Observant of St. Francis of Assisi does not exist is to be understood a city, town, village, with their respective suburbs, and the places adjacent to them. In cities and generally places in which two dioceses have been constituted, those faculties which are proper to certain Orders, and which were conceded by special indult with the clause: 'provided that in the said place no convent of the same Orders is found,' can be exercised in that part of the city or place in which no convent of the said Orders is present, but is present in another." S. C. Indulg., 28 Aug. 1903.

Question 3. What are the other conditions required for a valid erection?

Resp. Besides the mentioned delegation it is required: 1°. that the Crosses be wooden, and 2°. that the Stations be somewhat distant from one another. But because the indulgences are properly attached to the Crosses, these can be transferred to other Images without detriment to the indulgences. - Cf. *Acta S. Sedis*, vol. 11, p. 401.

Question 4. What are the conditions required on the part of the faithful?

Resp. It is required: 1°. that the faithful go around the Stations without moral interruption, and 2°. that they meditate somewhat on the Passion of Our Lord Jesus Christ according to the capacity of each one. Now in the public exercise of the Way of the Cross the faithful can retain their place, and it suffices that only the priest with the Ministers go around. Besides, also in the private exercise the manner of going around must be understood according to the circumstances of places and persons. But moral interruption imports turning aside to foreign acts, and therefore to perform confession or receive communion while this pious exercise is being done is not morally to interrupt it. - Cf. Prinzivalli, nn. DVII, CCXXXVI, DC, LXXVI, and CCXLIX.

Question 5. Whether someone can gain the Indulgences of the Way of the Cross several times in a day?

Resp. The authors who have written concerning this matter up to now affirm it. Nevertheless, to the Bishop of Périgueux recently it was responded thus by the S. C. of Indulgences, 10 Sept. 1883: "From the documents it is not established that the Indulgences conceded for the pious exercise of the Way of the Cross are gained as often as the aforesaid pious exercise is repeated." - Cf. *Nouvelle Revue Théologique*, vol. 15, pp. 473 and following.

IV. On The Indulgence Of A Privileged Altar

The indulgence of a privileged altar is a plenary indulgence applicable to the dead, and gainable through the celebration of Mass with the intention of liberating some soul in particular. - The privilege of an altar is twofold, namely real, if the indulgence is attached to the altar itself, and personal, if it is conceded to the person.

§ 1. That it may be indicated that an altar is privileged, nothing else is to be inscribed except: privileged altar, perpetual or for a time, daily or not, according to the words of the concession.

§ 2. For Masses to be celebrated at a privileged altar, under pretext of the privilege, a greater Mass alms cannot be exacted (Can. 918).

Questions

Question 1. How great and what kind is the efficacy of this privilege?

Resp. This efficacy the S. Congregation of Indulgences thus declared on the day 28 July 1840: "By the indulgence attached to a privileged altar, if the mind of the one conceding and the use of the power of the keys is considered, there is to be understood a plenary indulgence which immediately liberates the soul from all penalties of Purgatory; but if the effect of application is considered, there is to be understood an indulgence whose measure corresponds to the good pleasure and acceptance of divine mercy."

Question 2. Whether this Indulgence can profit several souls of the dead?

Resp. Negatively, as is established both from various declarations of the S. C. of Indulgences and because this indulgence can be applied only to that soul for which the Mass is said. This rule, namely that the indulgence of a privileged altar is applicable to one soul only, is valid even in the case of a Mass celebrated for several deceased persons. S. C. Indulgent., 29 Feb. 1864; 19 June 1880; 19 Dec. 1885. Nor is the day of the commemoration of all the dead excepted, on which all altars enjoy this privilege. - Cf. Beringer, *Die Ablässe*, p. 449 and following. - *Acta S. Sedis*, vol. 13, p. 139. When someone says Mass for several or all the dead, it is best to determine the soul to whom he wishes to apply the indulgence.

§ 2. All altars of the church through those days on which the supplication of the Forty Hours is performed in it are privileged (Can. 917).

Question 3. Whether for gaining this Indulgence it is required that a Mass of Requiem, or of the Feria or Vigil with the proper prayer of the deceased, be celebrated?

Resp. Negatively; thus the S. Office responded on 20 Feb. 1913: "For gaining the indulgence of a privileged altar, as they call it, it is no longer required in the future under penalty of nullity that a Mass of Requiem, or of the feria or vigil with the proper prayer of the deceased, be celebrated: Yet this is laudably done, when it is permitted and fitting, for the sake of piety toward the deceased."

Question 4. Whether Bishops have the faculty of conceding the Privilege of an Altar?

Resp. Affirmatively, and indeed both personal and real.

Bishops, Abbots or Prelates *nullius*, Vicars and Prefects Apostolic, and major Superiors of an exempt clerical religion, can designate and declare one privileged daily perpetual altar, provided that another

is not had, in their cathedral, abbatial, collegiate, conventual, parochial, quasi-parochial churches, but not in public or semi-public oratories, unless they are united to a parochial church or subsidiary to the same (Can. 916).

Note. - A priest who has made the HEROIC ACT, or oblation of all his satisfactions in favor of the souls which are in Purgatory, enjoys by the fact itself the personal privilege of the altar. - Cf. Prinzivalli, n. DCXLIII. *Acta S. Sedis*, vol. 18, pp. 337 and following.

The heroic act of charity toward souls detained in Purgatory consists in this, that a faithful Christian, whether by some formula being used or even only mentally, offers to God Almighty, for the souls of Purgatory, all satisfactory works which he himself, as long as he shall live, will perform, and also all suffrages which after death could in any way come to him. Many faithful Christians most devoted to the Blessed Virgin Mary . . . have been accustomed somehow to deposit satisfactory works and suffrages of this kind into the hands of the Blessed Virgin, to be distributed by Her according to Her merciful good pleasure in favor of the souls of Purgatory. This act has been enriched by the Supreme Pontiffs with manifold favor. Among the satisfactory works offered in this act are comprehended indulgences applicable to the dead. This oblation is not satisfied by those who reserve to themselves indulgences conceded for the living; but these indulgences are to be applied to the dead according to the Indult conceded to those emitting this act. That deposition of satisfactions into the hands of the Virgin Mary is not an integral or prescribed part of the heroic act, but is a pious accessory devotion to the act, to be commended to the faithful. The plenary indulgence of a personal privileged altar must be applied by the priest who emitted the act to the soul for whom he celebrates Mass; for in this manner the privilege of the altar is conceded by the Supreme Pontiff.

But any faithful person can revoke the heroic act as it shall please him. S. C. Indulg., 19 Dec. 1885; 20 Feb. 1907.[1]

[1] Cf. Addenda, p. 1092, n. 23.

V. On The Indulgence In The Article Of Death

By various titles the faithful can obtain a plenary indulgence in the article of death. Those have a right to it who often in life and also in the hour of death invoke the Most Holy name; who often have poured forth the prayer *Angele Dei*; who often in life make acts of Faith, Hope, and Charity; who keep with themselves some one of the objects which are enriched with Apostolic Indulgences; who are joined to certain Confraternities; in these cases the indulgence enters of itself. Generally the conditions are: communion or at least an act of contrition, invocation of the Most Holy name made by mouth, or, if it cannot be done by mouth, by heart, and acceptance of death from the hand of God. To the recitation of the following Prayer Pius X attached a plenary indulgence, 9 Mar. 1904: "O Lord my God, from this moment now, whatever kind of death, as it shall please Thee, with all its anxieties, penalties, and sorrows, I receive from thy hand with an equal and willing mind." The same His Holiness conceded that all the faithful who, on a day to be chosen by them, duly cleansed by sacramental confession and refreshed by the sacred Synaxis, with a true affection of charity toward God, have brought forth the aforesaid act, can gain a plenary indulgence in the very article of death.

§ 2. To the Parish Priest or another priest who assists the infirm there is the faculty of conceding to them the apostolic blessing with plenary indulgence in the article of death, according to the form handed down by approved liturgical books; let him not omit to impart this blessing (Can. 468).

Now, with relation to the conditions of gaining this indulgence, and the manner of imparting it, there exist several decrees of the S. C. of Indulgences, of the principal of which this is the summary:

1°. A priest does not validly confer this indulgence if the formula prescribed by the Supreme Pontiff is omitted, nor does the lack of the book excuse him. - 5 Feb. 1841.

2°. The infirm person cannot in the same article of death gain this indulgence several times, given by several priests having the faculty of imparting it. - Ibid.

3°. This indulgence cannot be imparted several times during the same infirmity, even if long-lasting. - 12 March 1855.

4°. The Blessing must be conferred only once in the same state of illness. - 20 Sept. 1775.

5°. But it can be repeated if the infirm person has recovered, and then, from whatever cause, falls into a new danger of death. - 12 Feb. 1842.

6°. Of itself it is not to be repeated because perhaps Extreme Unction must be repeated. - 20 June 1836.

7°. The indulgence is received, that is, the gain of the indulgence properly is had, only in the true article of death. - 23 Apr. 1615.

8°. It is valid, although the Blessing was conferred on an infirm person existing in the state of mortal sin. - 20 June 1836.

9°. It is also valid, and the Blessing is not to be repeated, if the sick person after its reception has fallen into sin. - Ibid.

10°. Both validly and licitly it is conceded to those who, even culpably, have not been refreshed by the sacraments from the beginning of the illness, and suddenly are inclining toward destruction. - 20 Sept. 1775. - Cf. Lehmkuhl, n. 564. - *Irish Ecclesiastical Record*, Sept. and Nov. 1883; and Feb. 1884. - *The Pastor*, vol. 3, pp. 279 and following; and vol. 4, pp. 209 and following.

11°. It is also required that the dying person invoke the Most Holy Name of Jesus by mouth, or, if this cannot be done, at least by heart (S. C. Indul., 22 Sept. 1892), and receive death from the hand of the Lord with an equal and willing mind. - Cf. Beringer, *Die Ablässe*, p. 486.

12°. The Sacred Congregation of Indulgences on 23 Jan. 1901 responded that a dying person can gain the plenary indulgence conceded for the article of death only once, that is, in the true article of death, even if he has a right to it by various titles.

13°. Those condemned to death who duly prepare themselves for dying are sharers of this grace.

Addenda

1. (Pag. 83.) § 2. The proper parish priest or Ordinary of a vagus is the parish priest or Ordinary of the place in which the vagus is actually staying.

§ 3. Also of those who have only a diocesan domicile or quasi-domicile, the proper parish priest is the parish priest of the place in which they are actually staying (Can. 94).

2. (Pag. 85.) § 1. The place of origin of a son, even a neophyte, is that in which, when the son was born, the father had domicile, or, in defect of domicile, quasi-domicile; or, if the son is illegitimate or posthumous, the mother had it.

§ 2. If there is question of the son of vagi, the place of origin is the very place of birth; if of an exposed child, it is the place in which he was found (Can. 90).

3. (Pag. 212.) Let all whom it concerns take care that in churches that cleanliness be preserved which befits the house of God; from the same let trading and markets be warded off, although held for a pious end; and generally whatever is discordant with the holiness of the place (Can. 1178).

4. (Pag. 282.) Vaginal washings with water made by women for the sake of cleanliness, after three or four hours have elapsed from the last intercourse, do not seem illicit to us. For such washings, although perhaps some part of the semen is lost, of themselves do not impede conception; for in fact in this case the quantity of semen necessary and sufficient for conception, and the time useful for the ascent of the semen into the womb, are already had. - Cf. Marc. n. 2112. - Noldin, n. 69. - Arregui, n. 814. But others require a time more distant from intercourse. Cf. Bucceroni, V. 4, n. 1067. - Tanquerey, *Supplementum*, n. 51. - Surbled, *La Morale*, V. 1, c. 12.

5. (Pag. 1056.) Rescript, 28 Nov. 1924. Most Reverend Father.

This S. Congregation, after maturely weighing the doubt set forth, whether, under the law of the Code, someone endowed with all the other qualities and of excellent talent is to be called irregular for receiving Sacred Orders on account of the defect alone of the left eye, with no deformity or difficulty of exercise existing; with attention to all things bearing upon the matter, judged that it must be rescripted, as it rescripts: "As it is set forth in the case, it is not established that there is irregularity." This was to be communicated by me to Your Most Reverend Paternity, for whom I pray all prosperous things from the Lord, and I remain. Most devoted, Maurus M. Serafini, Ab. O.S.B., Secretary. - To the Most Reverend Father Procurator General of the Order of Friars Minor Capuchin.

6. (Pag. 490.) As often and as long as the necessity of the Church, in the judgment of the proper Ordinary, requires it, and unless a legitimate impediment excuses, the office which shall have

been committed to clerics by the Bishop must be accepted and faithfully fulfilled (Can. 128).

7. (Pag. 524.) The things which are established concerning religious, although expressed by a masculine word, hold also by equal law concerning women, unless from the context of the speech or from the nature of the matter something else is established (Can. 490).

8. (Pag. 528.) In religions in which there are two classes of members, a novitiate completed for one class is not valid for the other (Can. 558).

9. (Pag. 569.) To the question: "Whether the blessings which are first of all to be imparted to Catholics, and which, according to can. 1149 of the Code of Canon Law, can also be given to catechumens, are to be understood also of public sacramentals, and consequently catechumens can be admitted to the imposition of ashes, the handing over of candles and palms?" the Sacred Congregation of Rites, on 8 March 1919, judged that the response should be: Affirmatively.

Catholics who shall have dared to contract a mixed marriage, even if valid, without the dispensation of the Church, remain by the very fact excluded from legitimate ecclesiastical acts and from Sacramentals, until they shall have obtained dispensation from the Ordinary (Can. 2375).

10. (Pag. 614.) In the house of nuns the ordinary confessor, or he who performs his duties, has the right and office of administering the Eucharistic Viaticum and Extreme Unction.

In another lay religion this right and office belongs to the parish priest of the place or to the chaplain whom the Ordinary shall have supplied according to the norm of can. 464, § 2. Cf. Can. 514, §§ 2, 3.

11. (Pag. 626.) The practice of using, for the Most Holy Sacrament of the Eucharist, hosts made three or two months before cannot be approved; and the prescription of the Roman Ritual and of the Code of Canon Law must be observed. S. C. de disc. Sacr. 7 Dec. 1918.

12. (Pag. 652.) The obligation of applying Mass for the people is contained in the pastoral office itself; for, as is clear from the Council of Trent, sess. 23, *De ref.* c. 1, with this office there is joined the burden of offering sacrifice for the sheep; but this burden, according to the Constitutions of the Roman Pontiffs, imports the obligation of applying Mass for the flock, so that those to whom the care of souls has been entrusted must apply the middle fruit of the Mass to the people committed to them. Cf. Benedict XIV, Const. *Cum semper*; Pius IX, Const. *Amantissimi*.

The most recent Declaration solves the doubts. Sacred Consistorial Congregation - declaration - concerning the nature of quasi-parishes or missions of certain dioceses after the promulgation of the Code of Canon Law. From the dioceses which, before the Constitution *Sapienti consilio*, were subject to the jurisdiction of the S. C. de Propaganda Fide, but afterwards were transferred into the common law, certain doubts were proposed concerning the nature of the parishes or missions into which the same dioceses are divided and concerning the rights and offices of their rectors.

But this Sacred Congregation, having heard most of the Ordinaries of the aforesaid dioceses and the matter having been maturely weighed, judged that these things must be declared in the matter:

I. From Can. 216 of the Code of Canon Law it is indubitable that the parts of dioceses as above, to which a particular rector has been assigned for the care of souls, must henceforth be held as parishes and called by that name; the appellation of quasi-parishes or missions being reserved to the parts into which, for the care of souls, Apostolic Vicariates and Apostolic Prefectures are divided.

II. For constituting parishes, indeed, a decree of the Ordinary is required, by which the boundaries of the territory, the parish seat, and the endowment both for worship and for the support of the priest are determined; nevertheless it is not necessary that irremovability be assigned to the rector; indeed, if just causes are present, removability can be declared in the very decree of creation, according to canons 1411, § 4, 454, § 3, and 1438.

III. But if the small or fluctuating number of the faithful, or the absolute lack of a congruous endowment, by no means counsels the erection of certain churches into parishes, churches of this kind are to be held as subsidiary churches or chaplaincies within the boundaries of some parish, in whose jurisdiction and dependence they will remain, until they shall be able to attain their own parochiality.

IV. In constituting the endowment of parishes to be erected, those things are to be kept before the eyes which are established in the Code, cann. 1409, 1410, and 1415, § 3.

V. Moreover, the erection having been canonically carried out as above, the rector of the parish, whether a parish priest or a vicar oeconomus, is held by the obligation of applying Mass for the people; from which the rectors of a subsidiary church or chaplaincy are exempt. But if this burden is found too grave, recourse must be had to the Holy See for an opportune reduction. Rome, from the buildings of the S. C. Consistorial, on the day 1 August 1919. C. Card. De Lai, Bishop of Sabina, Secretary. A.A.S., V. xi, p. 346.

13. (Pag. 666.) § 1. In the liturgical sense there is understood:

1°. By the name immovable or fixed altar, the upper table together with the supports consecrated by way of one thing with the same;

2°. By the name movable or portable altar, a stone, for the most part small, which alone is consecrated, and which is also called a portable altar or sacred stone; or the same stone with a support which nevertheless was not consecrated together with it.

§ 2. In a consecrated church at least one altar, especially the greater one, must be immovable; but in a blessed church all the altars can be movable (Can. 1197).

14. (Pag. 666.) § 1. A priest about to celebrate Mass is to wear a suitable garment which reaches to the ankles and the sacred vestments prescribed by the rubrics of his rite (Can. 811).

15. (Pag. 669.) § 1. A priest is not to celebrate Mass without a minister who serves and responds to him.

§ 2. The minister serving Mass is not to be a woman, unless, when a man is lacking, for a just cause, and on this condition, that the woman respond from a distance and in no way approach the altar (Can. 813).[1]

[1] Cf. Addenda, p. 1115, n. 63.

16. (Pag. 824.) Besides, the local Ordinary, if there is question of those ordained from the secular clergy, or the major Superior, if of religious ordained with his dimissorial letters, is to transmit notice of the celebrated ordination of each subdeacon to the parish priest of baptism, who is to note it in his book of the baptized according to the norm of can. 470, § 2 (Can. 1011).

17. (Pag. 863.) By force of the clause "the celebration of Mass always excluded," which is appended in rescripts concerning mixed marriages, there is prohibited not only the Mass for the spouses ... but any Mass, even a private one, which is celebrated before the spouses and companions, after the marriage, although a distinct seat is not given to the spouses, so that it is held as a complement of the ceremony of marriage. - S. Off. 17 Jan. 1872.

18. (Pag. 940.) "Whether the Const. *Provida* of 18 Jan. 1906, as a particular law opposed to the prescription of Can. 1099, has now been abrogated according to the norm of Can. 6, 1°; or whether, as a privilege or indult, it remains intact according to the norm of Can. 4?"

Card. Gasparri, President of the Pontifical Commission for authentically interpreting the canons of the Code, responded to the doubt proposed to the Holy See on 30 March 1918: "It has been abrogated."

The Constitution *Provida* established the following: 1°. In the whole German Empire all Catholics among themselves could celebrate a valid marriage in no other way than before the parish priest and two or three witnesses. 2°. Mixed marriages which were contracted by Catholics with heretics or schismatics without the Tridentine form being observed were to be held valid, provided that no other canonical impediment stood in the way. 3°. Mixed marriages already clandestinely contracted were likewise to be held valid, provided that no impediment stood in the way, nor had a sentence of nullity on account of the impediment of clandestinity been legitimately issued before Easter day of the year 1906, and the mutual consent of the spouses had persevered up to the said day. 4°. The same, and under the same conditions and restrictions, was decreed concerning marriages of non-Catholics, whether heretics or schismatics, among themselves, in the same regions, contracted up to that time or afterwards to be contracted without the Tridentine form being observed. This Constitution began to have force from Easter day of the year 1906 in the whole German Empire. It must be noted that no privilege is given by this Constitution to marriages of Catholics with non-baptized persons.

Concerning this one exception certain doubts were resolved by the S. Congregation of the Council:

1°. "Whether in the German Empire Catholics who have passed over to a heretical or schismatic sect, or converts to the Catholic faith who afterwards defected from it, even at a youthful or infant age, must, in order to contract validly with a Catholic person, employ the form established in the decree *Ne temere*, namely so that they must contract before the parish priest and two witnesses?" And insofar as affirmatively,

2°. "Whether, in view of the peculiar circumstances existing in the German Empire, it is fitting that provision be made by an opportune dispensation?"

3°. "Whether the exception introduced in Germany by the Const. *Provida* is to be judged as merely local or also personal?" The Sacred Congregation responded, 1 Feb. 1908, to the first, "Affirmatively";

to the second, "Negatively, and therefore let the decree *Ne temere* be observed"; but to the third, 28 March 1908, "The exception holds only for those born in Germany contracting marriage there, the word having been made with His Holiness."

19. (Pag. 943.) If a petition of dispensation has been sent to the Holy See, the Ordinaries of places are not to use their faculties, if they have any, except according to the norm of Can. 204 § 2 (Can. 1048). But Canon 204 § 2 establishes: Nevertheless, after a matter has been brought to a Superior, an inferior is not to involve himself in it, unless from a grave and urgent cause; and in this case he is immediately to warn the Superior concerning the matter.

20. (Pag. 948.) DECREE. - Concerning Certain Faculties of Ordinaries. - Although, by the mercy of God, the conflict having been removed, peace seems near, nevertheless, since we have not yet obtained it and the causes on account of which indults concerning the dispensing of impediments and the sanating of marriages were conceded to Ordinaries of places still persevere, at least in part, the Most Holy Lord Benedict PP. XV, to forestall doubts and remove anxieties in a matter of such great moment, ordered that it be established and declared, as by this decree of the Sacred Consistorial Congregation he declares and establishes, that the faculties conceded to Ordinaries by decrees of the same S. Congregation on the days 25 April and 2 August 1918 still persevere in their force, and that Ordinaries can use them until six whole months after peace has been signed among the nations which contended in war. Given at Rome, from the buildings of the Sacred Consistorial Congregation, on the day 4 March 1919. C. Card. De Lai, Bishop of Sabina, Secretary.

21. (Pag. 970.) DECREE. - Concerning Mixed Marriages Null by Reason of Clandestinity. - The Ordinary of the Diocese N., having already obtained the faculty of sanating in the root mixed marriages which are null by reason of clandestinity because they were not celebrated according to the norm of the Decree *Ne temere*, when the non-Catholic party refuses to present himself before the Catholic parish priest, now asks:

22. Whether, when the non-Catholic party does not refuse to present himself before the Catholic parish priest, but nevertheless altogether refuses to furnish the due cautions, provision must be made by dispensation and renewal of consent before the Catholic parish priest passively assisting, or rather by sanation in the root; and insofar as provision must be made by sanation in the root:

23. Whether the faculty of sanating in the root in this second case is to be judged as comprehended or not in the faculty already obtained of sanating in the root mixed marriages null by reason of clandestinity, or

24. Whether a new faculty must or must not be petitioned from the Holy See.

In the plenary meeting of the Supreme Sacred Congregation of the Holy Office held on feria IV, the day 20 Nov. 1912, after the above-written doubts had been proposed, the Eminent and Most Reverend Lord Cardinals, General Inquisitors in matters of faith and morals, all things having been maturely weighed, decreed that the response should be:

To the 1st: Negatively to the first part, affirmatively to the second.

To the 2nd: Not to be comprehended.

To the 3rd: Provision has been made in the second. And His Holiness is to be supplicated that he deign to sanate in the root marriages null by this reason, which up to this time perhaps have invalidly been sanated by Bishops.

And on the following feria V, the day 21 of the same month, the Most Holy Lord, our Lord Pius, by divine providence PP. X, in the usual audience granted to the Reverend Father Lord Assessor of the same Supreme Sacred Congregation, deigned benignly to approve and confirm the resolution of the Eminent Fathers and to grant the sanation in the root of marriages which, null by this reason, up to this time perhaps have invalidly been sanated by Bishops. Anything whatsoever to the contrary notwithstanding. Given at Rome, from the buildings of the S. Office, on the day 22 December 1916. Aloisius Castellano, Notary of the Sacred Roman and Universal Inquisition.

22. (Pag. 1065.) The faithful of the Oriental Rite can gain all Indulgences conceded by the Supreme Pontiff by universal decree. Thus the Sacred Penitentiary, 7 July 1917.

23. (Pag. 1084.) He who has not made the oblation into the hands of the Blessed Virgin Mary can designate the soul to which he wishes to apply his satisfactions. Cf. *Il Mon. Eccl.* vol. viii, pt. 2, p. 235.

24. (Pag. 765, 1032.) Secretariat of State. The preceding one of 1 December 1918, concerning the manner of transmitting denunciations to the S. Office, is revoked.

Circular, 6 August 1926.

Most Illustrious and Most Reverend Lord. - This Secretariat of State, by letters given on the day 1 December in the year 1918, warned the individual Ordinaries of the Catholic world that whatever matter is customarily brought to the Sacred Congregation of the S. Office - since for the most part there is question of facts which could be learned by others not without scandal - should be brought not directly to the Tribunal of the S. Office, but to the Eminent Cardinal Secretary of State.

And it prescribed this only with the counsel that knowledge of those most grave matters might in no way be acquired by public couriers or by those to whose censorship letters were subject in those days. But since at present that condition of things no longer has force, the letters of this Secretariat which had introduced such a prescription have lost every force. Wherefore all those things concerning which the same Tribunal decrees by its proper and native right must be brought directly to the aforesaid Congregation of the S. Office.

Reporting these things to you, having obtained a suitable occasion, I profess the sentiments of my greatest esteem toward you and confirm myself.

Most devoted to Your Amplitude, P. Card. Gasparri. Cf. *Il Mon. Eccl.* v. 39, p. 198.

25. (Pag. 522.) Whether it is licit for Bishops habitually to communicate to presbyters of their jurisdiction the power of blessing rosaries, etc., of which in canon 349, § 1, n. 1, with application of indulgences, the rites prescribed by the Church being observed? The Sacred Apostolic Penitentiary, the matter having been maturely considered, judged that the response should be: Negatively. This judgment, reported through the undersigned Cardinal Major

Penitentiary to the Most Holy Lord Benedict PP. XV in the Audience of this day, His Holiness deigned to approve and ordered it to be made of public law.

Given at Rome, on the day 18 July 1919. A.A.S., V. xi, p. 332.

26. Pontifical Commission for Authentically Interpreting the Canons of the Code. - Doubts Solved in the Plenary Meetings of the Eminent Fathers.

Pag. 80. Can. 10. Whether simple perpetual religious vows on the part of the one vowing, emitted before the promulgation of the Code in Religions of solemn vows, whether of men or of women, are to be governed, as regards the manner of dismissal of religious and as regards the effects of dismissal, by the ancient law before the Code.

Resp. Affirmatively.

Pag. 664. Can. 822, § 4. Whether the faculty of celebrating Mass in a private house is to be interpreted restrictively by the Ordinary, according to the norm of Canon 822, § 4.

Resp. Affirmatively.

Pag. 1060. Can. 987. Whether, according to the norm of Can. 987, there is to be numbered among the impeded one whose father or mother only is Catholic, the other parent being non-Catholic. And, insofar as affirmatively, whether also in that case in which the mixed marriage was contracted with dispensation in this prohibition after the cautions had been given.

Resp. Affirmatively in all things.

Pag. 840. Can. 1990. Whether the Ordinary, the solemnities of law required in the Apostolic Constitution *Dei miseratione* being omitted, can declare a marriage null, yet with the intervention of the defender of the matrimonial bond, without there being need of a second sentence, in these cases, namely:

1°. If two Catholics, in a place certainly previously subject to chapter *Tametsi* of the Council of Trent, or after the Decree *Ne temere*, entered a civil marriage only, the ecclesiastical rite being omitted, and, a civil divorce having been obtained, strive to enter a new marriage in the Church, or to convalidate in the forum of the Church a new marriage entered civilly.

2°. Or if the Catholic party who, with a non-Catholic, in contempt of the laws of the Church, contracted marriage in the temple of a Protestant sect, in a place certainly previously subject to chapter *Tametsi* of the Council of Trent and where the Benedictine declaration has not been extended, or after the Decree *Ne temere*, having obtained a civil divorce, wishes to enter a new marriage in the face of the Church with a Catholic consort.

3°. Or if apostates from the Catholic faith, who in apostasy joined themselves civilly or by an alien rite, having obtained a civil divorce, repentant, desire to return to the Church and celebrate second nuptials in the Church with a Catholic party.

Resp. The above-mentioned cases require no judicial process or intervention of the defender of the bond, but are to be resolved by the Ordinary himself, or by the Parish Priest, the Ordinary having

been consulted, in the prior investigation for the celebration of marriage, of which in Can. 1091 and following.

Rome, 16 October 1919.

Peter Card. Gasparri, President.

Aloisius Sincero, Secretary.

Pag. 319. Can. 1251, § 1. Can the doctrine taught by some authors be held with safe conscience, that after the publication of the Code it is permitted on days of fast only to eat meat several times during the day?

The Eminent President of the Commission responded on the day 29 October 1919: Negatively.

27. (Pag. 85, 814.) Pontifical Commission for Authentically Interpreting the Canons of the Code. - Most Eminent Prince, - To the doubts proposed by Your Most Reverend Eminence, namely: 1°. Who is the proper Bishop for the ordination of those who have no domicile (Can. 956). 2°. Whether he who is ordained by his proper Bishop for the service of another diocese is incardinated into this other diocese according to Canon 111, § 2, or rather into the diocese of his proper Bishop according to Canon 969, § 2.

And, insofar as negatively to the first part, 3°. At what time he must be incardinated into the diocese for whose service he is ordained. 4°. Whether a peregrinus is held to the reservations of the place in which he is.

The Eminent Fathers of this Pontifical Commission, in the plenary meeting of the day 3 August 1919, responded:

To 1°. As the doubt is set forth, it is the Bishop of the place in which the ordination takes place, provided nevertheless that the one to be ordained previously acquire domicile with an oath according to the norm of Canon 956.

To 2°. Affirmatively to the first part; negatively to the second.

To 3°. Provision has been made in the response to the 2nd.

To 4°. Affirmatively.

While I make these things known to Your Most Reverend Eminence, I reverently kiss the hands of Your Most Reverend Eminence, and profess myself

the most humble and devoted servant, P. Card. Gasparri, Aloisius Sincero, Secretary.

28. (Pag. 166.) Doubt - On Theosophism - Feria IV, the day 16 July 1919. In the plenary meeting held by the Eminent and Most Reverend Lord Cardinals, General Inquisitors in matters of faith and morals, with the doubt proposed: Whether the doctrines which today they call theosophical can be composed with Catholic doctrine; and therefore whether it is licit to give one's name to theosophical societies, to be present at their meetings, and to read their books, periodicals, newspapers, and writings.

The same Eminent and Most Reverend Lords, the vote of the Lord Consultors having first been had, decreed that the response should be: Negatively in all things.

And on feria V, the day 17 of the same month, the Most Holy Lord, our Lord Benedict, by Divine Providence PP. XV, in the usual audience granted to the Reverend Father Lord Assessor of the S. O., approved the resolution of the Eminent Fathers reported to him and ordered it to be published.

Given at Rome, from the buildings of the S. Office, on the day 18 July 1919, A. Castellano, Notary of the Supreme S. C. of the S. Off. A.A.S. v. XI, p. 317.

29. (Pag. 662.) From the Sacred Congregation of Rites the solution of the following doubts was sought; namely:

1°. "Whether a Priest who, on account of weakness of vision or another just cause, by Indult of the Apostolic See celebrates some one of the votive Masses or the daily Mass of the Dead, can on the day of the Commemoration of All the Faithful Departed perform the Sacred rite three times, repeating the same daily Mass of the Dead?"

2°. "Whether the same Priest who likewise by Indult of the Apostolic See celebrates the votive Mass of the Mother of God or another votive Mass, is able hereafter on the day of the Nativity of the Lord to say the entirely same Mass three times?"

And the same Sacred Congregation, the vote of the special Commission having been heard, all things having been weighed, judged that it must be rescripted:

"Affirmatively to each question, the word having been made with the Most Holy One; for the rest, with both the Apostolic Constitution *Incruentum altaris Sacrificium*, 10 August 1915, and the Rubrics and Decrees regarding the days of the Nativity of the Lord and the Commemoration of All the Faithful Departed duly to be observed."

This resolution, reported to Our Most Holy Lord Benedict Pope XV by the undersigned Cardinal Prefect of the Sacred Congregation of Rites, His Holiness held ratified and approved, on the day 26 January 1920. A. Card. Vico, Bishop of Porto and S. Rufina, Prefect of the S. R. C.

30. (Pag. 729.) Whether according to the norm of Canons 199, § 1, and 874, § 1, Parish Priests, Vicars of parish priests, or other priests delegated for the universality of causes, can delegate to priests, whether secular or religious, jurisdiction for receiving confessions, or at least extend for the same already approved priests jurisdiction beyond the limits of place or persons within which, according to the norm of Can. 878, § 1, it had been circumscribed; or whether for this they need the special faculty or mandate of the Ordinary of the place. Resp. Negatively to the first part, affirmatively to the second. Pontifical Commission for Authentically Interpreting the Canons of the Code, 16 Oct. 1919.

31. (Pag. 747.) But if some religious woman, for the tranquillity of conscience, approaches a confessor approved for women, and makes confession in an open place, e.g., in a private oratory, or in another confessional customarily used for women, even if placed outside the oratory, the confession, the prescriptions of Canons 909, § 2, 910, § 1, on the use of the confessional being observed, seems to us valid and licit. The reason is that Canon 522 refers in

full, concerning this point, to number 14 of the decree of the S. C. de Religiosis, 13 Feb. 1913. In both places the words are had: in any church or oratory, even semipublic. But the S. C. de Religiosis, 3 July 1916, declared that this number does not contain a prohibition of making confession in another decent place; and Canon 6, 3° teaches that canons, insofar as they agree with the old law, are to be estimated from the old law. Therefore - Cf. Aertnys, n. 378, who consents in the same. "The same holds in a confessional lawfully erected wherever, as is clear from the response of the Holy See given 3 July 1916." Thus Lehmkuhl, *Quaestiones*, p. 8. Vermeersch concurs, *Periodica*, t. 9, p. (15.)

The response of the S. C. has itself thus.

"Most Blessed Father. Regarding the Decree of the S. C. de Religiosis, dated Feb. 1913, 'On the Confessions of Nuns and Sisters,' in these regions grave controversies have arisen concerning the following:

I. If at any time Nuns or Sisters happen to be outside their own house, for whatever cause, whether it is licit for them, from N. 14 of the same Decree, to make confession in any church or oratory, even a semipublic one, before any Confessor approved for both sexes. Further, that word 'it is licit' is understood by some in such a way that it affects the very validity of absolution, if at any time Nuns or Sisters make confession not in a church or oratory, at least semipublic, but in a strictly private oratory; others, on the contrary, understand that word 'it is licit' only of the prohibition of confession outside an oratory at least semipublic, but think that the very validity of absolution is by no means to be denied.

II. Since from the mentioned disposition of the Decree it is certain that, as regards the liceity of confession outside one's own house, either a church or an oratory at least semipublic is required; there is further doubt whether the Ordinary can permit that Nuns or Sisters, who not rarely among us lack even a semipublic oratory, make confession 'within their own house' in some decent room, in which daily religious exercises are performed, and indeed in a confessional with a grate interposed. For there seems to be required from the Decree an oratory at least semipublic for confession to be performed at least licitly, not only outside but also within one's own house....

By force of the special faculties granted by Our Most Holy Lord, the S. Congregation set over the Affairs of Religious Sodalities, after maturely weighing the things set forth, judged that it must be rescripted, as it rescripts:

To the first: The word 'it is licit,' of Number 14 of the Decree *Cum de Sacramentalibus*, neither regards the validity of confessions, nor contains a prohibition of making confession in another decent place.

To the Second: 'Affirmatively'; that is, the Ordinary can permit that Sisters make confession within their own house in another decent place, outside the church or semipublic oratory if one is present, but always in a Confessional, with a grate interposed.... Given at Rome, on the day 3 July 1916."

32. (Pag. 867.) Hence the privilege of two months for deliberating about entrance into a religious Order is suppressed. - Cf. *Il Mon. Eccl.* v. 31, p. 361.

33. (Pag. 490.) The allocution of the Most Holy Lord, our Lord Benedict PP. XV, makes known in the clearest words the mind of the Church concerning celibacy. - "Indeed there were also those

who did not fear to assert this: that the Apostolic See was inclined to mitigate the severity of the law concerning sacred celibacy, by releasing from that law those who had deserted the ecclesiastical order. Indeed we certainly do not think it necessary to linger here and show how far this whole thing is from the truth. For it is clear that, if the Latin Church lives and flourishes, a great part of its strength and glory flows from the very celibacy of clerics, and for that reason it is altogether to be preserved intact and safe. And perhaps at no other time was this ever so necessary as in this most wretched time, when, amid so many and so widely diffused enticements of corruptions, the untamed and unbridled cupidities of souls dominate everywhere, nor does anything else seem to be proposed to men except rashly to indulge themselves and to enjoy the passing pleasures of this life. Therefore let the Catholic priest, who ought to be a leader to the rest in restraining the disturbed movements of the soul, see to it that he himself not limp in this so great office of duty, but continue to strengthen all by his example, and always remember Saint Siricius the Pontiff thus exhorting: 'that from the day of our ordination we devote both our hearts and our bodies to sobriety and chastity.'" The day 16 December 1920.

34. (Pag. 668.) The decree of a certain Provincial Council has itself thus: "We expressly prohibit giving Masses to be celebrated outside the bounds of each diocese without the permission of the Ordinary." To the question: Whether and how the disposition of Provincial Council N. is sustained in the case, the Eminent and Most Reverend Fathers of the S. Congregation of the Council on the day 19 Feb. 1921 judged that the response should be: "As regards founded Masses, or Masses after the manner of manual Masses, or manual Masses given with regard to a pious Cause, affirmatively; in the rest let Can. 838 of the Code of Canon Law be observed."

35. (Pag. 840.) Sacred Congregation on the Discipline of the Sacraments. Instruction to the Most Reverend Ordinaries of places on proof of free status and denunciation of entered marriage.

Again not a few Ordinaries of places have complained that parish priests, especially in foreign and distant regions to which workers frequently emigrate from Europe, sometimes assist at their marriages without the prescriptions of law, both concerning the status of freedom and concerning the denunciation of an entered marriage, being duly observed; from which it happens that not rarely a new marriage is attempted against right by those who are still bound by a prior bond.

For forestalling an evil of this kind, by which the sacred rights of the Christian family are ruined, parents are ensnared in bonds of condemnation, and children are easily exposed to the danger of perversion, this Sacred Congregation on the Discipline of the Sacraments on the day 6 of the month of March of the year 1911 gave an Instruction to Ordinaries, which was published in the Official Commentary *Acta Apostolicae Sedis*, vol. III, p. 102, under the day 15 of the same month.

But lest anyone, in so grave a business, think that anything has been derogated from this Instruction by the Code of Canon Law, the Eminent Fathers of this Sacred Congregation, in the general meeting held on the day 26 of the month of June of the current year, judged that it, supported by the prescriptions of the Code itself, must again be given to Ordinaries in the following tenor.

1. Let Ordinaries strive to call back to the memory of parish priests that it is not licit for them to assist at a marriage, not even under the pretext and intention of turning the faithful away from

base concubinage, or of forestalling the scandal of the marriage which they call civil, unless it is legitimately established for them concerning the free status of the contracting parties, the things to be observed by law being observed (can. 1020 and 1097 § 1, n. 1, Cod. jur. can.), and let the same be warned not to omit, according to the norm of can. 1021, to require from the contracting parties the testimony of baptism, if this was conferred upon them in another parish.

2. By force of can. 1103 § 2, the parish priest who was present at the marriage is to hasten to transmit to the parish priest of baptism the denunciation of the contract entered; and this denunciation, so that the prescriptions of the same canon may duly be observed, must contain the names and surnames of the spouses and of their parents, the ages of the contracting parties, the place and day of the nuptials, likewise the names and surnames of the witnesses, and finally the name and surname of the parish priest himself together with the parish seal.

But let him be accurately informed concerning the parish, the diocese, and the place of baptism of the spouses; and let the other things be observed which pertain to writings to be safely transmitted by public carriers.

3. In order that either testimony concerning free status may be had more safely from the parish priest of those about to marry, or denunciation concerning the marriage that has followed may reach the parish priest of baptism, let parish priests request or transmit these documents through the chancery of the Ordinary of the place.

4. But parish priests must weigh this, that some marriages of emigrating workers of this kind are to be held as marriages of vagi, at which, according to can. 1032, the parish priest must not assist unless he shall have obtained due license for assisting from the Ordinary of the place. But if there is not question of vagi, nevertheless with difficulty, as regards other emigrants, is doubt absent concerning the existence of an impediment; and therefore, according to can. 1032 § 1, n. 3, the parish priest cannot assist at their marriage without consulting the Ordinary, with the prescription of can. 1023 § 2 also having been kept before the eyes. For these causes this Sacred Congregation orders and commands that parish priests are not to assist at the marriages of the faithful of whom there is question in this Instruction, except in a case of necessity or chiefly in danger of death, without consulting the Ordinary of the place.

5. If perhaps it happens that, even with the cautions of which in n. 1 employed, the parish priest of baptism, in receiving the denunciation of marriage, discovers that one or other of the contracting parties is already bound by other nuptials, he will signify the matter as quickly as possible, through the chancery of the Ordinary, to the parish priest of the marriage attempted against right.

6. Let Ordinaries sedulously watch that these prescriptions be religiously observed; and let them take care to call back to duty violators of them, if they find any, even employing canonical sanctions if there is need.

Our Most Holy Lord Benedict PP. XV, in an audience had by the undersigned Secretary of this Sacred Congregation on the day 26 June 1921, approved and confirmed this Instruction, and commanded it to be observed by all whom it concerns. Given at Rome, from the buildings of the S. C. de

Sacramentis, on the day 4 July 1921. - M. Card. Lega, Prefect. - A. Capotosti, Bishop of Terme, Secretary.

36. (Pag. 872.) Concerning Cautions: As regards the offspring of the non-Catholic party already born from a prior marriage: "although it must be cared for according to one's powers that ... they be instructed in the Catholic religion, nevertheless this is by no means absolutely to be required for granting the dispensation, unless the same children were born from the other mixed marriage, and the parent did not observe the prior conditions." Thus the S. C. de Prop. Fide to the Bishop of Haarlem, 20 March 1899. - Cf. Vlaming, v. 1. n. 218.

37. (Pag. 942.) Pontifical Commission for Authentically Interpreting the Canons of the Code. Doubts Solved in the Plenary Meetings of the Eminent Fathers.

IV

Whether, according to the norm of can. 1045, § 1, the clause "as often as an impediment is detected when now all things are prepared for the nuptials," must be understood in the strict sense, namely that the impediment was previously wholly unknown and then is learned, or rather in this sense, that although it was previously known, only then nevertheless was it brought to the notice of the Parish Priest or the Ordinary? Resp.: Negatively to the 1st part, affirmatively to the 2nd. Rome, 1 March 1921. Peter Card. Gasparri, President. Aloisius Sincero, Secretary.

38. (Pag. 948.) Sacred Consistorial Congregation - Concerning the faculties of Ordinaries. Since sometimes Most Reverend Ordinaries offer petitions to the Sacred Congregations, that special faculties be conceded to them according to the formulas which formerly were given by the S. Congregation de Propaganda Fide, it is declared to the same that a definitive norm concerning this matter will be established and notified as soon as possible. In the meantime, however, let the Most Reverend Ordinaries know that the faculties which during the war had been conceded by the S. Consistorial Congregation, by decrees on the day 25 April 1918 and 2 August of the same year, still have force. Given at Rome, from the buildings of the Sacred Consistorial Congregation, on the day 7 March 1921. C. Card. De Lai, Bishop of Sabina, Secretary. Aloisius Sincero, Assessor.

39. n. (Pag. 978.) Response of the S. Penitentiary, 3 Apr. 1916.

Doubt. Whether a woman can licitly cooperate with the action of a husband who, that he may indulge pleasure, wishes to commit the crime of Onan or of the Sodomites, and threatens her under penalty of death or of grave molestations unless she obeys?

Resp. (a) "If the husband in the use of marriage wishes to commit the crime of Onan, namely by pouring out the semen outside the vessel after copula has begun, and the same threatens his wife either with death or with grave molestations unless she accommodate herself to his perverse will, the wife, according to the judgment of approved theologians, can licitly in this case thus come together with her husband: since she herself on her part gives work to a licit thing and action, but permits the sin of the husband from a grave cause which excuses her; because charity, by which she would be held to impede it, does not oblige with so great an inconvenience."

(b) "But if the husband wishes to commit with her the crime of the Sodomites, since this sodomitical coitus is an act against nature on the part of each spouse so coming together, and is gravely evil by the judgment of all Doctors: hence for plainly no cause, not even of avoiding death, can the wife licitly in this matter comply with her shameless husband. And the S. Penitentiary vehemently marvels that the opposite opinion, with disgrace to human nature, could have settled in the minds of certain priests, as is reported." - Cf. Marc, t. 2, n. 2116.

Response of the S. Penitentiary, 3 June 1916. Questions. 1° Whether a woman, in the case in which the man wishes to use an instrument for exercising onanism, is held to positive resistance?

2°. If negatively, whether reasons equally grave as for natural onanism, without an instrument, suffice for making honorable passive resistance on the part of the woman, or rather reasons altogether most grave are necessary?

3°. Whether, so that this whole matter may be evolved and taught by a safer path, a man using such instruments must truly be equated with a violator: to whom, therefore, the woman must oppose that resistance which a virgin opposes to an attacker?

Resp. To the first: Affirmatively. To the second: Provision has been made in the first. To the third: Affirmatively. Carolus Perosi, Regent of the S. Penitentiary. Cf. Marc, t. 2, n. 2117.

40. (Pag. 1005.) Suspected of heresy are:

Those who in any way willingly and knowingly assist the propagation of heresy; or who communicate in divine things with heretics against the prescription of Can. 1258 (Can. 2316); - Cf. n. 152;

Those who are united in marriage with an explicit or implicit pact that all or some offspring be educated outside the Catholic Church (Can. 2319, §§ 1, 2);

Those who knowingly presume to offer their children to be baptized by non-Catholic ministers (Can. 2319, §§ 1, 2);

Parents or those holding the place of parents who knowingly hand over their children to be educated or instructed in a non-Catholic religion (Can. 2319, §§ 1, 2);

One who has thrown away the consecrated species or taken or retained them for an evil end (Can. 2320) - Cf. n. 978;

Those who appeal from the laws, decrees, and mandates of the current Roman Pontiff to a universal Council (Can. 2332); - Cf. n. 983;

One who, with hardened mind, has persisted for a year in the censure of excommunication (Can. 2340, § 1); - Cf. n. 954.

Those who knowingly have promoted others to orders through simony or have been promoted, or have administered or received other Sacraments (Can. 2371); - Cf. n. 218.

41. (Pag. 1022.) The things which are said in number 975, Q., obtain an excellent confirmation from the following. The Supreme Sacred Congregation of the Holy Office, by Letter on the day 5 Nov. 1920 to the Ordinaries of places, excites their vigilance concerning certain new efforts of non-Catholics against the faith and wishes them to attend "how certain new associations of

non-Catholics, with their adherents from every nation assisting, for a long time now have been accustomed most perniciously to lay snares for our people, especially adolescents, by offering them a great variety of aids, by which indeed in appearance they strengthen bodies and cultivate minds and souls, but in truth they corrupt the integrity of the Catholic faith and snatch sons from the embrace of Mother Church. Certainly, because associations of this kind flourish by the favor, resources, and zeal of most distinguished men, and because they are occupied most usefully in manifold kinds of beneficence, it is not to be wondered at if they put paint upon the matter for the inexperienced, who do not have their nature thoroughly seen through and known. But what sort they are can now be doubtful to no one who is wise, since they have gradually indicated up to this time the end toward which they look, but now they openly declare it, and this by booklets, newspapers, and periodical writings, which they use as their own organs. For they say that they wish to cultivate the talents and morals of youths by good disciplines, and holding this culture in place of religion, they define it: a most free license of thinking, alien and loosed from any religion or confession. Therefore, having professed that they bring light before adolescents, they turn them away from the magisterium of the Church, which itself is the light of truth divinely constituted, and exhort the same to seek from their own inner spirit, and therefore from the narrowness of human reason, the light by which they may be led.

Into snares of this kind adolescents of both sexes devoted especially to studies are driven; and they indeed, when they chiefly need another's help for learning Christian wisdom and for preserving the faith handed down by their fathers, on the contrary fall among men by whom, having been displaced from possession of that great inheritance, they are gradually brought to this: first, that they waver among contrary opinions; then that they doubt concerning all things whatsoever; finally that they rest in a certain vague and undefined form of religion, which sane religion is altogether other than what Jesus Christ preached.

Now indeed from these societies it will suffice to mention that one which, as if the mother of several others, is most widespread, and especially while the cruel war remained was of very great profit to very many unfortunate persons, and is most furnished with resources: namely the society called by the title Young Men's Christian Association, contracted into the acronym Y.M.C.A.; and to this, indeed, both non-Catholics of good faith unknowingly show favor, judging it salutary for all or at least harmful to no one, and certain more indulgent Catholics give support, to whom its nature is unknown. For this society indeed boasts a sincere love toward youths, as if it had nothing more ancient than to be of use to their bodies and minds; but at the same time it weakens their faith, since it contends that its purpose is to purify it, and to hand over to them a better knowledge of true life 'above every Church and apart from any religious confession.'"

42. (Pag. 1074.) Sacred Apostolic Penitentiary. - Section on Indulgences. Declaration and indult concerning the custom of adding certain words to the angelic salutation in the recitation of the Most Holy Rosary. - In the recitation of the Most Holy Rosary, for the easier meditation of the mysteries, there has force in certain regions the custom of adding to each angelic salutation after the word "Jesus" a brief enunciation of the mystery to be meditated, so that, for the sake of example, it is said: "Blessed is the fruit of thy womb, Jesus, who sweated blood for us." But with attention to canon 934 § 2 of the Code of Canon Law, according to which Indulgences

attached to some prayer completely cease on account of any addition, detraction, or interpolation, it was privately asked by a certain petitioner: "Whether the aforesaid custom can be observed and propagated, the Indulgences attached to the Most Holy Rosary remaining intact." And on the day 27 July in the year 1920 this Sacred Penitentiary responded: Negatively.

But since a response of this kind had been made known by the aforesaid petitioner, some Ordinaries of the Swiss and German Territory explained that the aforesaid custom had so prevailed in their dioceses from a remote age that it cannot be removed without scandal and disturbance of the faithful, and that, moreover, Pius IX of holy memory, in the year 1859, had kindly indulged for places where the custom had already prevailed that the faithful reciting the Rosary in such a manner are able to gain its Indulgences.

Therefore the Sacred Penitentiary, after the matter had been maturely weighed, judged: (1) that it must be declared that canon 934 § 2 of the Code of Canon Law contains a general law, which in no way revokes the Pian indult; (2) that His Holiness must be supplicated for the extension of the same indult, in favor of all who, according to the aforesaid custom, have been accustomed to recite the Most Holy Rosary in any places whatsoever.

But when a report had been made concerning the premises to Our Most Holy Lord Benedict, by Divine Providence PP. XV, by the undersigned Cardinal Major Penitentiary, in the audience of the day 21 of this month, His Holiness approved the enunciated declaration and deigned kindly to concede the extension of the indult, as above. Given at Rome, in the Sacred Penitentiary, on the day 22 January 1921. O. Card. Giorgi, Major Penitentiary. F. Borgongini Duca, Secretary.

Doubt Concerning Indulgences Commonly Called "Apostolic." Whether canon 924 § 2 of the Code of Canon Law, according to which "Indulgences attached to rosaries or other things cease only then, when the rosaries or other things wholly cease to exist or are sold," has abrogated the Decree of Alexander VII of holy memory, issued on the day 6 February in the year 1657, renewed by individual Supreme Pontiffs at the beginning of their pontificate, and also confirmed on the day 5 September in the year 1914 by the Most Holy Lord Benedict, by Divine Providence PP. XV, by which it is expressly declared that Indulgences commonly called "Apostolic" are attached to rosaries or other things in such a way that they do not pass beyond the person of those for whom things of this kind have been blessed, or of those to whom by these persons they shall have been distributed the first time, and likewise that these things cannot be lent or handed over to others on loan for the sake of communicating Indulgences?

The Sacred Apostolic Penitentiary, after the matter had been maturely weighed, judged that the response should be: Affirmatively. But this response, reported to the same Most Holy Lord by the undersigned Cardinal Major Penitentiary in the audience on the day 4 of the current February, His Holiness approved, confirmed, and ordered to be made of public law. Given at Rome, in the Sacred Penitentiary, on the day 18 February in the year 1921. O. Card. Giorgi, Major Penitentiary. F. Borgongini Duca, Secretary.

43. (Pag. 1096.) Pontifical Commission for Authentically Interpreting the Canons of the Code. Whether the words of canon 522: "confession made in any church or oratory, even semipublic, is valid and licit," are to be understood in such a way that confession made outside those places is not only illicit, but also invalid.

Resp. Canon 522 is to be understood thus: that confessions which religious women make, for the tranquillity of their conscience, before a confessor approved by the Ordinary of the place for women, are licit and valid, provided that they are made in a church or oratory, even semipublic, or in a place legitimately destined for hearing the confessions of women.[1]

(Pag. 904 [printed as 1904].) Whether, according to the norm of canon 893, § 1 and 2, a peregrinus is held to the reservations of the place in which he is staying.

Resp. Affirmatively.

(Pag. 796.) Whether can. 909 § 2: "The confessional seat is to be furnished with a fixed grate, finely perforated, between the penitent and the confessor," is to be observed only for women; or generally for penitents as the proper form of hearing confessions in churches and public oratories.

Resp. Negatively to the 1st part, affirmatively to the 2nd, yet with the prescription of canon 910, § 2, remaining firm.

(Pag. 323.) 1. Whether according to the norm of can. 1252 § 4, the fast ceases when the feast day which has a fast attached on the vigil falls on feria II, so that the fast itself must no longer be anticipated on the preceding Saturday.

2. Whether the words: "nor are vigils anticipated," regard only the excepted time of Lent, or also the whole year.

Resp. To the 1st: Affirmatively, with the prescription of canon 1253 preserved.

To the 2nd: They regard the whole year.

1. Whether, if the feast of S. Joseph, of the day 19 March, falls on Friday or Saturday, only the law of fast holds, or also the law of abstinence.

And insofar as affirmatively to the first part, negatively to the second,

2. Whether the law of abstinence ceases, even if the feast of S. Joseph should fall on some day of the Four Times.

Resp. To the 1st: Let canon 1252, § 4 be observed, or rather neither the law of fast nor the law of abstinence ceases.

To the 2nd: Provision has been made in the response to the 1st. Rome, 24 November 1920. Peter Card. Gasparri, President. Aloisius Sincero, Secretary.

[1] Cf. Addenda, p. 1125, n. 82.

44. (Pag. 654.)

Pontifical Commission for the Interpretation of the Code of Canon Law.

Rome, 26 September 1921.

Most Illustrious and Most Reverend Lord:

In response to the doubts sent by Your Reverence on the date 29 September 1921 (n. 1578-f) to the S. Consistorial Congregation, and remitted by it to this Commission, as by letter of 20 March 1921: namely:

1. For the validity of the erection of a parish which does not have the character of a benefice, is it necessary that the Ordinary issue a formal decree, by which he explicitly declares that he erects a certain district as a parish, or is it enough that, once the division of a given territory into several districts with determined boundaries has been made, he assign to each district a rector who has care of the people, with a corresponding church, according to the tenor of Can. 216, §§ 1, 3?
2. Insofar as affirmatively to the first part and negatively to the second, did the districts in which, before the Code, the three conditions now indicated were verified become parishes after the promulgation of the Code, even if for them there has not been the decree which would be necessary for those which were erected after the Code?
3. In those territories in which, before the Code, there existed cumulatively several parishes, or better, quasi-parishes, namely one quasi-principal for the inhabitants of the territory, independently of their nationality or stock, one or more others for the people of a certain nationality or stock, as for example the Italians, the Poles, the Negroes, etc., does the Ordinary need the apostolic beneplacitum in order to erect the ancient districts into parishes, if the parishes which are found there for peoples of different nationality or stock are left intact?

The undersigned Cardinal, President of the Commission, responds: To the first: negatively to the first part; affirmatively to the second, with the warning that a parish according to the norm of Canon 1411, n. 5, is always an ecclesiastical benefice, whether it has a congruous endowment, constituted according to the norm of Canon 1410, or whether, in lack of it, it is erected according to the norm of Canon 1415, § 3.

To the second: provision has been made in the first.

To the third: negatively.

P. Card. Gasparri.

Luigi Sincero, Secretary.

Most Illustrious and Most Reverend Lord Monsignor Giovanni Bonzano Archbishop of Melitene Apostolic Delegate United States of America

45. (Pag. 654.)

Apostolic Delegation United States of America.

Washington, D. C. November 10, 1922.

Your Grace:

Notwithstanding the fact that several years have elapsed since the promulgation of the new Code of Canon Law, there still seems to be some uncertainty in the United States as to the nature of the parishes in this country and as to the consequent obligation of the pastors who are in charge of them.

Both these questions have been debated in published articles from time to time. In order definitively to end this uncertainty I deem it my duty to communicate to you an official answer which I received from the Pontifical Commission for the Authentic Interpretation of the Canons of the Code.

Under date of March 20, 1921, I submitted to the said Commission the following *dubium*: "For the erection of a parish which has not the character of a benefice: (1a pars), is it necessary that the Ordinary should issue a formal decree declaring explicitly that he erects a certain district into a parish; or, (2a pars), is it sufficient that, having divided a certain territory into several districts, the respective limits of which are definitely indicated, he assigns to each district a rector to take charge of the people and the church thereto pertaining, according to Canon 216, No. 1 and No. 3?"

Under date of Sept. 26, 1921, His Eminence, Cardinal Gasparri, President of the above-mentioned Commission, answered: "Negative ad primam partem," i.e., that a special decree of the Ordinary is not necessary for the erection of a parish; and, "Affirmative ad secundam partem," i.e., that it is sufficient, *quoad hoc*, for the erection of a parish, that the Ordinary define the territorial limits and assign a rector to the people and the church within said limits.

His Eminence, the President of the Commission, added, moreover, that a parish is always an ecclesiastical benefice, according to Canon 1411, No. 5, whether it has the proper endowment (resources or revenue) as described and defined in Canon 1410, or even if lacking such endowment (resources or revenue), it be erected according to the provisions of Canon 1415, No. 3.

In a second *dubium*, I asked further, if, after the promulgation of the New Code, a special decree on the part of the Ordinary was necessary to constitute as canonical parishes those which, previous to the promulgation of the New Code, had been established in the manner described in the second part of the first *dubium* as set forth above. The answer was that no decree is necessary, and that such parishes became canonical parishes, *ipso facto*, on the promulgation of the Code.

It is evident, from this official answer, that all the parishes of the United States having the three necessary qualifications, viz. (1), a resident pastor; (2), endowment (resources or revenue according to the provisions of Canon 1410 or 1415, No. 3); and (3), boundaries, are not only parishes in the strictly canonical sense, but are also ecclesiastical benefices. Hence pastors in the United States are real, canonical pastors (*parochi*), having all the duties and obligations pertaining to such an office and (according to Canons 466 and 339) are specifically bound to apply the *Missa pro populo* on Sundays and on feast-days of obligation (including those that have been suppressed), this obligation binding them in conscience unless dispensation or commutation be received from the Holy See.

With sentiments of esteem and best wishes, I am

Yours sincerely in XT.,

John Bonzano, Archbishop of Melitene, Apostolic Delegate.

46. (Pag. 629.) The use of reason of which in can. 854, n. 4, 859, n. 1, 906, for determining the year of discretion, is manifestly that which suffices for committing only venial sin, not that which is required for mortal sin. Cf. *Il Mon. Eccl.*, V. 32, p. 224.

47. (Pag. 107.) "Canon 4, concerning acquired rights not removed by the Code, has its foundation in this, that law, of itself, does not act backward, or does not have retroactive force, as it is

usually said, since it 'regards future things, not past things,' as canon 10 has it. Yet this does not mean generally that law cannot suppress for the future a right which someone has while it is promulgated, but only that it cannot take away for the future a right which someone, while the law is promulgated, has dependently on a past fact, while it certainly can take away such a right for the future if it is independent from some past fact. Thus, for example, a deacon who before the Code received the collation of a parish has, from the past fact of collation, an acquired right in the parish; wherefore the law of Can. 453, requiring 'the presbyterate' for the office, assuredly cannot take away from such a deacon capacity; by the very fact that it cannot act backward, it cannot take away an acquired right, while it would act backward and would take away an acquired right if it pretended to take away a capacity dependent altogether on a past fact. On the contrary, a man constituted in the fifteenth year of age on the vigil of Pentecost of the year 1918 was able to contract marriage, which ability assuredly Canon 1067 of the Code, requiring the sixteenth year of age, removed on the following day. For there was question of suppressing for the future a right in no way dependent on a past fact; and therefore the law taking away that ability in no way acted backward nor removed an acquired right. For the reason why a youth of fifteen years is incapable of marriage is his present age, not a past fact, because at no time whatsoever has anyone had an acquired right to marriage before the age permitted by the law itself." Cuneen and Utinen, *Animadversiones*, A.A.S., v. xi, p. 351.

48. (Pag. 83.) Pontifical Commission - For Authentically Interpreting the Canons of the Code - Doubts - Solved in the Plenary Meetings of the Eminent Fathers.

I - On the acquisition of domicile (Can. 93) - Whether a wife maliciously deserted by her husband can, according to the norm of Can. 93, § 2, obtain her own and distinct domicile. Resp. Negatively, unless she shall have obtained from an ecclesiastical judge perpetual separation, or separation for an indefinite time.

(Pag. 516.) IV - On parish priests (Can. 460). - 1°. Whether Can. 460, § 2, is applied only to parishes to be erected after the promulgation of the Code, or also to parishes already erected. And insofar as negatively to the 1st part, affirmatively to the 2nd: 2. Whether the same prescription of the canon is applied also to parishes in which plurality of parish priests has been introduced not by custom or privilege, but by legitimate statute. And insofar as affirmatively: 3°. Whether the rights already acquired by parish priests, as they say, proportionary or cumulative, remain intact both as regards spiritual things and as regards temporal things; or whether they are revoked also as regards temporal things. And insofar as negatively to the 1st part, affirmatively to the 2nd: 4°. Whether the principal and sole care of souls is to be attributed to the parish priest who has preeminence of honor before the others, or rather to the one more ancient in possession. Resp.:

To 1. Negatively to the 1st part; affirmatively to the 2nd.

To 2. Affirmatively.

To 3 and 4. Provision has been made in the preceding; but for the application of the canon to these particular cases recourse must be had to the S. C. of the Council.

(Pag. 517.) V - On substitute and supplying vicars as regards assistance at marriages (Can. 465, §§ 4, 5) - 1°. Whether a substitute vicar, of whom in Can. 465, § 4, can after approval of the Ordinary licitly

and validly assist at marriages, if no limitation shall have been appended. 2°. Whether the same vicar can do this also before approval of the Ordinary. 3°. Whether the same vicar of a religious parish priest can do this after approval of the Ordinary, but before approval of the religious Superior.

4°. Whether a vicar, or supplying priest, of whom in the cited Can. 465, § 5, can do this before approval of the Ordinary. Resp. To 1. Affirmatively. To 2. Negatively. To 3. Affirmatively. To 4. Affirmatively, until the Ordinary, to whom the designation of the supplying priest was signified, shall not have established otherwise.

(Pag. 653.) VI - On vicars oeconomi as regards the application of Mass for the people (Cann. 466, 473). - Whether a vicar oeconomus who rules several parishes in time of vacancy must apply only one Mass for the peoples committed to him on the prescribed days. Resp. Affirmatively, according to the norm of Can. 473, § 1, compared with Can. 466, § 2.

(Pag. 594.) VIII - On notation of conferred baptism (Can. 777). - Whether the word illegitimate of Canon 777, § 2, comprehends all altogether who were born illegitimately, even adulterine, sacrilegious, and the other spurious, so that it is licit to inscribe the surnames of their parents in the notation of conferred baptism. Resp. The names of the parents are to be inserted in such a way that every occasion of infamy is avoided; but in particular cases recourse must be had to the S. C. of the Council.

(Pag. 1060.) IX - On irregularities or other impediments (Can. 987). - Whether by the name of sons, of whom in Can. 987, n. 1, only descendants in the paternal line up to the first degree are to be understood. Resp. Affirmatively.

(Pag. 993.) XV - On a subject liable to coercive power (Can. 2233). - Whether, according to the norm of Can. 2233, § 2, on account of violation of a particular precept which had been fortified with a censure *ferendae sententiae*, the censure can be inflicted immediately after the delict has been proved; or whether a new warning must be premised. Resp. Affirmatively to the 1st part; negatively to the 2nd. Rome, 14 July 1922. P. Card. Gasparri, President. Aloisius Sincero, Secretary.

49. (Pag. 804.) Sacred Congregation of Rites - Additions To Be Made in the Roman Ritual - Title V - Chapter I - On the Sacrament of Extreme Unction - After rubric n. 20, let the following instruction be added: 21. When this Sacrament is ministered to several sick persons at the same time, the Priest is to offer the cross to each sick person to be piously kissed, recite once all the prayers which precede the anointings in the plural number, perform the anointings with the respective forms upon the individual sick persons, but say once, in the plural number, all the prayers which follow the anointings. The day 9 August 1922. A. Card. Vico, Bishop of Porto and S. Rufina, Prefect of the S. R. C. Alexander Verde, Secretary.

50. (Pag. 324.) Sacred Congregation of the Council - Namur and Others, on Abstinence - The day 9 February 1924 - Question. - By letters reverently given to this Sacred Congregation, the Reverend Father Lord Bishop of Namur recently explained that, by pontifical disposition, in his diocese, as in the neighboring dioceses of Belgium and France, the faithful of Christ are altogether held to observing abstinence during the whole time of Lent on Wednesday in place of Saturday. But since controversy had arisen concerning peregrini, whether they are held by the same law or not, for duly settling it he asked the opinion of this Sacred Council, before

which therefore it is asked: "Whether, and on what day, in the time of Lent, peregrini are held to observe the abstinence of Saturday in places where, by special disposition of the Holy See, the same abstinence must be observed on Wednesday."

Observation - It is plain that in the law of abstinence the substance of the precept must be distinguished from the mode by which it is to be observed in some region. The substance of the precept, in the case, is that during Lent abstinence be observed twice in the week, on prefixed days, and this is a general law; but the mode, in the case, is that by particular law these days are prefixed as Wednesday and Friday. Now even peregrini, according to the norm of Can. 14, § 1, 3°, are held to observe general laws in the place where these have force; and therefore it is by no means doubtful that the same, both in the Diocese of Namur and in the others of which in the case, are held by the substance of the precept which plainly has force there. Conversely, from n. 2° of the same paragraph, peregrini are not held to observing the particular laws of the territory in which they are staying, although they can freely do this; and therefore, in the case, of themselves they are not obliged to observe abstinence on Wednesday in place of Saturday, as the inhabitants of the place are held, although they can freely do this. Hence it flows in a ready channel that they are indeed held, besides Friday, to abstain from meats either on Wednesday or on Friday, as they shall prefer, namely with an option permitted to them, in this, between the common law and the particular law. Wherefore, etc. Resolution. - Moreover, in the plenary Meetings of the S. Congregation of the Council, held in the Vatican Apostolic Palace on the day 9 of the month of February, in the year 1924, the Eminent Fathers judged that the response to the proposed doubt should be: They are held on either day at choice, yet scandal being removed. This resolution, the undersigned Secretary of the S. C. afterwards reporting, Our Most Holy Lord Pius, by Divine Providence PP. XI, deigned to approve and confirm. + Julius, titular Bishop of Lampsacus, Secretary.

51. (Pag. 634.) 1. Supreme Sacred Congregation of the S. Office. - Letter Given to the Ordinaries of Places, On the Eucharistic Fast Before Mass. - Most Illustrious and Reverend Lord, Your Amplitude knows very well with what most diligent care this Holy Apostolic See has always guarded the ecclesiastical law of the Eucharistic fast, especially as regards priests about to celebrate the most holy sacrifice of the Mass; nor is there any doubt that its observance must generally be urged also hereafter. But lest perhaps, from the ecclesiastical law by which due homage is shown to the real Body of Christ, the mystical Body of Christ, or the salvation of souls, should take detriment, this Supreme Sacred Congregation of the Holy Office, weighing from the heart the multitude of offices by which priests on feast days must be occupied for nourishing the flock committed to them with salutary food, and that on account of shortage of clergy many of them are compelled to repeat the celebration of Holy Mass, and this not rarely in places far distant, difficult of access, troubled by an inclement condition of the air, or in other contrary circumstances of things and places, decreed in certain cases and under determined conditions to mitigate in some part the same law of fasting through opportune dispensations.

Therefore, as often as priests, according to Can. 806, 2, have necessity to repeat Mass on the same day or even to approach the Sacred Altar at a later hour, if indeed they cannot observe to the rigor the law of the Eucharistic fast, without grave harm, either by reason of infirm health, or on account of

excessive labor of sacred ministry, or other reasonable causes, the Ordinaries of places will be able to have recourse to this Supreme Congregation, after all the circumstances of things have been diligently explained. It will provide opportunely according to the diversity of cases, whether by dispensing with the individual persons itself, or, when a true and proved necessity altogether counsels it, by also granting habitual faculties to the Ordinaries themselves. These faculties indeed for more urgent cases, in which time is not sufficient for recourse to the Holy See, are already from now conceded to Your Amplitude, to be exercised by You yourself, conscience being gravely burdened; yet under these conditions, that only something by way of drink, intoxicating things being excluded, be permitted to be taken; that scandal be effectively removed; and that as soon as possible the Holy See be made more certain concerning the conceded dispensation.

Finally, know that the relaxation of this most grave law is to be conceded only when the spiritual good of the faithful requires it, but not on account of the private devotion or utility of the priest himself.

These things decreed for rendering your pastoral ministry easier and more useful, with Our Most Holy Lord Pius PP. XI approving, while I gladly communicate them to you, I also pray prosperous and happy things for you from the Lord. Rome, from the buildings of the Holy Office, 22 March 1923. R. Card. Merry del Val, Secretary. A.A.S., 5 April 1923. Pag. 151.

2. Supreme Sacred Congregation of the S. Office. - Declaration. - Concerning Dispensation From The Law Of The Eucharistic Fast Before Mass. A question was proposed to the Supreme Congregation of the Holy Office: "Whether Priests dispensed from the Eucharistic fast before the second Mass can take the ablution in the first." And the Sacred Congregation, feria IV, on the day 2 May 1923, commanded the response to be: Affirmatively. But on the following feria V, the day 3 of the said month and year, the Most Holy Lord, our Lord Pius by Divine Providence Pope XI, in the usual audience granted to the Reverend Father Lord Assessor of the S. Office, approved the resolution of the Eminent Fathers. Given at Rome, from the buildings of the S. Office, on the day 16 November 1923. Aloisius Castellano, Notary of the Supreme S. C. of the S. Office. A.A.S. 16 Nov. 1923, Pag. 585.

52. (Pag. 910.) Pontifical Commission for Authentically Interpreting the Canons of the Code - Doubts - Solved in the Plenary Meetings of the Eminent Fathers.

I

I. On national parishes. (Can. 216, § 4.) Whether in regions of mixed language, which politically form one State, but use diverse languages, as they say, official languages, by force of Canon 216, § 4, an apostolic indult is required for erecting a parish destined exclusively to the faithful of a determined speech or language, even if this determined language is one of the official languages of the same nation, and the parish to be erected has its own distinct territorial part in the diocese. Resp. Affirmatively.

(Pag. 740.) IV. On the Minister of Confession. (Can. 883.) - 1°. Whether the adverb *obiter* in Can. 883, § 2, is to be understood in such a way that a priest duly endowed with the faculty, according to § 1 of the same canon, of hearing Confessions, can, as often as a ship remains in port, go onto land and there in a church or chapel receive the Confessions of those who ask to confess, and validly and licitly

absolve them, even from cases reserved to the Ordinary of the place, for an entire day, or for entire two or three days, if the ship remains in port so long. 2°. Whether the said priest can do this for an entire day, or for entire two or three days, as often as in order to continue the same journey he must leave one ship so as to board another, if he must wait in port for this ship so long. 3°. Whether in each case the said priest can do the same even beyond three days. Resp. To the 1st and 2nd, Affirmatively. To the 3rd, Negatively, if the Ordinary of the place can easily be approached.

(Pag. 922.) V. On License of Assisting at Marriages. (Can. 1096, compared with Cann. 465, 472-476.) - 1°. Whether a vicar oeconomus, legitimately constituted in a vacant parish according to the norm of Cann. 472 and 473, can give license of assisting at a marriage to a determined priest for a determined marriage. 2°. Whether a substitute vicar, of whom in Can. 465, § 4, can do this after approval of the Ordinary, if the Ordinary has appended no limitation. 3°. Whether a vicar of a religious parish priest can do this after approval of the Ordinary, but before approval of the religious Superior. 4°. Whether a vicar, or supplying priest, of whom in the cited Can. 465, § 5, can do this before approval of the Ordinary. 5°. Whether an assistant vicar of a parish priest unequal to duly performing his duties, legitimately constituted according to the norm of Can. 475, § 1, can do this. 6°. Whether a cooperator vicar, of whom in Can. 476, can do this without the parish priest knowing. Resp. To the 1st, Affirmatively. To the 2nd, Affirmatively. To the 3rd, Affirmatively. To the 4th, Affirmatively, until the Ordinary, to whom the designation of the supplying priest was signified, shall not have established otherwise. To the 5th, provision has been made in the cited Can. 475, § 2. To the 6th, provision has been made in the cited Can. 476, § 6.

VI. Concerning Assistance at Marriages. (Can. 1096, § 1.) - Whether according to the norm of Can. 1096, § 1, a priest is determined, if the parish priest declares to the Superior of a monastery in a particular case that he delegates for a marriage to be celebrated on the next Sunday in a filial church some religious priest who by the Superior on the following days will be deputed for Mass to be celebrated there on Sunday. Resp. Negatively.

(Pag. 337.) VIII. Doubt Concerning versions of the Sacred Scriptures. (Can. 1391.) - Whether the particle *and* of Canon 1391, by which it is prescribed: "Versions of the sacred Scriptures into the vernacular language cannot be printed, unless they have been approved by the Apostolic See, or unless they are published under the vigilance of Bishops and with annotations," etc., is to be interpreted copulatively or disjunctively?

Resp. Affirmatively to the 1st part; negatively to the 2nd. The day 20 May 1923. P. Card. Gasparri, President. Aloisius Sincero, Secretary.

II

(Pag. 662.) Doubt - Solved by the Eminent Cardinal President of the Commission. - Whether by Can. 824, § 2 of the Code those things must be judged abrogated which the S. C. of the Council had established under the day 15 October 1915 in the response to III, concerning remuneration not to be received, not even by reason of an extrinsic inconvenience, in the second and third Mass on the day of the Commemoration of All the Faithful Departed; or whether they still remain in their force. Resp. Affirmatively to the 1st part; negatively to the 2nd. The day 13 Dec. 1923. P. Card. Gasparri, President.

53. (Pag. 527.) Pontifical Commission for Authentically Interpreting the Canons of the Code - Doubts Solved in the Plenary Meeting of the day 12 November 1922 - II. On the whole year of Novitiate. (Can. 555, § 1, 2.)

1°. Whether the whole year of novitiate, prescribed in Can. 555, § 1, 2, is to be computed according to the norm established in Can. 34, § 3, 3. And insofar as affirmatively: 2°. Whether a norm of this kind for computing the year in order to the novitiate must be observed for validity, or only for liceity. Resp. To the 1st, affirmatively, or rather the prescription of Canon 34, § 3, 3 must be observed. To the 2nd, affirmatively to the 1st part, negatively to the 2nd, or rather the Canon must be observed for the validity of the novitiate.

(Pag. 941.) V. On Dispensation Over Matrimonial Impediments (Cann. 1044 and 1045, § 3.) - Whether in the cases of which in Canons 1044 and 1045, § 3, the Ordinary must be judged unable to be approached when recourse to him can be had neither by letters, nor by telegraph, nor by telephone; or also when it is impossible only by letters, although this can be done by telegraph or telephone. Resp. Negatively to the 1st part, affirmatively to the 2nd, or rather, for the effect of which in Cann. 1044 and 1045, § 3, the Ordinary must be judged unable to be approached if recourse to him can be had only by telegraph or telephone.

VIII. On Absolution From Censures. (Can. 2252.) - Whether in Canon 2252, by which there is established the obligation of having recourse to the S. Penitentiary or to the Bishop or another endowed with faculty, etc., those words endowed with faculty are to be restricted to the word another; or whether they must also be said to pertain to the other word Bishop, so that a Bishop who is not endowed with faculty cannot give mandates. Resp. Negatively to the 1st part, affirmatively to the 2nd, or rather a Bishop cannot give mandates unless he has the faculty by law or from concession of the Apostolic See. Rome, 12 November 1922. P. Card. Gasparri, President. Aloisius Sincero, Secretary.

54. (Pag. 914.) To the Consultation of the Most Reverend Ordinariate of Prague the Supreme Sacred Congregation of the Holy Office Responded thus. - In the session held on feria IV, the day 26 November 1919, after the petitions of that Archiepiscopal Curia had been proposed, given on the day 5 April 1918, by which you ask how the priest who assists at the celebration of a marriage between a Catholic and a non-Catholic, who do not give cautions, ought to conduct himself in receiving consent: the Eminent and Most Reverend Lord Cardinals, General Inquisitors together with me, commanded that the response be: that in all things the prescriptions of the Code of Canon Law must be observed. Hence the priest cannot assist at these marriages unless, the cautions having been furnished, dispensation over the impediment of mixed religion or disparity of cult shall have been obtained according to the norm of Canons 1060 and 1061; but the consent must be required according to the norm of Canons 1102 and 1095. Contrary prescriptions of the Holy See and contrary indults have been abrogated by the Code of Canon Law itself. R. Card. Merry del Val. *Linz.-Quartalschrift*, vol. 74, Pag. 249.

55. (Pag. 917.) True domicile for the effect of validly contracting marriage in the face of the Church must be understood as that in which one dwells and sleeps with his family. 12 May 1875. S. C. of the S. Office.

56. (Pag. 509.) Resolution. - Moreover, when in the plenary meetings of the Eminent and Most Reverend Fathers of the S. C. of the Council on the day 11 June 1921 there was proposed the doubt conceived in this formula: "Whether a Bishop can prohibit his clerics hunting, even not clamorous, under penalty of suspension to be incurred *ipso facto*," the same Eminent Fathers judged that the response should be: "Negatively, unless grave and special reasons are present."

But when on the following day a report had been made concerning the premises to Our Most Holy Lord Benedict, by Divine Providence PP. XV, through the undersigned Secretary of the Sacred Congregation, His Holiness deigned to approve and confirm the given resolution. I. Mori, Secretary. A.A.S., v. 13, p. 501.

57. (Pag. 1074.) Nevertheless Pius PP. XI, with that piety which he has toward the faithful departed, most recently explains the privileges and indulgences conceded to the Pious Society called "of the Passing of Saint Joseph," among which there is also this: "But that priests enrolled or to be enrolled in the Union of the Passing of Saint Joseph may everywhere enjoy peculiar privileges, we concede to them the personal indult of a privileged Altar for the dying." Thus the Brief, *Romani Pontifices*, 29 of the month of July, in the year 1923. The Supreme Sacred Congregation of the S. Office gave the interpretation of this privilege conceded by Benedict PP. XV, 9 Nov. 1922: Rescript. - I. Whether after Can. 930 of the new Code the existence of a privileged altar for the dying still perseveres, and insofar as affirmatively: II. How the plenary indulgence for the dying is to be understood. III. Whether one celebrating for several dying persons must determine to whom he applies the plenary Indulgence. IV. What in the case in which the Priest determines no one. Resp. To I. Affirmatively; To II. That the Indulgence is to be understood as for the living, by way of absolution; To III. Negatively; Finally to IV: Provision has been made in III.

58. (Pag. 287.) You Will Resolve. - Belligerent nations are held: to keep their agreements with other nations; to stand by sworn faith; to fulfill promises; not to violate the neutrality of non-belligerent peoples; not to pursue peaceful citizens with arms; not to attack open cities with bombs from aerial ballistae; not to destroy ships by ships submerged under water or "submarines," by which sailing travelers or goods of commerce are carried away, without previous warning and without care for protecting the life of travelers.

The same are prohibited: to compel old men, infants, and women to go before soldiers and thus constitute a rampart with their own bodies; to diminish the number of enemies by killing the sick or captives; to deport citizens, no account having been taken of the bond of families or of the first moral principles; to separate daughters and women from their parents, brothers, or relatives, who protect them against the unbridled ferocity of the passions of soldiers; deliberately and by an applied plan of fire to destroy cities, villages, and estates.

59. (Pag. 546.) Regulars have not lost the privileges which were directly conceded to them by the Apostolic See, Can. 4; Can. 613. But what of those faculties in which by force of communication of privileges they rejoiced up to the introduction of the New Code? For example, do regular confessors retain the faculty of absolving from cases reserved by common law to Ordinaries which they had before? There are those who simply deny it, because

according to them by canon 613 § 1 all privileges conceded by force of communication have been taken away. Thus Führich, *De Religiosis*, p. 258. But others respond affirmatively, because it is not established that this faculty has been taken away by this canon; for the canon says: "any communication being excluded hereafter." Therefore future communication is excluded, but not past communication. Thus Creusen-Vermeersch, *Summa Novi Juris* n. 222. Aertnys n. 1067. Prümmer p. 303. Therefore there is present at least a doubt of law, and indeed a positive and probable doubt. Wherefore the Church supplies according to Canon 209. But those Religions, if there are any, to which such a privilege has been directly conceded by force of a Pontifical faculty, without doubt continue licitly to employ it. And since these cases are rather judged Papal cases from which the faculty of absolving is conceded by law to Bishops, there are authors to whom it does not seem lawful for the Ordinaries of places to take away this faculty from those Regulars. But whatever may be concerning this matter, certainly Regulars are held to use their privileges cautiously and prudently.

60. (Pag. 746.) It must be noted that from the response of Cardinal Gasparri as President of the Pontifical Commission for the authentic interpretation of the Code of Canon Law, on 16 Jan. 1921, to the Ordinary of Luxembourg, there follows:

(a) that the obligation of assigning an ordinary and extraordinary confessor to each religious house of women remains, even if it numbers fewer than six religious women;

(b) that the solution of the Pontifical Commission for the authentic interpretation of the Code of Canon Law given on 24 November 1920 is to be understood thus: that confession made by a religious woman by force of canon 522 for the tranquillity of conscience to a confessor approved for hearing the confessions of women is valid only then when it is made in a church or in a public or semipublic oratory or in a place legitimately destined for hearing the confessions of women. Cf. *Linz. Quartalschrift*, 64, p. 631, where the letters of the Ordinary of Luxembourg are found.

61. (Pag. 587.) With relation to the conferral of baptism in danger of death, the following are to be kept before the eyes.

1°. Dispositions which, on account of the good faith of the one receiving or from a proportionate cause, can be lacking without an obstacle being placed to the value or fruitfulness of the sacrament, can be lacking in part, indeed wholly, according to the degree of infirmity of the subject and of the danger in which he is situated.

Thus, if the one to be baptized cannot be more diligently instructed in the principal mysteries of faith, let the principal mysteries be summarily proposed to him, and then it will be enough that in some way he show that he offers the assent of faith to the same, or that he wishes to be baptized and grieves for sins, and seriously promises that he will observe the mandates of the Christian religion.

2°. Even if the dispositions which probably are required for value or fruitfulness certainly are lacking, when necessity is urgent baptism can be administered.

Thus, for example, as regards faith in the mysteries of the incarnation and of the Most Holy Trinity, probably necessary for the salvation of the soul. Likewise, as regards habitual intention, required for the value of the sacrament. For authors agree that an intention contained in the will of embracing the

Christian religion suffices, but they dispute whether a general intention of fulfilling the will of God and of employing means necessary for salvation suffices, which intention is included in attrition.

Certainly, when the subject is not deprived of the senses, very rarely will a very brief time be lacking so that the priest can safely propose the mysteries of the incarnation and of the Most Holy Trinity, and so that the one to be baptized may be able to show the assent of faith in some way.

3°. Dispositions which are certainly required for value or fruitfulness, when necessity is urgent, ought at least probably to be present; but in extreme necessity the slightest probability suffices.

Thus, as regards faith in points certainly necessary by necessity of means and the intention of receiving the sacrament, the S. C. of the S. Off., 11 Dec. 1850, approved the manner of acting of the Apostolic Vicar of the Sandwich Islands, baptizing "some deaf-mutes whom we saw make some signs of religion, without being very certain that they knew the principal mysteries of the faith," and "old persons in danger of death (in proximate and morally certain danger), and often without knowledge, when we believed that it was not without reason that divine providence was leading us near them; and that besides we had certainty that they had renounced idolatry....

Attrition, when it cannot be manifested, is presumed from the will of receiving baptism, as long as the contrary is not established. In doubt whether it is present, baptism is not to be given conditionally, because attrition is required for fruitfulness alone.

Note. Adult insane persons and those who suffer from lethargy or phrenesis are to be baptized when danger of death is imminent, if, before they became insane, they showed a desire of receiving baptism (Can. 754. § 3, § 4), after the manner of those things which were said above. In this case the other necessary dispositions are presumed to be present.

If it is doubted whether or not an adult is to be baptized, the dispositions of which we have treated are required only probably. Therefore, when the case occurs, let the things said under 2 be applied. - Cf. Can. 752, § 1, § 2, § 3.

62. (Pag. 638.) Moreover, there are understood not only the infirm who have already been lying ill for a month, but also the infirm who, although seized by grave disease and by the judgment of a physician not able to observe the natural fast, nevertheless cannot lie in bed, or can rise from it for some hours of the day, S. C. Con. 25 March 1907. Therefore, since first, the Congregation itself interprets more mildly those lying ill, there is no reason why we should interpret the word to the apex of strictest law and exclude infirm persons held by grave disease who, without any hope of swift convalescence, can rise for some hours of the day and drag themselves, as it were, to the Church. One thing is required: that we take care lest, by their example, the same be permitted to others who are rightly not held to be such infirm persons; for the word prudent counsel is deliberately placed in the canon. Secondly, it must be noted that in the canon these words are not had: "Those who cannot observe the natural fast in its integrity," which were had in the Question to which Pius X responded. Therefore, provided that they are the infirm described in the canon or are deservedly held as such, they are not to be deprived of the benefit of the second paragraph of canon 858. - Vermeersch, *Theol. Mor.*, v. 2, n. 366. Genicot-Salsmans, *Cas. Cons.* p. 456. Capello, n. 506.

63. (Pag. 669.) On celebration of Mass without a minister. But if there is present a minister who does not know how to respond, yet performs the other ceremonies, the Priest alone himself can respond to himself, as is prescribed by the rubric of the Missal, IV. *Rit. Serv.*, for the case in which neither the minister nor those who are present respond at the *Kyrie Eleison*: "he alone says it nine times." By equal reason, if the minister knows how to respond, but is not able to perform the other ceremonies, the priest himself will be able to minister to himself. In these cases we judge mere devotion to suffice for celebrating.

But if the people are present waiting, but no minister is at hand, let the priest take care to find someone who may serve at the altar, and let him celebrate; but if he finds no one, let him take care that someone, or some woman from a distance, respond, and let him celebrate. But if he finds neither one nor the other, he can celebrate alone in the presence of the people; for it certainly seems among us to be a grave cause that otherwise the people would be deprived of daily Mass.

The mind of the Church seems to be that witnesses always be at hand for the celebrating Priest during the Most Sacred Sacrifice. And the same Holy Mother requires that at least there be present one who both responds in the name of the people and furnishes other things to the priest. Hence it is clear that the burden rests upon parish priests and Superiors of religious to take care that ministers are present who will serve the Sacred rites.

All care having been employed, what if even then ministers are not present? Let the priest understand what good priests do in the diocese, with the Ordinary knowing and at least being silent; and let him do what he shall have seen them do. Meanwhile, if the case happens more often, let him, through the Ordinaries, seek a dispensation from the Sacred Congregation, the matter having been manifested integrally.

64. (Pag. 751.) The words of Canon 897: cases to be reserved are to be altogether few, must be understood only of sins which by reason of themselves are reserved without censure. This is clear from the title of the second chapter, which is, On the reservation of sins; from canon 893, § 3 itself, by force of which reservation of censures is made according to the prescription of canons 2246, 2247; finally from the words of canon 895: Let Ordinaries of places not reserve sins, and of canon 898: Completely from those sins to be reserved to themselves.

On account of similar reasons, and comparison having been made between canons 2252, 2253, and 2254, and canon 899, § 3, it must be said that the words: by the law itself from cases which Ordinaries have in any way reserved to themselves are not to be understood of censures reserved by Ordinaries to themselves.

Finally, when canons 2252, 2254, § 1, § 2 and canon 900 have been inspected, this clause: any reservation lacks all force, is to be referred to any sins reserved by reason of themselves and not to censures.

65. (Pag. 842.) You Will Resolve. The parish priest, before the nuptials are contracted, must approach the Ordinary: If a party has stayed in another place for six months after having attained puberty, Can. 1023, § 2; If there is some suspicion of a contracted impediment even for a shorter stay, Can. 1023, § 3; If there is question of obtaining dispensation from

publications, Can. 1028; if after the investigation made by the parish priest and the banns having been published a doubt still perseveres concerning the existence of an impediment, Can. 1031, § 1; If a certain impediment is detected, Can. 1031, § 2; If there is question of the marriage of vagi, Can. 1032; If minors wish to contract against the will of their parents, Can. 1034; If he knows that the spouses will violate or have already violated the law concerning not going to a non-Catholic minister either before or after the marriage has been duly contracted, Can. 1063, § 2; If question is made of the marriage of a Catholic with those who notoriously either have cast off the Catholic faith, or are enrolled in societies condemned by the Church, or who are public sinners or notoriously censured persons who have refused to make sacramental confession or to be reconciled, Can. 1065 and Can. 1066.

66. (Pag. 972.) Artificial fecundation can be understood: 1°. If without any conjunction of male and female, male semen obtained by pollution is introduced artificially into the organ of the female, e.g., by means of a little siphon; 2°. If, after copula has first been had, the man emits semen outside the due place, then pours it into the organ of the woman.

Each of these two modes, 1, 2, is prohibited; 3°. If copula is duly completed and the semen emitted into the organ of the woman is, by means of an instrument, injected more deeply within the vessel, and thus nature is aided, this mode seems legitimate to us; for nothing is had which is repugnant to the laws of nature.

Related to this is the question: Is it licit for semen obtained artificially from the testicles of the legitimate spouse without venereal delectation to be introduced into the womanly organ of his wife by means of an instrument? It is controverted: Affirmatively, i.e., it is licit, where copula cannot duly be had; because the end of marriage is obtained without any venereal commotion or abuse. Cf. Vermeersch, *De Castitate*, 241, 3; Genicot 546 note 1. Nevertheless this opinion, as we frankly confess, displeases us; for the right to have children is only the right to conjugal acts apt for generation; but such is not the action described in the mode. For the conjugal act is carnal copula itself. And therefore any licit fecundation supposes true copula in some manner, although, after this has been legitimately completed, nature may afterwards be aided by art.

67. (Pag. 976.) Response, Rome, on the day 1 December 1922.

Most Illustrious and Reverend Lord. In the general Session held on feria IV, the day 22 of last November, there were proposed three doubts transmitted by Your Amplitude, in the name of the Episcopate of the Netherlands, to this Supreme Congregation of the Holy Office. That is: I. Whether it can be tolerated that confessors of their own accord teach the practice of half-completed copula, and recommend it promiscuously to all penitents who fear lest more numerous offspring be born. II. Whether a confessor is to be blamed who, after all remedies for turning away from this evil a penitent abusing marriage have been tried in vain, teaches him to exercise half-completed copula for forestalling mortal sins. III. Whether a confessor is to be blamed who, in the circumstances under II, recommends half-completed copula already known from elsewhere to the penitent, or, to a penitent asking whether this mode is licit, responds simply that it is licit without any restriction or explanation.

And the Eminent and Most Reverend Lord Cardinals, General Inquisitors together with me, after the question had been diligently weighed, and the vote of the Lord Consultors first had, commanded the response:

To doubt I, Negatively. To II and III, Affirmatively.

But on the following feria V, the day 23 of the said month, the Most Holy Lord, our Lord Pius XI, in the usual audience granted to the Reverend Reverend Lord Assessor of this Holy Office, approved the resolution of the Eminent Fathers reported to him.

Signifying these things to Your Amplitude for my office, I pray all prosperous and happy things for you from the Lord. To Your Most Reverend Amplitude, most devoted. Signed R. Card. Merry del Val.

"As often as the man indeed penetrates the vessel of the wife, but little, e.g., for a half or third part, and deposits semen in the vagina," it is half-completed copula in the sense of the Response, as is clear from the relation of the case. It renders conception more difficult, but not impossible. *Nouvelle Rev. Théol.* t. 50, p. 269.

68. (Pag. 1040.) Whether the resolution of the S. C. C. given in the Wroclaw case, Irregularities, on the day 9 Aug. 1890, still has force today, in the case? The S. Congregation of the Council responded, 10 Feb. 1923: Affirmatively.

69. (Pag. 868.) Can. 1116. For the sake of example: Tarsus had relations with Anna, the wife of his brother; the latter dies, and the adulterer obtains dispensation for entering marriage with the woman pregnant from sin. Anna, before she marries the man, gives birth. At the time of conception of the offspring the parents were incapable; at the time of gestation and birth they were now capable; wherefore the offspring is legitimated by the subsequent marriage.

Titius had commerce with Martha, a consanguinea, who thence became pregnant; wherefore he himself obtains dispensation for entering nuptials with her. But Martha afterwards married another man and during this marriage gives birth to offspring. The woman, having become a widow a little afterwards, enters marriage with Titius. In the case, at the time of conception and birth the parents were incapable, but at the time of gestation they had become capable, and hence the offspring is legitimated by the marriage.

70. (Pag. 883.) Can. 1067. Titius, having begun the sixteenth year of age, enters marriage with Martha, who is in her twentieth year.

The marriage is null on account of the impediment of age on the part of Titius.

Marcella, born on the twenty-first of the month of June 1905, married Titus on the twenty-first of the month of June 1919. Titus is now in his twentieth year. The marriage is null on account of the impediment of age on the part of the woman, because the fourteenth year of age has not yet been completed. The fourteenth year of age supposes that the terminus *a quo* does not coincide with the beginning of the day; according to Can. 34, § 3, 3°, the first day is not to be computed and the time is ended when the last day of the same number has been completed; wherefore in the case the fourteenth year is completed when the twenty-first day of June 1919 has been completed; therefore on the twenty-second day of June 1919 at last marriage can be validly entered by them.

Pag. 886. Can. 1068. 1°. Joannes, deprived of both testicles, entered marriage with Bertha, who did not know the defect of the man. The marriage is null.

2°. After marriage had been entered, Titius was deprived of the testicles on account of a surgical operation. The marriage remains valid.

Pag. 886. Can. 1069. Titius, baptized, entered nuptials with Bertha, baptized, who once, as a married woman, believed her husband to be dead. After two years Bertha's husband appears. The second marriage of Bertha is invalid.

Pag. 889. Can. 1070. Thomas, baptized in the Catholic Church, entered marriage with Bertha, not baptized. The marriage is null.

The same Thomas, after declaration of nullity of the prior union, married Anna, who was always held to have been baptized, who, nevertheless, as afterwards became clearer than midday light, certainly had never been baptized. The marriage is null.

Pag. 891. Can. 1072. Titus, a subdeacon, enters with Martha. The marriage is null.

Can. 1073. A Regular solemnly professed enters with Blanda. Joannes, a Scholastic of the Society of Jesus, enters with Bertha. Each marriage is null.

Pag. 892. Can. 1074. Marcus enters with Bertha, who has been abducted with a view to marriage and is existing in the power of Marcus the abductor. The marriage is null.

Albus now violently detains Marca in a place with a view to marriage. Marca had freely approached the place. But now they enter marriage. The marriage is null.

Pag. 895. Can. 1075. Martha, married, commits adultery with Titus, a celibate, after both had promised to enter marriage with each other.

Marca, likewise adulterating with Baldus, a married man, attempted marriage with him.

Likewise, during the same marriage Joannes and Bertha commit adultery, and Bertha kills the spouse.

Marcus and Macrina by mutual conspiracy kill the spouse of each.

In all these cases the impediment of crime exists.

Pag. 900. Can. 1076. Berta enters with her father but does not know that he is her father.

Bertina, in the second degree of consanguinity with Bertinus, marries him.

Each marriage is null.

Pag. 903. Can. 1077. Titus enters marriage with Anna, who was consanguineous with his deceased prior wife doubly in the second degree. The marriage is null; and indeed on account of a double impediment of affinity.

Pag. 903. Can. 1078. Titius enters marriage with Berta, which nevertheless is invalid; afterwards he enters with the daughter of Berta. The marriage is null.

Tibinus lived in concubinage with Bertina. The fact could be proved by five persons. Afterwards the man entered marriage with the daughter of this Bertina. The marriage is invalid.

Tarda lived in notorious concubinage with Maldus. Maldus has a son, with whom Tarda enters nuptials. The nuptials are null.

71. (Pag. 944.) Dispensation was conceded from the impediment of consanguinity in the second degree in a double and distinct case:

But in the first case the parties were consanguineous in the third degree touching the second;

in the second case they were consanguineous in the third degree.

The dispensation is valid although in the petition or in the concession an error concerning the degree has crept in, provided that the degree really existing is lower. Can. 1052.

But it is not valid if the concession were for the third degree and the existing impediment were of the second degree, or of the third degree mixed with the second.

Cf. Fourneret, *Le Mariage Chrétien*, p. 302.

Two brothers enter marriage with two sisters. Their offspring are among themselves doubly consanguineous in the second equal degree. And therefore a double impediment stands in the way of their marriage. This notwithstanding, such consanguineous persons, after obtaining a single dispensation from the impediment of the second degree without having manifested in the petition that they were doubly entangled, contracted marriage, and validly; since a dispensation from the impediment of consanguinity conceded in some degree is valid, although another impediment of the same species in an equal or lower degree was withheld, as is expressly said in Canon 1052.

In equal manner, Titius and Bertinus, brothers, take as wives two sisters, namely Titius Anna, but Bertinus Martha. After Bertinus and Anna have died, Titius wishes to enter nuptials with Martha and obtains dispensation from affinity in the first degree of the collateral line, without having added a word in the petition about the double impediment. The dispensation is valid although an impediment of the same species and of equal degree had been withheld. Can. 1052.

72. (Pag. 838.) Varca, devoted to theatrical games, has a fixed seat nowhere and therefore neither diocesan nor parochial domicile, and now wishes to enter marriage with Michael, also devoted to the same games, whose domicile is in the parish of S. James. Varca already now resides for two months in the same parish, whose parish priest is the proper parish priest of each contracting party (Can. 94). But since there is question of the marriage of a vaga (Can. 91), the parish priest should never assist unless the matter has been brought to the Ordinary of the place or to the deputed priest (Can. 1032), and unless he receives a recent baptismal document of the woman (Can. 1021). Denunciations must be made in the parish of S. James and, if the party has stayed in another place for six months after having attained puberty, the Ordinary can require denunciations to be made there, or also according to his prudence dispense from the same (Can. 1028), and prescribe other proofs concerning the status of freedom (Can. 1023). Certainly now the danger of concubinage to be averted and the scandal of civil union to be forestalled do not make assistance licit unless the free status has been established, Can. 1020, 1097. Cf. entirely the Instruction of the S. Congregation on the Discipline of the Sacraments, 4 July 1921.

73. (Pag. 941.) Maria, wife of Jason, while her marriage endured, consummated adultery with Joannes, a celibate, and gave to him and accepted from him the pledge concerning entering marriage. A year after the death of Jason had elapsed, the adulterers contracted marriage, and on the very day of entering the contract they confessed before Paulus, who gave dispensation in the act of confession. And since he could not speak about the matter outside the Sacrament, he could do nothing else.

74. (Pag. 942.) Bertha, a widow, European, arrived at our shores, having left her offspring Anna with her mother in her homeland. In our city NN, she entered marriage with Arnulphus. Immediately after the nuptials celebrated in the Church, they went to the railway station, about to undertake their wedding journey, when, alas! the carriage, not closed but open, moved by electric power, by which they were being drawn, was destroyed by misfortune and she was killed. After three years of widowhood had been spent in another city, Arnulphus meets Anna, and, seized by mutual love, they entered a plan of contracting marriage. On the very day of the nuptials, Anna and Arnulphus first learn that affinity exists between them. Now then, they cannot approach the Ordinary, nor defer the nuptials without danger of grave evil; wherefore, since the matter is known to Anna and Arnulphus alone, the parish priest, to whom it is disclosed by the disturbed spouses immediately before the marriage, dispenses them, for the impediment is of affinity in the direct line from a non-consummated marriage. The non-consummation is established from the misfortune known to the parish priest himself, which rendered it impossible.

The case is occult; hence canon 1045 is duly applied. And since the parish priest conceded dispensation in the external forum, it remains that he render the Ordinary of the place more certain concerning it and inscribe it in the marriage book. Can. 1046.

75. (Pag. 887.) Titius, positively doubting concerning the death of his prior spouse, entered another marriage with Bertha, suspecting nothing, before the Parish Priest of S. Bernard, likewise suspecting nothing, although he had made investigation and Titius asserted by oath that he had been free. These things having been heard in the sacred tribunal, let the confessor send him to the Ordinary of the place, or himself, with faculty accepted from the penitent, manifest the matter to the same with name. Let the Ordinary prescribe those things to be done which solve the knot. Meanwhile Titius is not to ask, but must render the debt to the woman, ignorant of the matter, asking it. If the penitent consents to these things, let the Confessor dismiss him absolved. But if the investigation proves that the first woman had been dead, and indeed at the time of the second marriage having been entered, then the present marriage certainly must be declared valid; but if the investigation proves that she died after this marriage had been entered, then let consent be duly renewed on each side, or let recourse be had to Rome. But if the investigation leaves the death of the wife doubtful, the spouses can cohabit in good faith. Finally, if the investigation proves the wife still living, the present parties must either be separated altogether, or, if this is impossible, can be permitted to live together as sister and brother, due cautions having been employed. *Linz-Quartalschrift*, v. 74, p. 404.

76. (Pag. 942.) They Contract Invalidly:

1°. Can. 1067. A man before the completed sixteenth year of age; a Woman likewise before the completed fourteenth.

2. Can. 1068. Whether men or women laboring under antecedent and perpetual impotence, whether known to the other party or not, whether absolute or relative.
3. Can. 1069. Those who are held by the bond of a prior marriage, with the privilege of faith preserved.
4. Can. 1070. A non-baptized person with a person baptized in the Catholic Church or converted to the same from heresy or schism.
5. Can. 1072. Clerics constituted in sacred orders.
6. Can. 1073. Religious who have professed solemn vows, or simple vows to which the force of invalidating has been added by prescription of the Apostolic See.
7. Can. 1074. The abducting man and the woman abducted with a view to marriage, as long as she has remained in the power of the abductor.

Violent detention by a man of a woman in a place of stay or of free access with a view to marriage is equal to abduction.

8. Can. 1075. Those who, while the same marriage endured, consummated adultery between themselves and mutually gave each other pledge concerning entering marriage, or attempted the marriage itself even civilly.

Those who, while the same marriage endured, consummated adultery between themselves and one of them committed spouse-killing. Those who by mutual physical or moral cooperation, even without adultery, brought death upon a spouse.

9. Can. 1076. Consanguineous persons in the direct line between all ascendants and descendants; in the collateral line up to the third degree inclusive, so that the impediment is multiplied as often as the common stock is multiplied.
10. Can. 1077. Affines in the direct line in any degree; in the collateral line up to the second degree inclusive; the impediment is multiplied as often as the impediment of consanguinity from which it proceeds is multiplied, and by marriage repeated successively with a consanguineous person of the deceased spouse.
11. Can. 1078. Those held by public honesty in the first and second degree of the direct line between the man and the consanguineous women of the woman, and vice versa.
12. Can. 1079. Those spiritually related enumerated in can. 768: the baptized person with the baptizer, and with the Sponsor.
13. Can. 1080. Those who by civil law are held incapable of entering nuptials between themselves on account of legal relationship.

Can. 1043. In the Article of Death, the Ordinary of the Place, for consulting conscience and the legitimation of offspring, if the case bears it, can dispense over the form of celebration of marriage

and over impediments 1; 4; 5, except the impediment arisen from the sacred Order of priesthood; 6; 7; 8; 9, except marriage between consanguineous persons in the direct line, ascendants and descendants, and between brother and sister; 10, with affinity in the direct line excepted, when the marriage has been consummated; 11; 12; 13.

Can. 1044. In the same article, in the same circumstances, only when not even the Ordinary of the place can be approached, the Parish Priest and the Priest assisting at Marriage according to the norm of Can. 1098, § 2, enjoy the same faculty; and for the internal forum and in the act of sacramental confession only, the Confessor.

Can. 1045 § 1. When all things are prepared and do not admit delay, the Ordinaries of Places can dispense over all impediments of which in the cited Can. 1043.

Can. 1045 § 2. This power is valid for convalidating marriage, if there is danger in delay.

Can. 1045 § 3. In these same circumstances the same persons of whom in Can. 1044 enjoy the same faculty, but only for occult cases, when not even the Ordinary of the place can be approached, or only with danger of violation of the secret.

Can. 81. When recourse to the Holy See is difficult and at the same time there is danger of grave harm in delay, and there is question of a dispensation which the Apostolic See is accustomed to concede, the Ordinary of the place can concede the dispensation.

Hence, when the canons of Canon Law have been consulted, it will immediately appear that "Bishops by force of the Code have been fortified with so great a power that, as often as the utility of the Church and the salvation of souls requires it, they are able equally and opportunely to temper the rigor of the common law and to bestow just dispensations." S. C. Consist., 25 April 1918.

77. (Pag. 888.) Before nuptials are entered, the following hypotheses, among others, can be posited with relation to this canon 1070:

First hypothesis: the Catholic party is held as baptized and the other party is not baptized.

Second hypothesis: the Catholic party is held as doubtfully baptized and the other party is not baptized.

Third hypothesis: the Catholic party is certainly baptized and the other is held as baptized.

Fourth hypothesis: the Catholic party is certainly baptized, the other is held as doubtfully baptized.

Fifth hypothesis: the Catholic party is doubtfully baptized and the other certainly baptized.

Sixth hypothesis: the Catholic party is held as doubtfully baptized, the other party also as doubtfully baptized.

In the first hypothesis, they cannot enter nuptials since disparity of cult is present; from this impediment dispensation must first be obtained;

In the second hypothesis, the doubt must be solved before marriage; with this doubt remaining, the Catholic party is to be baptized - and dispensation is to be obtained;

In the third hypothesis, dispensation from the impediment of mixed religion is to be obtained, if this other party is heretical;

In the fourth hypothesis, dispensation from the impediment of mixed religion is to be obtained and, for caution, from disparity of cult;

In the fifth hypothesis, if the doubt remains, the Catholic party is to be baptized and dispensation over mixed religion is to be obtained.

In the sixth hypothesis, if the doubt remains, the Catholic party is to be baptized and dispensation over mixed religion and, for caution, from disparity of cult is to be obtained.

After the nuptials have been contracted:

First hypothesis: the Catholic party is certainly baptized, and the other party is reputed as baptized; or the other party was doubtfully baptized.

Second hypothesis: the Catholic party and the other party are doubtfully baptized.

Third hypothesis: there are two Catholics: one party has been baptized in the Catholic Church and the other party converted to it from heresy, and not baptized under condition because of the supposed validity of baptism.

In the first hypothesis, one must stand for the validity of the marriage until it is certainly established that one party is certainly baptized, but the other is not baptized;

In the second hypothesis, one must stand for the value of the marriage; and, if after investigation has been made, it is established that the Catholic party had not been baptized, because the impediment is not present, the nuptials are valid according to the norm of canon 1070, § 1.

In the third hypothesis, as the case lies, the union must be held valid.

But let us suppose that after three years of conjugal life the spouses, of whom there is question in the third hypothesis, discovered that that converted party had never been baptized. In truth the impediment exists and the marriage is not valid.

78. (Pag. 882.) To be noted. Infidels of themselves and directly are not held by merely ecclesiastical impediments. And therefore they can enter a nuptial covenant among themselves, although they have those qualities by which the faithful, if entangled, cannot enter it. Thus, for example, two infidels consanguineous in the second degree can validly enter marriage.

Formerly, otherwise than now, disparity of cult annulled all marriages between the faithful and infidels. But now this impediment exists only between those baptized in the Catholic Church and the non-baptized; in which case dispensation is always previously required before they contract.

The S. Office responded, 10 April 1837, that the impediment of public honesty does not subsist in the case of a legitimate marriage of pagans not consummated. For this impediment is judged to have been invented and constituted by the Church and therefore does not revive after Baptism. Wherefore in similar manner now it does not arise from an invalid marriage of infidels or from their public and notorious concubinage. - Cf. De Smet, 1, n. 431. But otherwise Vlaming n. 364, who thinks that the impediment arises from an invalid consummated marriage or from concubinage; he gives the reason: for there is present the same propinquity which is identified with ancient affinity from illicit copula, whence the impediment arose. But public honesty is judged an invention of the Church, as Crime is;

and therefore it is not contracted in infidelity, nor does it exist after Baptism. Cf. Vermeersch, E.J.C. 2, n. 337.4.

S. C. de P. F., 23 Aug. 1852. On the impediment of crime among infidels:

5. Can an infidel man who before Baptism had copula with the infidel wife of another, to whom, the woman consenting and accepting faith concerning future marriage, he brought death, after the baptism of each enter marriage with the said woman? Resp. to 5. Affirmatively.

6. Can they contract this marriage if, when they perpetrated those crimes, one party had been Christian? Resp. to 6. Negatively.

Affinity does not arise from legitimate marriage validly celebrated between non-baptized persons, nor, at least practically, from a valid marriage between a baptized person and an infidel, provided this party remains infidel without baptism. The first is clear from Canon 97 § 1 itself. The other, because such a marriage would be called ratified only doubtfully, which from Canon 1015 is a marriage of baptized persons. The impediment in the case would be doubtful with a doubt of law, and from Canon 15 is not to be attended to.

But if afterwards each party is baptized, the marriage becomes ratified, from which then only the impediment of affinity begins. - Cf. *Collationes Brugenses*, t. 20, p. 400. Infidels are judged liable to this impediment by reason of the subjection of the faithful party, and not otherwise; for example, Titia, a Catholic widow from a ratified marriage, wishes to enter new nuptials with an infidel consanguineous person within the prohibited degrees of her deceased Catholic spouse. She cannot.

79. (Pag. 608.) Supreme S. Congregation of the Holy Office - To the Cardinal Archbishop of Tarragona - Eminent and Most Reverend Lord - With relation to the letters of Your Eminence given on the day 2 of the month of May, now elapsed, by which you set forth the doubt whether in the Sacrifice of Mass wine from must, sulphured by addition of sulphurous anhydride or potassium metabisulphite, can be employed, this Supreme Congregation of the S. Office decreed that the response should be: "Affirmatively." While I signify this to Your Eminence, I attest my devoted observance to you and with all veneration kiss your hands. Rome, 2 August 1922. Most devoted to Your Most Reverend Eminence, R. Card. Merry del Val. Cf. *Il Monitore*, Oct. 1923, p. 289.

80. (Pag. 1029.) What Our Predecessors confirmed several times: let no one think it licit for himself, for any cause whatever, to give his name to the sect of the Masons, if Catholic profession and his own salvation are of such value with him as they ought to be. Let no simulated honesty deceive anyone: for it can seem to some that the Masons demand nothing which openly is contrary to the holiness of religion or morals; nevertheless, because the whole reason and cause of the sect itself is in vice and shameful deed, it is right that it is not licit to gather with them, or to help them in any way." Leo XIII, *Humanum Genus*, *Vos autem*. 2 May 1884.

81. (Pag. 324.) Sacred Congregation of the Council. - Most Blessed Father: The Ordinary of Baltimore, while the same causes endure, humbly petitions for his diocese a new benign prorogation of the indult of the S. Congregation of the Council of the day 2 June 1920, by

which in the time of Lent the law of abstinence can be transferred from Saturday to Wednesday of the same week, except Saturday of the Four Times, and also prorogation of the indult of the day 3 June 1915 by force of which workers and their families are held to abstain from meats only on Fridays, Ash Wednesday, Holy Saturday before noon, and the vigil of the Nativity of the Lord. The S. Congregation of the Council, with attention to the things set forth, benignly imparted to the Ordinary of Baltimore the petitioned grace of prorogation as to each for five years, in the terms and form of the preceding concessions. Given at Rome, on the day 5 January 1926. D. Card. Sbarretti, Prefect.

82. (Pag. 1102.) From the Secretariat of the Sacred Congregation de Religiosis - Rome, on the day 1 December 1921. - Most Illustrious and Most Reverend Lord. - To the doubt proposed by Your Amplitude to this S. Congregation concerning the disposition of Can. 522 CJC, namely: "How ought religious women to conduct themselves who, dwelling in their own community, for the tranquillity of their conscience, wish without the superior's knowledge to approach a confessor approved by the Ordinary of the place for women?" This S. Congregation judges that no response is to be given, since there is question of practical cases which can be solved from the opinions of Doctors. Nevertheless I judge it opportune to communicate with Your Amplitude the vote of the Most Reverend Father Consultor, who, having been asked concerning the same matter, judged that the response should be thus: "Canon 522 indeed permits that a religious woman use the occasion, if any shall have offered itself, of approaching, for the quiet of her conscience, any confessor approved for women, and this even without the superior's knowledge; but in no way does it create for either the superior or the Ordinary an office of procuring such an occasion; and much less, for that reason, is anything to be changed in the discipline of cloister or in the constitutions. But to the doubt: How ought religious women to conduct themselves who, dwelling in their own community, for the tranquillity of their conscience, wish without the superior's knowledge to approach a Confessor approved by the Ordinary of the place for women? I judge that the response should be: let them await an occasion by which, no rule concerning egress having been violated, they can do this; and let them patiently bear that no such occasion offers itself to them." These things were to be signified by me to Your Amplitude; having prayed all prosperous things for you from the Lord, I remain, with peculiar deference, most devoted to Your Amplitude, Maurus M. Serafini, Abbot, O.S.B., Secretary. - To the Most Illustrious and Most Reverend Lord Ordinary of Osnabrück. - *Archiv für Katholisches Kirchenrecht*, S. 84, Band 102.

83. (Pag. 76.) This power of Bishops has no limits except the general laws of the Church and peculiar decrees of the Pontiffs. Therefore, things which have been constituted neither by general laws of the Church nor by peculiar decrees of the Pontiffs are subject to the power of Bishops. Supreme Apostolic Signatura, 15 Dec. 1923. *Acta Apost. Sed.* xvi, p. 107.

84. (Pag. 124.) Pontifical Commission for Authentically Interpreting the Canons of the Code. Responses to Proposed Doubts. The Eminent Fathers of the Pontifical Commission for authentically interpreting the canons of the Code, after the doubts which follow had been proposed in plenary meeting, commanded that response be made as below to the individual ones:

Pag. 124. I. On Computation of Time. Whether anywhere on earth, in the cases expressed in canon 33 Par. 1, one can follow the time commonly called zonal.

Resp. Affirmatively, provided that this time is legal.

Pag. 775. VII. On reservation of cases.

Whether any reservation, of which in can. 900, is only by reason of sin or also by reason of censure.

2. Whether canon 900 treats of reservation of cases established by Ordinaries only, or also by the Holy See.

Resp. To the 1st, Affirmatively to the first part, negatively to the second.

To the 2nd, Negatively to the first part, affirmatively to the second.

Pag. 932. VIII. On the form of celebration of Marriage. Whether according to canon 1098, for contracting marriage validly and licitly before witnesses alone, the fact of absence of the parish priest suffices, or whether moral certitude is also required, from notoriety or from inquiry, that the parish priest cannot be had or approached for a month without grave inconvenience.

Resp. Negatively to the first part, affirmatively to the second.

Pag. 863. IX. On Mass in mixed marriages. Whether by canon 1102 Par. 2 in mixed marriages, besides the Mass for the spouses, another Mass also, although private, is prohibited.

Resp. Affirmatively, if this Mass from the circumstances of things can be held as a complement of the matrimonial ceremony.

Pag. 1017. X. On ecclesiastical burial. Whether, by force of canon 1240 Par. 1, 5°, they are deprived of ecclesiastical burial who have ordered their body to be handed over to cremation and have persevered in this will up to death, even if cremation according to the norm of canon 1203 Par. 2 does not follow.

Resp. Affirmatively.

Given at Rome, on the day 10 November 1925. P. Card. Gasparri, President. Joseph Bruno, Secretary.

85. (Pag. 591.) Sacred Congregation on the Discipline of the Sacraments. Roman and Others. On the Faculty of Conferring Baptism at Home Outside Danger of Death.

It was asked whether the practice is conformable to law according to which infants, who are not situated in danger of death, but cannot be transferred to the church without danger, are solemnly baptized at home, i.e., with all the ceremonies even those preceding ablution, by the parish priest or another priest with the license of the parish priest; for recourse cannot be had to the minister of necessity, and in particular to the midwife, except in necessity strictly so called, namely when danger is positively feared lest the infant die (C. S. Off., 11 Jan. 1899), and only in the same necessity are the ceremonies prior to ablution omitted (S. C. Rit., 17 Jan. 1914. Cod. iur. can., can. 776 § 1).

Wherefore, the doubts having been proposed:

"I. Whether the above-said practice is conformable to canon law and, insofar as negatively:

"II. How one ought to proceed in the case."

In the Plenary Congregation of the Eminent Fathers, held on the day 26 June of the current year, the same Eminent Fathers responded thus:

To I. Provision will be made in the second.

To II. That it is conformable to law that, if the infant is not situated in danger of death, but cannot without danger be transferred to the church according to the norm of can. 775, the Ordinary, by force of can. 776 § 1, n. 2, can permit, according to his prudent judgment and conscience, from a just and reasonable cause, in some extraordinary case, that baptism be solemnly administered at home; but to estimate the gravity of the extraordinary case is remitted to the prudence and conscience of the Ordinary himself in the individual cases.

But when a report had been made concerning the premises to Our Most Holy Lord Pius Pope XI by the undersigned Secretary of the Sacred Congregation on the discipline of the Sacraments in the audience of the day 4 July 1925, Our Most Holy Lord held ratified and confirmed the resolution of the Eminent Fathers. Given at Rome, from the buildings of the Sacred Congregation de Sacramentis, on the day 22 July 1925.

A. Capotosti, Bishop of Terme, Secretary.

86. (Pag. 612.) For understanding more clearly each of Questions 3 and 4 it will help to consult the Roman Missal: *De defect. in cel. Miss. occur.*, n. 1: "But a defect can happen on the part of the matter to be consecrated, on the part of the form to be employed, and on the part of the minister confecting. Whatever of these is lacking, namely due matter, form with intention, and priestly order in the one confecting, the Sacrament is not confected. And with these existing, whatever other things are lacking, the truth of the Sacrament is present." Now the same Missal, in the same place V, 1, adds: "But the words of consecration which are the form of this Sacrament are these: This is my Body; and For this is the Chalice of my Blood ... unto the remission of sins." Therefore the words: Who the day before He suffered, and In like manner pertain to those other things of which the Missal says: "whatever other things are lacking, the truth of the Sacrament is present."

It will also help to add the words of the Holy Synod of Mount Lebanon celebrated in the year 1736, held in great esteem by the Supreme Pontiffs Benedict XIV and Clement XIII and confirmed by the former: "But if anyone should diminish or change something from the form of consecration of the body and blood, and in the very change of the words the words did not signify the same thing, he would not confect the Sacrament. But if he should add something which did not change the signification, he would indeed confect it, but would sin most gravely. (*De def. c. Mis.* v.)

"But the substantial words and those altogether necessary for completing the consecration are these: This is my body: and This is the chalice of my Blood, or This is my blood: which words, as from the person of Christ and with actual or at least virtual intention of consecrating, must be pronounced clearly and distinctly.

"Nevertheless we profess first that the consecration of the body and blood of the Lord is completed and consummated by those words, This is my Body, and This is the chalice of my Blood, so that nothing else is required for the substantial consecration itself." Const. and Can. of the Holy Synod of Mount Lebanon, a. 1736, Part II c. xii, n. 8. And afterwards in n. 9 they add: "But those who say that

the evangelical words: This is my Body; This is my Blood, are not consecrative of the Eucharist, but this prayer, the epiclesis, ... we detest, denounce, and anathematize." And it must be noted that this Synod of Mount Lebanon cites the integral form of the first and the other consecration from the Roman Missal and the words: "if anyone ... should diminish," and then adds "But the substantial words, etc." - Cf. Umberg in *Zeitschrift für Katholische Theologie*, v. 50, p. 83 and following.

87. (Pag. 661.) Worthy indeed to be commemorated is the concession of offering Mass from midnight in nocturnal adoration in a Eucharistic congress. "But if, at the time of some Eucharistic Congress, the August Sacrament, as is the custom, is exposed for public adoration through the whole night, we grant that one Mass can be offered from midnight, in which it is lawful for all those standing by to approach the sacred Synaxis; priests who have been present at nocturnal adoration of this kind, after the first Mass which we have mentioned has been completed, or after the first hour after midnight has passed, can perform the Sacred rite; but all clerics constituted in sacred Orders, and religious men who are held to reciting the canonical Hours, present at the nocturnal adoration, while the same endures, can recite in place of their proper Office the Office of the Most Holy Sacrament."

Apostolic Letter "Quod ad Conventus," 7 March 1924.

(88. Pag. 664.) The S. C. on the Discipline of the Sacraments thus explains the faculty of celebrating Mass in the open air according to the norm of can. 822 C.J.C.

"From this it is easy to infer that the faculties of Ordinaries in this respect are quite limited, since they cannot be exercised except in some extraordinary case, nor without a just and reasonable cause, which must be uniquely inspired by the highest reasons of divine worship or by the spiritual good of the faithful. It is then useful to inculcate and practice these disciplinary norms with due severity, in order to elevate and purify the religious sentiment of the people."

S. C. on the Discipline of the Sacraments, 26 July 1924.

89. (Pag. 845.) The favor of law which marriage enjoys consists in this, that one must stand for its validity until the contrary is proved.

The reason for this matter is the requirement of the common good, of offspring, and of the family, whenever there is question of a marriage which, duly celebrated, is in possession. Therefore, unless it is proved that the marriage is of no value, one must stand for its validity both in the external forum and in the internal forum. Otherwise all things would be thrown into confusion. And it must be noted that this favor must be given also to marriages contracted in infidelity and in possession.

But the fact of the celebration must be proved, and, if it is doubtful, "one must see whether the marriage concerning whose existence the missionary doubts can deservedly claim possession for itself. For if this happens, it would be judged wrongly by the missionary that one must stand for its invalidity, since the rights of possession must be observed, until the contrary is clearly established." Instruction of the S. C. of the Holy Office, 18 Dec. 1872. That a marriage can show possession for itself "is verified when those joined together in good faith think that they are living in a true and legitimate marriage, and others suffer no scandal from that union, because they think it to be

legitimate; even in this case the aforesaid principle (one must stand for the validity of marriage) would prevail, and it would not be lawful to depart from it." S. C. S. O., 24 Jan. 1877, n. 2.

With the prescription of Canon 1127 being saved. That canon has itself thus: in a doubtful matter the privilege of the faith enjoys the favor of law; or, as Benedict XIV says in the Constitution *Probe te*, "in a doubtful matter one must pronounce in favor of the faith is a constant rule." And indeed this rule is itself divine; and therefore, when a conflict of law seems to exist, this rule itself must be followed; and by force of this favor judgment must be made for the liberty of the Catholic party to enter into new nuptials or to remain in new ones.

Thus, in the case of doubt whether the Pauline Privilege has place only when the infidel departs from hatred of the faith, or also when he departs on account of some other cause different from the faith, the response was: "Since the favor of the faith militates on the part of the converted spouse, he can use it from whatever cause, provided it is just." S. C. of the Holy Office, 5 Aug. 1759. In another case, an infidel woman converted to the faith, when her infidel husband as consort refused to cohabit, was rightly permitted to enter marriage with a Catholic. And "What has been granted to the woman by favor of the faith must also, by favor of the faith, be granted to the man." Hence if that man afterwards is converted to the faith, he can marry a Christian woman. Thus S. C. of the Holy Office, 16 Sept. 1824, ad 1. When there is question of the application of the Pauline Privilege, the doubt varies according to the various conditions of that Privilege. There is doubt concerning the fact of the marriage entered into; concerning the validity of the marriage entered into; concerning the fact or concerning the validity of the baptism of the party who is said to have been converted; concerning the sincerity of the response of the infidel party; concerning other circumstances which can occur.

From canon 1127, according to the responses of the Holy Office, the presumption for the validity of marriage must yield to the presumption in favor of the faith or of the liberty of the one converted to the faith; wherefore, in similar doubts, one must stand for the invalidity of the doubtful marriage. From this a difficulty can arise here; for if the case does not fall clearly under the Pauline Privilege, then for what reason could it be said: "one must stand for invalidity by favor of the faith," since perhaps the marriage was valid? Namely, in order to declare this matter more explicitly, we must recur to the full power of the Supreme Pontiff, insofar as there is need, dissolving the prior marriage.

- Cf. Wernz-Vidal, v. 5, nn. 44, 631 and following. - Arendt, *Ephemerides Theologicae Lovanienses*, v. 1, p. 174.

Cases. - 1. Titius and Bertha, infidels, formerly mingled together as spouses and have already been separated from one another for four years. Titius, now a Catholic, wishes to enter marriage with a Catholic woman; he does not know whether a conjugal pact ever existed with Bertha.

R. In favor of the faith a document of freedom can be given to him, pontifical power intervening.

2. Titius and Maria entered marriage in infidelity, but the ceremony was omitted which among many is held as necessary for validity; hence there was doubt whether it was really a marriage. After divorce Maria entered nuptials with an infidel. But Titius is converted to the faith and wishes to enter marriage with a Catholic woman.

R. That doubt can be a doubt of law, and then the marriage is null, or of fact, and then in favor of the faith the Pope can intervene.

3. Titius was baptized in a sect, and after the impediment for heretics had been removed, he entered nuptials with Martha, an infidel. The marriage is valid. But now Titius, abandoned by the infidel consort, and received into the Church with baptism conferred conditionally, wishes to be bound by a new marriage. It is not indeed the case of the Apostle; but the prior marriage was legitimate and not ratified. Now Titius can obtain its dissolution, so that he may enter marriage with a Catholic woman. But if before the dissolution of the legitimate marriage the other infidel party has been baptized validly, the marriage becomes ratified; and until it has been consummated, it can be dissolved.

90. (Pag. 851.) Decree of the S. Congregation of the Holy Office. Most Blessed Father: -

The Bishop of Helena, most humbly prostrate at the feet of Your Holiness ...

sets forth: On the day 30 September, 1919, at ..., G. G. M., a non-baptized non-Catholic, entered marriage with F. E. G., a non-Catholic baptized in the Anglican sect, before a heretical preacher of the Anglican sect, and consequently without any dispensation obtained. On the day 4 November, 1920, G. G. M. obtained a civil divorce from F. E. G. Now G. G. M. desires to embrace the Catholic faith and to enter marriage with a Catholic girl. F. E. G. has already entered new nuptials. Wherefore he supplicates Your Holiness that a dispensation be granted over the natural bond of the first marriage.

Feria IV, the day 5 November, 1924.

In the General Congregation of the S. R. and U. Inquisition, when the above-written supplicant libellus had been proposed, and with attention given to what had been set forth and the vote of the Reverend Lord Consultors having been previously had, the Eminent and Most Reverend Lord Cardinals, General Inquisitors in matters of faith and morals, decreed: "That His Holiness be advised for the grace of dissolution of the natural bond of the first marriage contracted by G. G. M. with F. E. G. in favor of the faith."

But on the following Feria V of the same month and year, the Most Holy Lord, Our Lord Pius, by divine providence Pope XI, in the audience granted to the Reverend Father Lord Assessor of the Holy Office, after a report concerning this matter had been had, deigned to approve the resolution of the Eminent Fathers and to grant the requested grace. All things whatsoever to the contrary notwithstanding. Aloisius Castellano, Notary of the Supreme S. C. of the Holy Office.

L. + S.

"George, baptized by heretics, was legitimately married to an infidel woman. But, a little afterwards, she abandons her husband, returns into her family, and marries an infidel. George, for his part, embraces the Catholic religion, and since it is too hard for him to keep continence, he regularly interpellates his first wife and afterwards contracts marriage before the missionary with a Catholic person. The missionary, indeed, basing himself on the opinion of certain authors, judged the marriage of the heretical George with an infidel woman equivalent to a marriage concluded in infidelity.

"Consequently it is asked: Is the second marriage of George valid, whether the baptism which he received from the heretical minister was doubtful, or whether it was valid?"

Response. - "Thursday, 10 July 1924.

"Our Most Holy Father Pope Pius XI, in the audience which he granted to the Rev. Assessor of the Holy Office, after hearing the report of the above supplication, deigned to grant the favor of the dispensation from the marriage contracted with the infidel woman, so that, by renewing the consent *ad cautelam*, the husband may validly contract a new marriage with the Catholic person with whom he lives. All things whatsoever to the contrary notwithstanding."

91. (Pag. 852.) The marriage must be contracted with a Catholic party according to canons 1123, 1124; it would be contracted invalidly with an infidel party, illicitly with a baptized non-Catholic party. The Church rarely grants a dispensation either over disparity of worship or over mixed religion; nor can the general faculty over these impediments be applied.

92. (Pag. 853.) Document VI. - From the Constitution of Paul PP. III, "Altitudo," 1 June 1537.

"Indeed, since, as we have received not without great and spiritual joy of our mind, very many inhabitants of western and southern India, although they are without experience of the divine law, nevertheless, with the Holy Spirit cooperating, having been enlightened, have cast entirely from their minds and hearts the errors which until now they have observed, and desire and propose to embrace the truth of the Catholic faith and the unity of the Holy Church, and to live according to the rite of the same Roman Church ...

"But concerning their marriages, we decree that this is to be observed, that those who before conversion had several wives according to their customs, and do not remember which one they first received, being converted to the faith, should receive one of them, whichever they wish, whom they may marry by words of the present, as is customary; but those who remember which one they first received, the others being dismissed, should retain her. And we grant to them that, being joined even in the third degree both of consanguinity and of affinity, they should not be excluded from contracting marriages until it shall have seemed good to this Holy See to establish something else on this matter ..."

a) In this Constitution there is question of polygamists who do not remember which wife they first received;

b) it is granted that converts to the faith, not remembering her, may receive from among the wives whichever they prefer, whom they may marry by words of the present;

c) but those who remember which one they first received must retain this one;

d) the necessity of interpellation is simply taken away.

Document VII. - From the Constitution of S. Pius PP. V, "Romani Pontificis," 2 Aug. 1571.

"Since therefore, as we have received, to Indians remaining in their infidelity several wives are permitted, whom they themselves repudiate even for the lightest causes, hence it has happened that it has been permitted to those receiving baptism to remain with that wife who is baptized together with her husband; and because very often it happens that she is not the first spouse, whence both

ministers and Bishops are tormented by very grave scruples, thinking that that is not a true marriage; but because it would be very hard to separate them from the wives with whom those Indians themselves received baptism, especially because it would be most difficult to find the first spouse; therefore we, wishing to provide kindly with paternal affection for the state of the said Indians, and to free the Bishops themselves and ministers from scruples of this kind, of our own motion and from our certain knowledge, and from the fullness of apostolic power, by apostolic authority, by the tenor of the presents, declare that the Indians, baptized thus as is premised, and to be baptized in the future, can remain with the wife who with them has been baptized and shall be baptized, as with a legitimate wife, the others being dismissed, and that marriage of this kind between them legitimately stands, etc."

a) In this Constitution there is question of infidel polygamists who after conversion take as wife one from among the prior wives, whichever they wish, who has been baptized with the husband, although he himself may know which one was first taken;

b) it is established that they can remain with that one thus chosen and baptized, both with regard to the past and with regard to the future;

c) those marriages are declared to be legitimate between them;

d) the necessity of interpellation is taken away.

Document VIII. - Constitution of Gregory PP. XIII, "Populis," 25 January 1585.

"Wherefore we, considering that marriages of this kind contracted among infidels are indeed true, yet are not to be considered so ratified that, when necessity counsels, they cannot be dissolved, moved with paternal piety for the infirmity of such peoples, to all and each of the Ordinaries and parish priests of the said places, and to the priests of the Society of Jesus approved by the Superiors of the same Society for hearing confessions and for the time being sent to the said regions or admitted in them, grant by apostolic authority, by the tenor of the presents, the full faculty of dispensing with any Christian faithful of either sex, inhabitants of the said regions and later converted to the faith, who before baptism received contracted marriage, so that any one of them, while the infidel spouse survives, and with that spouse's consent by no means required, or with the response not awaited, may lawfully contract marriages with any faithful person even of another rite, and solemnize them in the face of the Church, and afterwards, after they have been consummated by carnal copula, remain in them as long as they live: provided that it is established, even summarily and extrajudicially, that the spouse absent as said above cannot legitimately be warned, or, having been warned, did not signify his or her will within the time prefixed in the same warning. And we decree that these marriages indeed, even if afterwards it should become known that the prior infidel spouses, being justly impeded, could not have declared their will, and had even been converted to the faith at the time of the transacted second marriage, nevertheless must never be rescinded, but are valid and firm, and that the offspring to be received thence will be legitimate. Things to the contrary notwithstanding, etc."

a) In this Constitution there is question of any infidels whatsoever;

b) the faculty is granted of dispensing from interpellations in the circumstances commemorated, and of entering marriage in the aforesaid cases; and

c) it is added, "these marriages indeed, even if afterwards it should become known that the prior infidel spouses, being justly impeded, could not have declared their will, and had even been converted to the faith at the time of the transacted second marriage, nevertheless must never be rescinded, but are valid and firm ... we decree." Wherefore

d) new marriages can validly be entered, without any interpellation, from dispensation, and this even though each party of the prior marriage at the time of the second marriage had already received baptism; therefore this is not the case of the Apostle, by which it is permitted to the faithful spouse to contract nuptials if the infidel departs. Wherefore

e) Gregory appeals not to the Pauline Privilege but to the fullness of apostolic power and just causes: "it is expedient to indulge those converted to the Catholic faith concerning liberty of contracting marriages, lest men not at all accustomed to preserving continence should on that account persist less willingly in the faith, and deter others from its perception by their example." "We, considering that marriages of this kind contracted among infidels are indeed true, yet are not to be considered so ratified that, when necessity counsels, they cannot be dissolved." Therefore the Supreme Pontiff has recourse to the fact that those marriages are less firm than those which, when necessity counsels, cannot be dissolved. But, with whatever necessity counseling, the ratified and consummated marriage of two baptized persons cannot be dissolved. Therefore this bond is stronger than the aforesaid marriages concerning which Gregory speaks. Whence a marriage consummated in infidelity, after the conversion of one to the faith, can be dissolved, as is evident.

A marriage entered in the infidelity of both parties, and consummated after the conversion of only one, can similarly be dissolved.

The marriage of two converted persons consummated before baptism, but not afterwards, on account of the reason of the Sacrament, is a stronger bond than a marriage consummated in infidelity before the conversion of one; in the one case the reason of the Sacrament is had on account of the Baptism of both, but not in the other. Since therefore Gregory dissolved the former bond, which certainly was stronger, the Supreme Pontiff can dissolve the other bond, less strong.

It is added: We, considering that marriages of this kind contracted among infidels are not to be considered so ratified that, when necessity counsels, they cannot be dissolved. Hence such pontifical power must be admitted as often as necessity counsels. Therefore, when such a marriage begins, by reason of the baptism of one, to be subject to the jurisdiction of the Church, the Supreme Pontiff must be considered to have the power of dissolving the bond.

The same is evident from other documents: for example, among the Faculties, Form III, this is had:

"The faculty is granted of dispensing with gentiles and infidels, so that after conversion and baptism they can retain whichever of them they prefer, if she also becomes faithful, unless the first should wish to be converted."

This power is certainly not contained in the Pauline Privilege; for if the first should be unwilling to be converted but should wish to cohabit peacefully, by force of the Privilege the faithful party cannot pass to a new marriage. Therefore the dissolution comes from the full pontifical power, in favor of the faith.

Here there is had a case of legitimate marriage which nevertheless the Pontiff can dissolve independently of the Pauline Privilege.

Furthermore, it is evident, since the marriage is not ratified, that the same must be said of a valid legitimate marriage entered after the Code between a baptized heretic, for example an Anglican, and a non-baptized person, before an Anglican minister, as is evident from the very recent example of the use of pontifical power over such a marriage, when one of the consorts entered the Catholic Church. S. Off., 5 Nov. 1924.

93. (Pag. 857.) Cases. -

94. Titius and Bertha, Catholics, duly enter and consummate marriage. It is ratified and consummated.

95. Titius and Berthelda, Catholics, duly enter marriage and do not consummate it. It is ratified only.

96. Marcus, a Catholic, and Bertina, a baptized heretic, duly enter marriage with the due dispensation, and consummate it. It is ratified and consummated.

97. Martinus, a Catholic, and Bertilla, a baptized Episcopalian, enter marriage without dispensation before the parish priest of the place, unaware of the bride's heresy, and they consummate the marriage. It is ratified and consummated.

98. After the Code of Law has been published, Martellus and Bertella, both baptized in the Episcopalian heresy, enter marriage before a little minister of the heresy and consummate it. It is ratified and consummated.

99. Tertius, a baptized heretic, enters marriage after the Code with Maria, non-baptized, before a Judge according to the laws of the State, and they consummate it. The marriage is legitimate.

100. Tertillus and Maldina, both infidels, duly enter marriage and consummate it; then Tertillus receives baptism among the Baptists, and when this has been done Maldina leaves him. The marriage is legitimate.

101. Terentius and Balda, infidels, duly enter marriage, and they consummate it both before and after the Baptism received by Balda in the Episcopalian sect; then Terentius leaves her. The marriage is legitimate.

9 and 10. Terillus and Balbula, infidels, duly enter marriage and consummate it; then, after a civil divorce has been obtained from one another, Terillus is baptized in the Catholic Church and, with dispensation from interpellating Balbula, whom he could not find, at the time when Balbula herself had been baptized, entered marriage with the Catholic Martilla and consummated it. The second marriage is ratified and consummated. The first marriage is dissolved, ratified only.

The first marriage is indissoluble.

The second is dissoluble on account of just causes.

The third marriage is indissoluble.

The fourth marriage is indissoluble.

The fifth marriage is indissoluble.

The sixth marriage is dissoluble.

The seventh marriage is dissoluble.

The eighth marriage is dissoluble.

The ninth marriage is dissolved and the tenth indissoluble.

94. (Pag. 865.) The Sacred Congregation of Rites responded, 14 June, 1918:

When the aforesaid Ordinaries permit the nuptial blessing on the Nativity of the Lord and the Sunday of the Resurrection, it is lawful to add to the prayer of the Mass of the respective Feast a commemoration for the spouses under one conclusion.

When the same Ordinaries, from a just cause, permit the solemn blessing of nuptials in the closed time, the votive Mass for spouses can be celebrated, except however on Sundays, feasts of precept, even of the I and II class, privileged Octaves of the I and II order, privileged Feasts, and the vigils of the Nativity of the Lord, Pentecost, and Epiphany. *Acta Apostolicae Sedis*, vol. x, p. 332.

95. (Pag. 888.) Supreme Sacred Congregation of the Holy Office.

Rome, 21 December 1924.

Most Illustrious and Most Reverend Lord!

There have been brought to this Supreme Congregation of the Holy Office the petitions of Your Amplitude, in which you ask whether the impediment of disparity of cult, concerning which in Can. 1079, C. J. C., is restricted to the marriage of Catholics with non-baptized persons, or whether it is also to be applied to marriages of baptized non-Catholics with non-baptized persons. I signify to you, in the name of the same Congregation, that this impediment, according to the norm of Can. 1070 itself, binds Catholics, but not non-Catholics, unless these have been baptized in the Catholic Church or converted to it. The matter is so clear that it is lawful to have no doubt about it.

And I pray for all prosperous and happy things for you from the Lord. Most devoted,

R. Card. Merry del Val.

To the Most Illustrious and Most Reverend Lord Archbishop of Freiburg.

"A certain man, by the name Thac, born in the year 1898 of infidel parents, in infantile age was baptized by a certain Catholic physician, when danger of death was imminent, without his parents knowing it; afterwards he was educated entirely in infidelity, and contracted marriage according to the custom of his country, around the end of the year 1918, with a pagan girl whose name was Nam.

"Through the whole year 1919, the spouses conducted themselves happily; but in the year 1920, when the wife was fostering impure loves with a certain gentile, the husband several times gravely reproved her concerning the vice. Bearing this badly, around the end of the year 1920, the most wicked wife bade farewell to the conjugal home.

"In the course of the year 1921, Thac, with his parents and very many other inhabitants of this village, wishing to embrace the Catholic religion, approached the missionary, and asked him that he

be enrolled among the catechumens. The missionary, inquiring concerning the past life of the neophyte, discovered that he had already been joined in a legitimate marriage; but that conjugal life had been dissolved on account of the vices of the wife; but now that he was no longer willing to receive the adulteress; wherefore there was in him the desire of entering a new marriage after baptism with some Catholic woman.

"While the neophyte was still learning catechism and prayers, the missionary heard from the Christian physician who formerly had baptized Thac, when danger of death was imminent, that baptism had been conferred validly on him while he was still a little infant, and that this had never been disclosed either to Thac himself or to his parents.

"From this the missionary became perplexed concerning the new marriage intended by the neophyte Thac."

"From the new law, he judges that the marriage contracted by him around the end of the year 1918 was valid, and cannot be rescinded either by the Pauline privilege or in another way, because it is equivalent to a marriage entered with dispensation from the impediment of disparity of cult.

"Since the opinions of missionaries whom I was able to consult concerning a marriage of this kind are diverse, I humbly ask Your Holiness that you deign to solve the following doubts:

"1. Whether the marriage contracted by the man Thac at the end of the year 1918 was valid?

"2. If it was valid, whether it can be rescinded by force of the Pauline privilege, so that Thac can, with the wife interpellated and responding negatively, enter another marriage with some Catholic woman?

"And God ...."

The S. C. of Propaganda responded on 1 April 1922:

"I communicate to Your Amplitude that the S. Congregation of the Holy Office has examined the matrimonial case Thac-Nam of that Vicariate, and responded that this marriage Thac-Nam must be declared by you null, on account of the impediment of disparity of cult.

"As I communicate these things to you, I pray God .... + P. Fumasoni-Biondi, Archbishop of Diocletian, Secretary, G.-M. Card. Van Rossum, Prefect."

On Contracted Marriages: (Can. 1070 No. 2.) Titus and Bertha, Catholics, have been joined by the nuptial covenant; and afterwards a doubt arose concerning the Baptism of one or both, which, investigation having been made, cannot be solved. One must stand for the validity of the marriage as long as it is not certainly established that one party was baptized and the other was not baptized. The reason is that marriage enjoys the favor of law - therefore a presumption of law is admitted for it - which nevertheless yields to truth. In the case brought forward, let the doubtfully baptized party be baptized under condition, or both parties, if both are doubtfully baptized; but without prejudice to the marriage, that is, without loss of the presumption in favor of the validity of the marriage.

But if nevertheless afterwards it is clearly established that the Baptism of one certainly did not exist or was invalid, while that of the other was certainly valid, the marriage would be invalid; namely, if the parties did not renew consent.

Thomas, a Catholic, certainly baptized, duly entered marriage with Clarissa, a heretic doubtfully baptized. One must stand for validity. If, investigation having been made, the doubt remains, they are to be held as true spouses, until it is proved with certainty that one party was baptized and the other was not; but if this should occur, the marriage would be null.

Tarsus, a Catholic, doubtfully baptized, entered nuptials with a heretic doubtfully baptized; the marriage must be held valid until it is established with certainty that one party was baptized and the other was not.

Tardus and Cita, Albus and Rubra, Laetus and Afflicta, heretics, who never pertained to the Catholic Church either by reason of baptism in it or by reason of conversion to it, after marriages happily entered were found as follows: Tardus and Cita doubtfully baptized; Albus and Rubra invalidly baptized; Laetus invalidly and Afflicta certainly baptized. All those marriages are valid under this head, because disparity of cult does not comprehend them.

George, held as a Catholic, entered marriage with Martha, a heretic. After some months a doubt was found that the baptism of George and Martha was null. As the law says, one must stand, according to the norm of Can. 1014, for the value of the marriage, until it is certainly proved that one party is baptized and the other not baptized. But this is not certainly proved.

Titius, a dying infant, was baptized in the Catholic Church; he is the son of infidels, who were ignorant of the matter; from infantile age he was educated in heresy and finally entered marriage with an infidel woman. After a year his baptism is certainly proved; the marriage is null. And therefore he who is a heretic, but once subject to the impediments of the Church by reason of baptism in the Catholic Church, is treated as a Catholic in this matter. Cf. Response of the S. C. de Prop. Fide, 1 April 1922.

96. (Pag. 940.) With danger of death pressing, the force of canon 1043 obtains:

1º from whatever source the danger may arise and even though the parties are not sick;

2º even though the danger is not so imminent that time is lacking for having recourse to the Holy See.

97. (Pag. 961.) Doubt: "Whether the response of the Commission for authentically interpreting the canons of the Code, given 2-3 June, 1919, under n. 7, while at the end it added that *etc.*, is to be understood so that marriages of this kind always need dispensation or sanation, or rather can also be convalidated according to the norm of cc. 1133 § 1 and 1135?"

The response was made by the Eminent Cardinal President of the Commission: "In the doubt in question (which for the rest is such as was presented by the bishop of Malta), there is not the word *always*; and that *etc.* means precisely that such marriages must be convalidated according to the norm of can. 1133 and following." That is, in Latin: In the doubt concerning which there is question (and which remained as it was offered by the Bishop of Malta) the word *always* is not read; and that *etc.* definitely signifies that those marriages are to be convalidated according to the norm of can. 1133 and following. - Cf. at Vermeersch, *Periodica*, vol. IX, p. 154.

Wherefore, after the impediment has ceased, it is required that at least the party conscious of the impediment renew consent. This renewal must be a new act of the will into a marriage which is established to have been null from the beginning. If the impediment was public, or one which can be proved, consent must be renewed in the form prescribed by law, i.e., before the parish priest and two witnesses (can. 1094); but if the impediment was occult, the renewal of consent can be made without the form prescribed by law. Cf. below, n. 98.

98. (Pag. 965.) Before the Code, when after marriage had been entered a dispensation had been given over an occult impediment known to only one party, the clause was added, "the said woman (or man) having been informed of the nullity of the prior consent, but so cautiously that the delict of the bearer is never detected"; then afterwards the clause was added, "and insofar as this notification cannot be made without grave danger, with consent renewed according to approved authors." Confer *Comp. Theol.*, ed. 24, p. 954. Now, with the Code promulgated, an easier solution seems to be open: for canons 1133, 1134 have established thus: to convalidate a marriage invalid on account of a diriment impediment, it is required that the impediment cease or be dispensed, and that at least the party conscious of the impediment renew consent. Accordingly, after the cessation of the impediment or the dispensation, each party, if each was conscious of the impediment, must furnish new consent, or at least the party conscious of the impediment must consent by a new act into the marriage, knowing that the marriage was null. In the case brought forward, now nothing else is required except that the party conscious of the occult impediment himself or herself consent by a new act.

But the manner of renewing is diverse according to the diverse impediment, namely public or occult. Can. 1135.

(A) Let there be an impediment of consanguinity on account of which the marriage entered between Titius and Bertha is null. With the impediment removed by dispensation, consent must be renewed by each party in the prescribed form, i.e., before the parish priest and witnesses. Can. 1135, § 1. The reason is that it must publicly be established for the Church concerning the validity of the marriage, concerning which it is not established from the prescribed form previously employed, because rather, by reason of the public impediment, the nullity of the marriage is established.

Suppose secondly that Marcus and Martina entered marriage in the prescribed form, concerning which now it is established that it was null on account of that impediment. With a dispensation obtained, Marcus and Martina must renew consent in the prescribed form. Yet they are inhabitants of the countryside, and the absence of the Ordinary, the parish priest, or a delegate is going to last for a month; therefore these persons can enter marriage before witnesses alone. Can. 1098, n. 1.

It must be noted that the convalidation is publicly established by the prescribed form being employed again; indeed, per se it suffices, with the license of the Ordinary, that the public form be used secretly, others besides the Parish Priest and witnesses being excluded.

(B) Titius and Bertha, conscious only of the crime of adultery, entered marriage in the prescribed form with no dispensation obtained. The impediment is known to each party and to the confessor, who, having obtained permission, obtains the dispensation. In the case, since the impediment is occult and known to each party, it is enough that consent be renewed by each party privately and secretly. Since the prior public celebration or external manifestation of consent was of no value, it is

now required that each party renew consent between themselves by an external act; nevertheless it is not required that the renewal be made in the prescribed form, because the nullity of the effect of the prior public celebration remained occult; nor is there need that the juridical form be observed, for once this form has been had, it is a sufficient proof of the bond, as long as the nullity from that impediment remains occult.

(C) Tardus and Martha entered marriage in the prescribed form; however, since the marriage was contracted before the Code was promulgated and Tardus, before he contracted, had relations with Martha's sister, the marriage was invalid because of affinity from illicit copula. Now at last Tardus is conscious of this nullity, and narrates the matter to Arnulphus the confessor. In this case, since by the Code the impediment of affinity has been removed, the parties are now able for marriage; and because the impediment was occult and known to only one party, it is enough that only the party conscious of the impediment, i.e., Tardus, privately and secretly renew consent, provided that the other perseveres in consent; and thus the consent renewed by Tardus, joined with the persevering consent of Martha, suffices for convalidating the marriage. Can. 1135, § 3. Nor is it in any way required that it be made known to the other party that an impediment had stood in the way of the marriage.

99. (Pag. 1037.) A priest falls into the sin of procuring abortion. He is the only priest in a sufficiently large village of the diocese N..., and besides he cannot obtain a substitute before two years. The unhappy man is ensnared by excommunication *latae sententiae* reserved to Ordinaries, Can. 2350, and also by irregularity from delict, Can. 985, § 4. The matter is occult and the case fictitious.

The Ordinary or his delegate can absolve from the excommunication, Can. 2350, § 1, but over that irregularity the Roman Pontiff alone can dispense, Can. 990, § 1.

Therefore, in the case of that priest, the only remedy is to have recourse to the Supreme Pontiff for obtaining a dispensation. The impediment is perpetual, Can. 983.

Is it ever lawful for such a one to exercise any act of order?

1º. Certainly in extreme necessity, and that alone, he can give the sacraments to the dying.

Besides, 2º. It must be noted that the prohibition of exercising an act of order follows the nature of other ecclesiastical prohibitions, and therefore does not urge with grave inconvenience. Thus Gasparri, t. 1, n. 171. But if the irregularity is such that it can in no way be manifested without grave danger, as sometimes it will be able to be, it does not need dispensation. Cf. D'Annibale, n. 486, n. 19; Ballerini, t. 7, n. 417, 5. In these quasi-penalties from delict, irregulars can be treated in a similar way as censured persons or those ensnared by vindicative penalties. Can. 2261, § 2; Can. 2290, §§ 1, 2. In more urgent occult cases, if from observance of the vindicative penalty the guilty party would betray himself with infamy and scandal, any confessor can in the sacramental forum suspend the observance of the penalty with the burden of having recourse.

Hence the priest can perform an act of order in a case of infamy and scandal, when the faithful demand or ask this and he cannot reject them without grave damage. And he can defer the petition of dispensation as long as the danger of revelation is present. When that has been removed, he is bound as soon as possible to ask dispensation from the Holy See.

100. (Pag. 1040.) Resolution. - The Eminent Fathers of the Sacred Congregation of the Council, in the plenary meetings held at the Vatican on the day 13 June 1925, all things having been weighed, to the doubt which follows, namely:

"Whether the declarations of the S. C. C. of the years 1890 and 1923, by which the duels customary in the Universities of Germany, which by the special name Bestimmungmensuren are called, are subjected to ecclesiastical penalties, regard only those duels, according to the opinion of some more recent persons, which are committed with danger of grave wound, or also include those which are done without danger of grave wound in the case?" ordered the response to be made:

"Negative to the first part. Affirmative to the other."

Which resolution, with the undersigned Secretary reporting, in the audience of the day 20 of the same month and year, Our Most Holy Lord Pius PP. XI deigned to approve and confirm. Julius, Bishop of Lampsacus, Secretary. *Acta Apostolicae Sedis* - Vol. XVIII, p. 137.

101. (Pag. 1076.) Sacred Apostolic Penitentiary. - Doubt Concerning Rosaries Made From Glass.

The following doubt was exhibited to the Sacred Apostolic Penitentiary for an opportune solution:

The Sacred Congregation of Indulgences, on the day 29 February 1820, ad 2, expressly declared that Rosaries can be enriched with Indulgences even if made from glass or crystal, provided that the beads are made from solid and compact glass.

But in Warning n. 1, prefixed to the authentic list of Apostolic Indulgences, edited on the day 17 February 1922, it is read thus: "Things apt to receive the blessing for gaining Apostolic Indulgences are only Chaplets, Rosaries, Crosses, Crucifixes, small Statues, Medals, provided they are not made from tin, lead, glass, or any other similar material, which can easily be broken or consumed." Hence it is asked:

Whether that which in the cited Warning is established thus in general and simply concerning Rosaries which are made from glass must be understood according to the course of the aforesaid declaration of the Sacred Congregation of Indulgences?

And the Sacred Apostolic Penitentiary, on the day 24 November 1925, responded: Affirmatively.

But after a report concerning the premises had been made to Our Most Holy Lord Pius, by divine Providence Pope XI, by the undersigned Cardinal Major Penitentiary, in the Audience of the day 18 December 1925, the same Most Holy Lord kindly approved the response of the Sacred Penitentiary and ordered it to be made public.

Given at Rome, from the Sacred Apostolic Penitentiary, on the day 21 December 1925. Fr. Andreas Card. Fruhwirth, Major Penitentiary. S. Fagiolo, Secretary of the S. P.

102. (Pag. 580.) Monsters and prodigies should always be baptized at least under condition: If you are a human being, I baptize you, etc. But in doubt whether there is one human being or several, one should be baptized absolutely, the others under condition: If you are not baptized, I baptize you, etc. - Cf. Rit. Rom. Tit. II, c. 1, n. 22.

103. (Pag. 591.) Let the baptistery be in a decent place and form, and of solid material, and one which contains water well, decently adorned, and surrounded by rails, furnished with lock and key, and so locked that dust or other filth does not penetrate within; and in it, where it can conveniently be done, let there be painted or placed an image of Saint John baptizing Christ. Cf. Rit. Rom. Tit. II, c. 1, n. 46.

104. (Pag. 623.) "Consecrated particles, in that number which can suffice for the communion of the sick and of other faithful, are to be preserved perpetually in a pyx of solid and decent material, and this clean and well closed with its own cover, covered with a white silk veil and, as far as the matter permits, adorned." (Can. 1270).

105. (Pag. 331.) "The Parish Priest will also take pains, as far as can be done, that on the very day of Most Holy Easter the faithful communicate; on which day he himself, through himself, unless he is legitimately impeded, will minister this Sacrament to the faithful of his parish. But in other things he will observe what is prescribed below in the book on the state of souls." - Cf. Rit. Rom. Tit. IV, c. 3, n. 4.

"He will also carry and minister it to the sick of the parish, even if they have received communion outside the prescribed paschal days, on the paschal days." ib. n. 5.

106. (Pag. 518.) Let the Parish Priest exhort the sick person to receive sacred communion, even if he is not gravely sick, or danger of death is not imminent, especially if the celebration of some feast suggests it; nor will he himself refuse to minister it. Cf. Rit. Rom. Tit. IV, c. 4, n. 3.

107. (Pag. 620.) When from a just and reasonable cause sacred communion is carried privately to the sick, let the Priest always have at least a stole covered by his own garments; let him place the pyx in a little pouch or burse, which, hung from the neck by cords, he may place in his bosom; and let him never proceed alone, but be accompanied by at least one faithful person, in defect of a Cleric. But when he has arrived at the room of the sick person, let the Priest also put on a surplice with the stole, if he has not put that on previously. Cf. Rit. Rom. Tit. IV, c. 4, n. 29.

108. (Pag. 683.) But when some grave necessity presses in danger of death, the Priest will be able to say briefly: I absolve you from all censures and sins in the name of the Father, and of the Son, + and of the Holy Spirit. Amen. - Cf. Rit. Rom. Tit. III, c. 2, n. 5.

109. (Pag. 800.) While the Priest anoints the eyes, ears, and other members of the body which are paired, let him take care that by anointing one of them he does not complete the form of the Sacrament before he has anointed both paired members of this kind. Cf. Rit. Rom. Tit. V, c. 1, n. 18.

110. (Pag. 804.) The Sacrament of Extreme Unction ... is to be applied with all zeal and diligence to the dangerously sick, and indeed at that time, if it can be done, when for them mind and reason still flourish unimpaired, so that for perceiving a more abundant grace of the Sacrament they themselves may also contribute their faith and pious will of soul, while they are anointed with the sacred Oil. Cf. Rit. Rom. Tit. V, c. 1, n. 1.

111. (Pag. 808.) When this sacrament is ministered to several sick persons at the same time, let the Priest offer to each sick person the cross to be devoutly kissed; let him recite once in the plural number all the prayers which precede the anointings; let him carry out the anointings with the respective forms upon each sick person; but let him say once in the plural number all the prayers which follow the anointings. Cf. Rit. Rom. Tit. V, c. 1, n. 22.

112. (Pag. 808.) Moreover, the oil itself can be kept either by itself alone or in cotton or a similar thing; but for avoiding the danger of spilling, it is much more conveniently carried to the sick in cotton. Cf. Rit. Rom. Tit. V, c. 1, n. 5.

113. (Pag. 123.) Sacred Congregation de Propaganda Fide. - Most Reverend Lord. - I am endeavoring to respond to your letters given on the day 12 of the current month of March, by which you propose some doubts concerning the privileges or faculties granted to Priests enrolled in the Pious Missionary Union of the Clergy.

The first doubt is proposed thus: "Whether an enrolled Priest, even outside the place in which he is approved for hearing sacramental confessions, can use a faculty for the use of which jurisdiction is prerequired?"

Resp. No jurisdiction is prerequired; only for "blessings" is it required that the Priest be approved for hearing sacramental confessions; or that he be a confessor. But since no distinction is made concerning the diverse places in which a Priest member of the Pious Union can be present, this circumstance of diversity of places is not to be attended to. It suffices to observe the limitation which is explicitly enunciated: "outside the City."

Through this response it seems provision has also been made for the fourth doubt concerning the interpretation of the word "place," which word is never materially found in the description of the faculties concerning which above.

The second doubt and the third doubt are proposed thus:

"2. Whether an enrolled priest, even in a place where there is a residence of religious of Orders to whom respectively the blessing and imposition of scapulars, concerning which in the faculty, are reserved, can bless and impose the same?

"3. Whether an enrolled priest, even in a place where there is a residence of Religious of the Friars Minor, can use the faculty of blessing with one sign of the Cross crucifixes with application of the indulgences of the pious exercise called the Way of the Cross?"

Resp. The limitation relative to religious who pertain to Orders whose own scapulars they are, or who are enrolled in the Order of Minors, is not enunciated in the text; and therefore it is not to be attended to.

Perhaps the doubt is founded on this, namely on the privilege proper to the Friars Minor concerning the erection of the Way of the Cross; but it must be noted that, in the case, there is not therefore question of the erection of the Way of the Cross, but only of attaching the Indulgences of the Way of the Cross to images of the Crucified.

These things had to be signified to you for my office; while I pray God O. M. that He may preserve you very long and keep you unharmed.

Your Reverence's most devoted servant. - Rome, 28 March 1927.

G. M. Card. Van Rossum, Prefect. Franciscus Marchetti-Selvaggiani, Archbishop of Seleucia, Secretary. Cf. *Il Monitore Ecclesiastico*, v. 39, p. 195.

114. Pontifical Commission for the Authentic Interpretation of the Code of Canon Law. - Responses to Proposed Doubts. III. On the profession of faith.

(Pag. 158.) D. Whether Superiors in clerical Societies without vows, concerning which canons 673-681 treat, are bound to emit the profession of faith according to the norm of canon 1406, § 1, n. 9?

R. Affirmatively.

V. On those impeding ecclesiastical jurisdiction.

(Pag. 1028.) D. Whether, for incurring the excommunication concerning which in can. 2334 n. 2, recourse to the lay power for the cause of impeding the exercise of ecclesiastical jurisdiction suffices, or whether it is required besides that the recourse obtain its effect.

R. Negatively to the first part, affirmatively to the second, with the prescription of canon 2235 nevertheless remaining firm.

Rome, the day 25 July 1926. A. A. S., v. xviii, p. 394.

115. (Pag. 162.) Although by positive law it is not prohibited to listen to heretical sermons transmitted by Radio, nevertheless by natural law it is prohibited to listen when the hearing constitutes an occasion of sinning or cooperation in evil. And therefore it is illicit to listen with the intention of adhering to perverse doctrine; or from an inclination toward it; or with such frequency that from it there arises danger for the faith, or scandal of others is had, who think the one listening himself to be wavering in faith, or think it lawful for themselves to hear habitually, and thus little by little the faith is endangered, which can easily happen if parents leave to their sons and younger members of the family the free use of the machine when these sermons are transmitted; in general it is illicit when the honor of God or of neighbor and one's own security require that someone not listen.

116. Maximilian Crespo, Archbishop of Popayan, reverently requested from the Sacred Congregation of Rites the solution of the following doubts; namely:

I. The Supreme Pontiff Pius X, of holy memory, on the day 18 May 1907, granted indulgences to the Christian faithful who devoutly look upon the sacred Host when it is elevated in the Sacrifice of the Mass, with the words added in that elevation of the eyes, "My Lord and my God!" Hence it is asked:

(Pag. 243.) 1. Whether the faithful assisting at Mass, at the elevation of the sacred Host, can pronounce with clear and raised voice the words "My Lord and my God!"? Whether also at the elevation of the Chalice?

(Pag. 670.) 2. Whether the celebrant himself can do the same, but in a subdued voice?

But the Sacred Congregation of Rites, after hearing the vote of a special Commission, with the proposed questions accurately weighed, judged that it should be responded thus:

To I. With regard to the first part, negatively in all things, according to the mind of the Ceremonial of Bishops, lib. II, cap. VII, n. 70, and of the general Decree n. 3827, ad III, of the day 22 May 1894.

With regard to the second part, negatively, according to canon 818 of the Code of Canon Law and the Rubrics of the Roman Missal. - The day 6 Nov., 1925. - A. A. S., v. xviii, p. 21.

117. (Pag. 334.) Supreme Sacred Congregation of the Holy Office - Instruction - To the Archbishops, Bishops, and other Ordinaries of Places: On the Sensual and Sensual-Mystical Genre of Literature.

Among the most deadly evils of this age, which utterly subvert Christian doctrine concerning morals and greatly harm souls, redeemed by the precious Blood of Jesus Christ, those genres of literature must especially be numbered which indulge sensuality and lust, or even a certain lascivious mysticism. Of this kind are chiefly novels, fictitious little narratives, dramas, comedies, of which writings indeed these times are incredibly fruitful, and everywhere a greater abundance is daily diffused.

But now it is not permitted to grieve sufficiently, as has been said, that from this abundance of books, in which, with a great fascination of frivolity, there is present an equal turpitude, the gravest loss of souls comes to exist. For very many writers of this kind depict immodest deeds with the most brilliant images; they narrate all the most obscene things, now covertly, now openly and impudently, with every law of chastity neglected; by a certain subtle analysis they describe carnal vices or the worst things, and adorn them with all the lights and enticements of speech, so that now nothing in morals is left inviolate. How pernicious all this is, especially to adolescents, for whom the fervor of age makes continence more difficult, there is no one who does not see. But those volumes, often thin, are displayed for sale at a small price at booksellers, through the streets and squares of cities, in the stations, as they are called, of the railway, and they come into the hands of all with marvelous rapidity, and frequently bring Christian families into great and mournful dangers. For who does not know that by literature of this kind the imagination is strongly excited, unbridled lust is vehemently enkindled, and the heart is drawn into the mud of turpitudes?

But far worse than other love stories are those usually put forth by those who, horrible to say, do not fear to give an honorable appearance to the food of diseased sensuality by means of sacred things, weaving into immodest loves a certain piety toward God and a religious mysticism, falsely indeed: as if Faith could be combined with neglect of the norm of living rightly, indeed with most shameless denial of it, and the virtue of religion could be joined with depravity of morals. On the contrary, it is certain that no one can obtain eternal life who, although he believes most firmly the truths divinely revealed, nevertheless does not keep the precepts given by God; since anyone who has professed the faith of Christ but does not walk in the footsteps of Christ does not even deserve the name of a Christian man: "Faith without works is dead" (Jas., 2, 26), and our Savior warned: "Not everyone who says to me, Lord, Lord, shall enter into the kingdom of heaven, but he who does the will of my Father, who is in heaven, he shall enter into the kingdom of heaven" (Matt., 7, 21).

Accordingly, having perceived the flood of lascivious literature, which year by year more widely inundates almost all nations, this Sacred Supreme Congregation of the Holy Office, placed over the protection of faith and morals, by apostolic authority and in the name of Our Most Holy Lord Pius, by Divine Providence Pope XI, commands all Ordinaries of places that by every help by which they can they strive to remedy so great and so present an evil.

From the buildings of the Holy Office, the day 3 May 1927. R. Card. Merry Del Val, Secretary. Cf. A. A. S., v. xix, p. 186.

117 bis. (Pag. 339.) Sacred Congregation for the Oriental Church. Declaration - Since it had been asked by some whether Orientals are bound, like others, by decrees of condemnation of books and newspapers issued by the Supreme Sacred Congregation of the Holy Office, and special mention was made of the prohibition and penalties inflicted against that which they call "Action Française," the Sacred Congregation for the Oriental Church declares that the aforesaid decrees touch, or oblige in the same way, all the faithful of whatever rite, since they directly regard the doctrine of the Church rather than discipline. For Holy Mother Church wishes by decrees of this kind to preserve and protect faith and morals, and for this purpose the Code of Law, in canon 1396, openly establishes and sanctions that books condemned by the Apostolic See are to be considered prohibited everywhere and into whatever language they may be translated.

Rome, from the Buildings of the Sacred Congregation for the Oriental Church, on the day 26 May 1928. Aloisius Card. Sincero, Secretary. H. I. Cicognani, ad interim Assessor. - A. A. S., v. xx, p. 195.

118. (Pag. 340.) Doubt Concerning the Representation of the Holy Spirit Under Human Form - When a doubt had been proposed to this Supreme Sacred Congregation of the Holy Office: "Whether the Holy Spirit can be represented under human form, either with the Father and the Son or separately."

Feria IV, the day 14 March 1928.

The Eminent and Reverend Lord Cardinals placed over the protection of faith and morals, after the vote of the Reverend Lord Consultors had been previously had, decreed that it should be responded: Negatively.

And on the following Feria V, the day 15 of the same month and year, Our Most Holy Lord, Our Lord Pius, by Divine Providence Pope XI, in the customary audience granted to the Reverend Father Lord Assessor of the Holy Office, approved and confirmed the response of the Eminent Fathers reported to Him, and ordered it to be published.

Given at Rome, from the buildings of the Holy Office, the day 16 March 1928.

A. Castellano, Notary of the Supreme S. C. of the Holy Office. - A. A. S., v. xx, p. 103.

119. Supreme Sacred Congregation of the Holy Office - On Competence in Matrimonial Causes - Doubts - When the following doubts had been proposed to this Supreme Sacred Congregation of the Holy Office:

(Pag. 571.) I. Whether in matrimonial causes a non-Catholic, whether baptized or non-baptized, can act the part of plaintiff.

II. Whether in any matrimonial causes between a Catholic party and a non-Catholic party, whether baptized or non-baptized, brought before the Holy See in whatever manner, the Supreme Sacred Congregation of the Holy Office has exclusive competence.

Feria IV, the day 18 January 1928.

The Eminent and Most Reverend Lord Cardinals placed over the protection of matters of faith and morals, after the vote of the Reverend Lord Consultors had been previously had, decreed that it should be responded:

To I: Negatively, or one must stand by the Code of Canon Law, especially can. 87. But if special reasons occur for admitting non-Catholics as plaintiffs in causes of this kind, recourse must be had to the Supreme Sacred Congregation of the Holy Office in the individual cases.

(Pag. 109.) To II: Affirmatively, with regard had especially to can. 247 § 3, and with the prescription of can. 1557 § 1, 1° being saved.

And on Feria V, the day 26 of the same month and year, Our Most Holy Lord, Our Lord Pius, by Divine Providence Pope XI, in the audience granted to the Reverend Father Lord Assessor of the Holy Office, approved and confirmed the resolution of the Eminent Fathers reported to Him, and ordered it to be published.

Given at Rome, from the buildings of the Holy Office, the day 27 January 1928.

Aloisius Castellano, Notary of the Supreme S. C. of the Holy Office.

Can. 1557, § 1, 1° has itself thus:

§ 1. It is the right of the Roman Pontiff alone to judge:

1°. Those who hold the supreme principate of peoples, and their sons and daughters, or those to whom there is the right of next succeeding into the principate.

Cf. A. A. S., v. xx, p. 75.

120. (Pag. 588.) "Most Blessed Father, the Archbishop of Utrecht, prostrate at the feet of Your Holiness, humbly asks the solution of the doubts which are set forth herein: From can. 765, 5° C.J.C., in order that someone be the sponsor of baptism, it is necessary that in the act of baptism he physically hold or touch the one to be baptized through himself or through a proxy, or immediately lift, or receive, him from the sacred font or from the hands of the one baptizing; and from can. 768 the sponsor contracts spiritual cognation with the baptized, which indeed from can. 1079 invalidates marriage. But now, as is customary among us, he who wishes to act as sponsor gives an express mandate to no one, but, unless the sponsor discharges that office through himself, the one baptizing or the parents of the one to be baptized invite another person to act for the absent sponsor.

"Hence the following doubts are proposed to be solved:

"I. whether from such a manner of acting the absent sponsor contracts spiritual cognation, and thence the impediment of can. 1079 arises; and if negatively:

"II. what must be done by the sponsor so that he may be able to act through a proxy; namely:

"a) whether he must confer a special mandate on a determined person;

"b) or whether it suffices that he give, either in writing or by voice, a general mandate for the person to be determined by the parents or by the one baptizing; indeed,

"c) whether a presumed general mandate for any person whatsoever suffices."

To I. If the sponsor, recognizing a custom of this kind, intends to conform himself to the same, and otherwise the sponsor himself can be sponsor according to the norm of can. 765, Affirmatively.

To II. Provision has been made in I. Nevertheless the aforesaid custom must be reprobated: 1° because it must indubitably be established that the sponsor has taken up his proper office in the face of the church, which by the said custom remains uncertain and equivocal; 2° because the sponsor must take up his office with full knowledge and consciousness of the obligation arising thence according to the mind of can. 769, which the aforesaid custom seems to exclude, since it reduces the office of sponsor to a certain empty rite; 3° because from such a received custom the faculty is almost taken away from the parish priest of examining the conditions which are required by can. 765 and 766, so that someone may validly and licitly take up the office of sponsor." S. C. on the Discipline of the Sacraments, 24 July 1925 - A. A. S. v. xviii p. 43 and following, where the Instruction will be read, from which the following things are taken.

For just as no one is to be admitted by the proper parish priest to the office of sponsor who does not furnish the conditions required for the valid or licit undertaking of this office, so whenever in the conferral of the sacrament someone fulfills the parts of sponsor not in his own name, but in the name and by the mandate of another certain and determined person, it is necessary that a mandate of this kind, or the will of the one mandating, be legitimately proved, namely by suitable witnesses or by a written and legitimate document, unless from elsewhere the intention of the one mandating has been certainly and indubitably investigated by the proper parish priest of the one to be baptized or confirmed, so that the parish priest can investigate whether the designated sponsor is endowed with the qualities required by law, and so that in the books, where according to the course of the sacred canons the conferral of the sacrament is to be noted, there may be inscribed the name both of the proxy and of the one mandating, who indeed ought to know that he has taken up the office of sponsor with its legal effects.

121. (Pag. 613.) Roman and Others - Communion of the Sick -

In the plenary Meetings of the Sacred Congregation on the Discipline of the Sacraments held on the day 16 December 1927 in the Vatican Apostolic Palace, when the doubt had been proposed: "Whether the judge of the just and reasonable cause, as is required from canon 847 of the Code of Canon Law in order that Sacred Communion be carried privately to the sick, is any priest ministering, or only the Ordinary of the place," the Eminent and Most Reverend Fathers, the matter having been maturely weighed, judged that it should be responded:

"Negatively to the first part; Affirmatively to the second," with the following mind nevertheless added: "If from common experience and opinion there is present no inconvenience in the diocese or in some particular place for the private carrying of Sacred Communion to the sick, care must be taken by Ordinaries lest, through rules too predefined or general rules prescribing public carrying, or through a reservation made to themselves of giving permission in individual cases for carrying

privately the Sacrament of the Eucharist, the consolation of Communion, even daily Communion, be impeded for the sick."

Which response Our Most Holy Lord Pius PP. XI, in the audience of the day 19 December 1927, after hearing the report made by the undersigned Secretary of the same Sacred Congregation, deigned to hold ratified and to approve.

Given at Rome, from the Secretariate of the Sacred Congregation on the Discipline of the Sacraments, on the day 5 January 1928. M. Card. Lega, Bishop of Tusculum, Prefect. D. Jorio, Secretary. A. A. S., v. 20, p. 81. Cf. Annotations, ibid. p. 82.

122. (Pag. 620.) Sacred Congregation - On the Discipline of the Sacraments.

I - Montis Regalis in Piedmont - Whether sacramental confession can be performed and Holy Communion received by the faithful whenever the Eucharist is administered to the sick.

By the Bishop of Montis Regalis in Piedmont, the following doubts were proposed to this Sacred Congregation for their solution:

I. Whether the faithful dwelling in mountain villages, whenever the Sacred Eucharist is carried to the sick, can be refreshed by the Sacred Synaxis in a sacred place, or even, since there is question of so sacred a matter, in a decent and honorable place which exists on the route, since they are unable to seek the church on that day?

II. Whether Holy Communion and the Sacrament of Confession can be administered to those who are staying in the house of the sick person?

III. Whether they must be administered in the stated circumstances to those who are advanced in age or labor under disease?

The Eminent and Most Reverend Fathers of the Sacred Congregation on the Discipline of the Sacraments, after the vote of two Consultors had been sought, in the plenary meetings of the day 22 July 1927, the matter having been maturely weighed, judged that it should be responded:

To I: "Affirmatively, according to the norm of can. 869, joined with canon 822, § 4, or provided that the Ordinary of the place grants it according to the norm of the cited prescription, namely for individual cases and by way of act."

To II and III: "With regard to Communion, provision has been made in the first; with regard to Confession, Affirmatively, the things to be observed being observed according to the norm of cann. 910, §§ 1, 2, and 909, §§ 1, 2."

But when, on the following day 29 July, a report had been made concerning all these things to Our Most Holy Lord Pius Pope XI, His Holiness deigned to approve the resolution of the Eminent Fathers.

Given at Rome, from the Secretariate of the Sacred Congregation on the Discipline of the Sacraments, on the day 5 January 1928. - M. Card. Lega, Bishop of Tusculum, Prefect. D. Jorio, Secretary. A. A. S., v. 20, p. 79. Cf. Annotations, ibid., p. 80.

123. (Pag. 636.) Our Most Holy Lord Pius Pope XI, on the day 29 March 1926, deigned to accede to the prayers for the things asked for seven years, namely that priest members of the Association of Priest Adorers, sick and unable from the attestation of a physician to observe the natural fast prescribed before sacred Communion during the illness, may be able to approach sacred communion to be received in the manner of laypersons even daily, by the counsel of the confessor, after they have taken some medicine or something by way of drink, the Ordinary of the place having been forewarned and his permission having been obtained, the wonder of the faithful being removed, and other things to be observed by law being observed.

Cf. rescript of the S. Cong. of Sacraments in the periodical *Il Monitore Ecclesiastico*, vol. 39, p. 45.

(Pag. 636, 10º.) Most Blessed Father. - The procurator general of the Congregation of Priests of the Most Holy Sacrament, prostrate at the feet of Your Holiness, most humbly sets forth that some doubts have arisen concerning the interpretation of the Rescript of the day 29 March 1926, by which the faculty is granted to Priest Adorers, during the time of illness, of approaching Holy Communion in the manner of laypersons after they have taken some medicine or something by way of drink.

Namely, there is question concerning the clause: "the Ordinary of the place having been forewarned and his permission having been obtained."

I. Whether this can be understood thus, that the Ordinary is able once for all and in a general way, by an act published in the official Commentary of the Diocese, to grant this permission to members who will be found in the required conditions?

II. Whether the Ordinary can subdelegate, e.g., vicars forane, or superiors of clerical religious houses for their subjects legitimately enrolled in the Association, to grant permission in individual cases.

III. In what way provision can be made so that Priest Adorers are not deprived of Holy Communion through the several days which are necessary for recourse to the Ordinary of the place and for receiving his response?

Rescript - The Sacred Congregation of Sacraments responded to the proposed doubts:

To the first. Negatively.

To the second. Affirmatively, but it is expedient that the Ordinary not grant this subdelegation beyond a year.

To the third. Provision has been made in II.

Given at Rome from the Buildings of the Sacred Congregation on the Discipline of the Sacraments, on the day 4 February 1927. M. Card. Lega, Bishop of Tusculum, Prefect. D. Jorio, Secretary. Cf. *Il Mon. Ecclesiastico*, v. 39, p. 97.

124. (Pag. 654.) Sacred Congregation of the Council. - Masses for the People. - Question. - Whether a Parish Priest who, besides his own parish, has another or several others in administration, is bound to apply Mass for the people only on the feast day of his own parish, or also on the feasts of the patrons of the other or of the others?

Resolution. In the plenary meetings of the Sacred Congregation of the Council held on 12 November 1927 in the Vatican Apostolic Palace, the Eminent Fathers, when the above-written doubt had been proposed, ordered the response to be made:

"Negatively to the first part; Affirmatively to the other."

But when a report concerning the premises had been made to Our Most Holy Lord Pius, by divine Providence Pope XI, by the undersigned Secretary of the Sacred Congregation, His Holiness, in the audience of the day 20 of the same month and year, approved and confirmed the given resolution. Julius, Bishop of Lampsacus, Secretary.

A. A. S., v. 20, p. 84 and following.

125. Pontifical Commission for the Authentic Interpretation of the Canons of the Code. - Responses to Proposed Doubts. - The Eminent Fathers of the Pontifical Commission for authentically interpreting the canons of the Code, when the following doubts had been proposed in the plenary meeting, ordered that response be made as below to each:

I - On the Confession of Religious Women

(Pag. 747.) D. I. Whether the confession of religious women performed outside the places concerning which in canon 522 and in the response of the day 4 November 1920 is only illicit, or also invalid.

II. Whether the word "approaches" of canon 522 is to be understood thus, that a confessor cannot be called by the religious woman herself to the places legitimately destined for confessions of women or religious women.

R. To I. Negatively to the first part, Affirmatively to the second.

To II. Negatively.

II. - On Absolution in danger of death.

(Pag. 738.) D. Whether absolution in danger of death according to canon 882 is limited to the internal forum, or extends also to the external forum.

R. Affirmatively to the first part, Negatively to the second.

III - On matrimonial dispensations.

(Pag. 955.) D. Whether the words "for occult cases" of canon 1045, § 3 are to be understood only of matrimonial impediments occult by their nature and by fact, or also of those public by their nature and occult by fact.

R. Negatively to the first part, Affirmatively to the second.

IV. - On the subdelegation of assisting at marriages.

(Pag. 922.) D. I. Whether an assistant vicar who, according to the norm of canon 1096, § 1, has obtained from the parish priest or the Ordinary of the place a general delegation of assisting at marriages, can subdelegate another determined priest for assisting at a determined marriage.

II. Whether a parish priest or Ordinary of the place, who according to the norm of canon 1096, § 1, has delegated a determined priest for assisting at a determined marriage, can also give him license of

subdelegating another determined priest for assisting at the same marriage.

R. Affirmatively to both. - Rome, the day 28 of the month of December, 1927. - P. Card. Gasparri, President. Joseph Bruno, Secretary. A. A. S., v. xx, p. 61.

Sacred Congregation of the Council

Prot. no. 2529/25. Rome, the day 3 February, 1926.

126. (Pag. 915.) In the plenary Meetings held in the Vatican Apostolic Palace on the day 9 of the month of January recently elapsed, the question concerning the power of assisting at marriages to be bestowed on priests who exercise care of souls over those who are enclosed in prisons was proposed under the following doubt:

"Whether it is certainly established that prison Chaplains have been constituted as true parish priests, or at least as assistant vicars for the effect of validly assisting at marriages of prisoners in the case."

The Most Eminent Fathers judged that they should respond:

Negatively to both and according to the mind.

The mind is: With regard to the past, supplication is to be made to His Holiness for the grace of sanation in the root *ad cautelam*.

With regard to the future, let Bishops constitute Chaplains who are "hauptamtlich" (by principal office) by a legitimate act as proper parish priests for the effect of validly assisting at marriages of prisoners and officials assigned to the prison; but to chaplains who are "nebenamtlich" (by secondary office) let license be conferred, either by the Ordinary or by the parish priest of the place, of assisting for a determined marriage.

Which resolution Our Most Holy Lord Pius, by Divine Providence PP. XI, in the Audience of the following day 14, deigned to approve and confirm, granting the grace of sanation in the root *ad cautelam*.

127. (Pag. 941.) A Priest called to Titius, a Catholic joined in an invalidly entered mixed marriage and situated at the extremes, must first induce the parties to contract duly in Catholic form. A twofold case is supposed: they entered before a heretical minister, or before a civil magistrate.

In the first case, if they are prepared to enter in Catholic form, first the Catholic party must repent of the sacrilegiously and invalidly entered marriage before the little minister; let the cautions be drawn up in writing, but if this cannot be done in writing, let an oral promise be received before witnesses when they can be present; finally, let the priest absolve from excommunication; to these let sacramental absolution succeed. Furthermore, since the priest himself, by force of canon 1044, enjoys the amplest faculty, after absolution has been given in confession, let him dispense from banns, from mixed religion, and from other impediments perhaps occurring. With permission for acting had and an oath concerning free state obtained, let him receive the renewal of consent before himself and witnesses; nor must it be given to oblivion that he can simply dispense from form.

In the same first case, but when the heretical party legitimately refuses to renew consent, let the priest see whether it should be advised to the Catholic party to leave the heretic when convalescence has set in. If such counsel seems altogether to be given, and the Catholic party agrees, let him be reconciled with the Church and admitted to the sacraments.

If the Catholic party does not agree, or if that counsel does not seem to be given, this party must promise to do what the Church requires; once this promise has been had, let him be reconciled and admitted to the sacraments; then let the priest have recourse to the Ordinary so that he may obtain sanation in the root, and indeed with the true names given, since there is question of a cause of the external forum.

In the second case, the same method must be followed, except that reconciliation is not to be required.

128. Pontifical Commission for the Authentic Interpretation of the Canons of the Code. - Responses to Proposed Doubts. The Eminent Fathers of the Pontifical Commission for authentically interpreting the canons of the Code, when the following doubts had been proposed in the plenary meeting, ordered response to be made as below to each:

(Pag. 930, 934.) I. - On the Form of Celebration of Marriage.

D. Whether canon 1098 is to be understood thus, that it refers only to the physical absence of the parish priest or Ordinary of the place.

R. Affirmatively.

(Pag. 863.) II. - On Illicit Mixed Marriages.

D. Whether by canon 1102, § 1 the faculty, granted by the Holy See somewhere, of passively assisting at illicit mixed marriages has been revoked.

R. Affirmatively. - Given at Rome, on the day 10 of the month of March in the year 1928. P. Card. Gasparri, President. Joseph Bruno, Secretary. A. A. S., v. xx, p. 120.

This very grave response given to the first doubt decides in the stricter sense the question disputed among authors, affirming that in the canon there is question only of the physical absence of an authorizable witness and not of moral absence. Accordingly the canon cannot be applied to the case in which the parish priest is physically present in the parish, although on account of civil law he does not dare to assist. Such difficulty introduces the moral impossibility of assisting at nuptials, but the priest is not physically absent. Therefore, when the authorizable witness is physically absent and cannot be had or approached without grave inconvenience, then only is the case of this canon 1098 verified.

Wherefore, in danger of death, when the parish priest is physically absent and cannot be approached or had without grave inconvenience, it is lawful immediately to proceed to contracting before common witnesses; outside danger of death the same is lawful, provided that it is foreseen that this condition of things will last for a month.

But when the parish priest is physically present but, prohibited by civil law, does not dare to assist: in danger of death it will almost always be possible, by force of can. 1043, 1044, to dispense even over

the form itself of celebration; outside danger of death recourse must be had to the Sacred See.

It must be noted: that it does not stand in the way of the value of the marriage if someone, in fraud of the law, has gone to a place in which an authorizable witness cannot be had. Cf. S. C. de Sacr., 13 March 1910, ad III.

The following case was proposed by the Bishop of Linz to the Holy Office on 8 August 1925.

129. (Pag. 1020.) "Most Blessed Father! Since from the prescription of Can. 1240, 1, 5 those who have ordered their body to be handed over to cremation are deprived of ecclesiastical burial, it rather often happens that their surviving Catholic parents or relatives call upon a non-Catholic minister, so that he may apply the rite of a heretical funeral to their bodies before cremation.

"This manner of acting seems to contain not only active communication in divine things with heretics, gravely illicit, but also to be punished by Can. 2316, since especially in Catholic regions it must be said to aid in some way the propagation of heresy.

"Therefore it is asked:

"1. Whether such Catholics are to be said to be suspected of heresy from Can. 2316?

"2. Whether from Canon 2315 they are prohibited from legitimate acts or even are to be held as heretics, liable to the penalties of heretics?

"3. Whether they incur some other ecclesiastical penalty, or whether it is advisable that the penalty of excommunication from Canon 2314 be threatened or inflicted on them?"

On the day 23 February 1926 the response was made, as follows:

"The Sacred Congregation, while it earnestly exhorts you that with vigilant care you not cease to labor not only against the forbidden practice of cremation, but also against the aforesaid abuse of heretical obsequies, at the same time commands you that you endeavor to instruct the faithful accurately, that those who seek funerals of heretics for their own are to be held as suspected of heresy, and consequently are liable to the penalties *ferendae sententiae* threatened through Canon 2315, in the terms established beforehand by the same; and if, having been warned, they do not come to their senses, they can be punished with the censure of excommunication; nor are they to be admitted to the Sacraments unless beforehand, in whatever better way it could be done according to the judgment of Your Amplitude, they have repaired the scandal."

130. (Pag. 1078.) To the question: "Whether the bands of the Holy Scapular by which the two parts of the little habit are usually joined can validly and licitly be made from any decent material, provided the parts of the Scapular are so disposed that one part hangs from the shoulders, the other from the breast." The Sacred Congregation of Rites, on 8 May 1925, when the doubt had been proposed, judged that it should be responded affirmatively.

(*Anal. Ord. Carmel.*, 1. p. 43. *Il Mon. Eccl.*, v. 39, p. 196.

Index of Quinquennial Faculties

Sacred Consistorial Congregation — Index of Quinquennium Faculties — Formula IV

To the Most Reverend Ordinary .....

for ..... five years.

According to the norm handed down in Can. 340 of the Code of Canon Law, the quinquennia are to be computed from the year 1911.

Our Most Holy Lord Pius PP. XI, by these letters of the S. Consistorial Congregation, benignly grants, and

the Most Reverend .....

Ordinary of the diocese .....

from the undersigned day unto an entire year .....

in which by law the diocesan report must be exhibited by the Ordinaries of that region, may use the faculties which are contained in this index.

Given at Rome, from the buildings of the S. Consistorial Congregation, on the day .....

Five-Year Faculties

From the S. Congregation of the Holy Office:

1º. Of granting, not beyond a three-year period, license of reading and retaining, under custody however lest they come into the hands of others, any prohibited books and periodicals whatsoever, not excepting works which professedly defend heresy or schism, or even strive to overthrow the foundations themselves of religion, to those Christian faithful subject to him who truly need the reading of them, whether for the effect of attacking them, or as an aid of the sacred ministry or of one's own office and honorable studies; excepting works treating professedly of obscene matters.

2º. Likewise of granting under the same duration of time to adolescents of either sex, who must be occupied in public schools for the sake of studies, license of reading and retaining, under custody, as above, lest they come into the hands of others, prohibited books which by command of the lay power, or from necessity of studies, they are compelled to have before their hands, as long as they are in that necessity; excepting nevertheless works treating professedly of obscene matters.

It must be noted. Each listed faculty is granted to Ordinaries to be exercised by themselves, or to be delegated to no one; and with their conscience gravely burdened concerning the real concurrence of all the conditions mentioned.

3º. Of dispensing, when just and grave causes accede, with subjects even outside the territory or non-subjects within the limits of one's own territory, over the impediment of mixed religion, and also over disparity of cult, *ad cautelam*, whenever a prudent doubt arises concerning the conferral of baptism of the non-Catholic party, insofar as before the nuptials the non-Catholic party could not be brought to the true religion or the Catholic party could not be deterred from the nuptials themselves, provided that first, regularly according to the prescription of Cod. I. C. Can. 1061, § 2, provision has been made altogether for the conditions required by the Church, and the Ordinary himself is morally certain that the same are going to be fulfilled, namely: on the part of the non-Catholic one about to marry, concerning removing from the Catholic party the danger of perversion, and by each contracting party concerning all offspring of each sex entirely to be baptized and educated in the holiness of the Catholic religion; with the obligation besides declared to the Catholic party by which he or she is held prudently to care for the conversion of the spouse to the Catholic faith.

But those about to marry are to be warned that, before or after marriage entered before the Church, they cannot also approach a non-Catholic minister for furnishing or renewing matrimonial consent, according to the mind of Cod. I. C. Can. 1063, § 1, under penalty of excommunication *latae sententiae* reserved to the Ordinary, to be incurred by the Catholic party according to Can. 2319, § 1, n. 1º; otherwise those things which have been established in Can. 1063, § 2 concerning the manner of acting of the parish priest in the case being strictly observed.

But if the parties are actually living in concubinage, let provision be made in opportune ways that scandal, if it is present, be removed, and that the Catholic party be duly disposed for receiving the grace of God, with absolution of the same from the contracted excommunication first given, if perhaps the marriage was attempted before a non-Catholic minister, and congruous salutary penances imposed on him or her.

4º. Of dispensing, when just and grave causes accede, with subjects even outside the territory, or non-subjects within the limits of one's own territory, over the impediment of disparity of cult (except however the case of marriage with a Jewish or Mohammedan party); insofar as it can be done without insult to the Creator, and before the nuptials the non-baptized party could not be brought to the true religion or the Catholic party could not be deterred from the nuptials themselves, provided that first, regularly according to the prescription of Cod. I. C. Can. 1061, § 2, provision has been made altogether for the conditions required by the Church, and the Ordinary himself is morally certain that the same are going to be fulfilled, namely: on the part of the non-baptized one about to marry, concerning removing from the Catholic party the danger of perversion, and by each contracting party concerning all offspring of each sex entirely to be baptized and educated in the holiness of the Catholic religion; with the obligation besides declared to the Catholic party by which he or she is held prudently to care for the conversion of the spouse to the Catholic faith.

But those about to marry are to be warned that, before or after marriage entered before the Church, they cannot also approach a minister of false worship for furnishing or renewing matrimonial consent, according to the mind of Cod. I. C. Can. 1063, § 1; otherwise those things established in Can. 1063, § 2 concerning the manner of acting of the parish priest in the case being observed. But as to what concerns the legitimation of offspring, Can. 1051 is to be kept before the eyes.

But if the parties are actually living in concubinage, let provision be made in opportune ways that scandal, if it is present, be removed, and that the Catholic party be duly disposed for receiving the

grace of God.

In the remaining things, as regards publications, interrogations concerning consent, and the sacred rites, whether there is question of the impediment of mixed religion or of disparity of cult, let the prescriptions of Cod. I. C. Cann. 1026, 1102, 1109 be observed; and when nuptials of this kind have been celebrated, whether in one's own or in another's territory, let the Ordinary watch over them so that the spouses faithfully fulfill the promises made.

5°. Of sanating in the root marriages attempted before a civil official or non-Catholic minister by his subjects even outside the territory, or by non-subjects within the limits of his own territory, with the impediment of mixed religion or disparity of cult, provided that consent perseveres in each spouse and cannot be renewed legitimately, either because the non-Catholic party cannot be warned concerning the invalidity of the marriage without danger of grave harm or inconvenience to be undergone by the Catholic spouse; or because the non-Catholic party cannot in any way be induced to renew matrimonial consent before the Church, or to furnish cautions, according to the prescription of Cod. I. C. Can. 1061, § 2; provided that no other canonical diriment impediment stands in the way, over which the Ordinary himself does not possess the faculty of dispensing or sanating.

But let the Ordinary himself seriously warn the Catholic party concerning the very grave crime committed, impose salutary penances on him or her, and, if the case bears it, absolve him or her from excommunication according to Cod. I. C. Can. 2319, § 1, n. 1°; and at the same time let him declare that by reason of the grace of sanation accepted by him, the marriage has become valid, legitimate, and indissoluble by divine law, and that offspring perhaps received or to be received is legitimate; and besides, with grave words, let him recall to the mind of the same the obligation by which he or she is always held, according to his or her powers, of protecting the baptism and education of all offspring of each sex, both perhaps already born and perhaps to be born, in the holiness of the Catholic religion, and prudently caring for the conversion of the spouse to the Catholic faith.

Since, however, concerning the validity of the marriage and the legitimation of offspring there must be proof in the external forum, let the Ordinary command that, on individual occasions, the document of sanation, with the attestation of the execution having been carried out, be diligently kept in the local Curia; and also let him take care, unless according to his prudence he has judged otherwise, that in the book of the baptized of the parish where the Catholic party received baptism there be transcribed the notice of the sanation of the marriage of which there has been question, with notation of the day and year.

It must be noted. - 1°. In granting each of the aforesaid, whether dispensations or sanations, let the Ordinary make express mention of the Apostolic Delegation (Cod. I. C., Can. 1057); and as regards the faculty of sanating in the root, the mind of the S. Congregation of the Holy Office is that the Ordinary can subdelegate only parish priests, on individual occasions.

2°. Let the same Ordinary at the end of each year report to the S. Congregation of the Holy Office, through the channel of the S. Consistorial Congregation, concerning the number and species of dispensations which by force of the present Indult he himself shall have bestowed.

From the S. Congregation on the Discipline of the Sacraments:

1. Of dispensing, from a just and reasonable cause, over matrimonial impediments of lesser grade which are listed in Can. 1042, and also over impedient impediments of which in Can. 1058, to the effect only of contracting marriage.

2. Of dispensing from a grave and urgent cause, whenever there is danger in delay and the marriage cannot be deferred until a dispensation is obtained from the Holy See, over the impediments of greater grade listed below:

(a) of consanguinity in the second, or in the third mixed with the first, provided that no scandal or wonder arises from it;

(b) of consanguinity in the second degree of the collateral line;

(c) of affinity in the first degree of the collateral line, equal or mixed with the second;

(d) of public honesty in the first degree, provided that there is no doubt underneath that the spouse could be offspring begotten by the other of the contracting parties.

3. Of dispensing at the time and in the act of Sacred Pastoral Visitation or of Sacred Missions, and not beyond, over all the matrimonial impediments mentioned above with those who are found to live in concubinage.

4. Of sanating in the root marriages nullly contracted because of some one of the impediments of lesser grade, if there is present a great inconvenience of requiring from the party ignorant of the impediment a renewal of consent, provided nevertheless that the prior consent perseveres and the danger of divorce is absent; the party conscious of the impediment having nevertheless been warned concerning the effect of this sanation, and due notation having been made in the book of marriages.

It must be noted. - 1º. The Ordinary will be able to use the listed faculties, whether by himself or through other suitable ecclesiastical persons specially deputed to this, in marriages to be contracted and nullly contracted with his subjects dwelling anywhere and all others actually staying in his own territory, express mention of this Apostolic delegation having been made in each case according to the norm of Canon 1057.

2º. In the use of the same faculties, those things which are found established in Canons 1048 to 1054 are to be kept before the eyes.

3º. Let the Ordinary at the end of each year report to the Sacred Congregation of the Sacraments, through the channel of the S. Consistorial Congregation, concerning the number and species of dispensations which by force of the present Indult he himself shall have bestowed.

From the S. Congregation of the Council:

1. Of reducing for a quinquennium, because of diminution of revenues, perpetual burdens of Masses to the rate of the alms legitimately in force in the diocese, whenever there is no one who is bound by law and can usefully be compelled to the augmentation of the alms, and under the law that the diocesan Curia be legitimately instructed each year by the individual celebrants concerning satisfaction for the Masses thus reduced.

2. Of transferring for a quinquennium, within the boundaries of the diocese, burdens of Masses to days, churches, or altars other than those established by the foundation, provided that true necessity is present and divine worship is not therefore diminished or prejudice inflicted on the convenience of the people; excepting nevertheless legacies which can easily be fulfilled in certain places through augmentation of the alms, and with care taken that the diocesan Curia be legitimately instructed each year by the individual celebrants concerning satisfaction for the transferred Masses.

3. Of transferring for a quinquennium excessive burdens of Masses even outside the diocese, with care taken nevertheless that the greatest possible number of Masses be celebrated within the boundaries of the diocese, and that the prescriptions of the Code of Canon Law concerning the precautions to be employed in committing Masses be observed exactly.

4. Of permitting that the private recitation of Matins with Lauds can be anticipated from the first hour after midday, whenever a reasonable cause is present.

5. Of permitting alienation of ecclesiastical goods up to the capital sum of 10,000 dollars for the Federated States of America and the Canadian dominion; and 15,000 pesos for South America and other regions; but this insofar as necessity is present and time is not available for recurring to the S. See, the same S. See being instructed, immediately after the alienation has been effected, concerning the alienation thus carried out.

From the S. Congregation of Religious:

1. Of dispensing, at the petition of Superiors, over illegitimacy of birth for entering Religion, insofar as it is required by the Constitutions of the Institute, provided that there is not question of offspring born from sacrilegious commerce, and that those dispensed are not elected to greater offices according to the prescription of Can. 504.

2. Of permitting the celebration of three Masses according to the rite on the night of the Nativity of Our Lord Jesus Christ in churches of Religious not comprehended in Can. 821, § 3, with the faculty for those standing by of approaching the S. Synaxis, yet in such a way that the said three Masses are celebrated by one and the same Priest.

3. Of dispensing over excess of age for those to be admitted to the religious habit, insofar as it is required by the Constitutions of the Institute, the Superioress General or Provincial having been heard in individual cases, and with the prior consent of them and of the respective Council, provided that the postulants have not exceeded the age of 40 years and are strong in the other required qualities.

4. Of dispensing over defect of canonical age for the S. Order of the Presbyterate, not beyond sixteen months, even for exempt Religious, provided that from their Superiors they have received dimissorial letters, and insofar as those to be ordained have the other qualities required by the Most Holy Canons and especially have completed the theological curriculum according to the norm of Canon 976, § 2, of the Code of Canon Law.

5. Of dispensing over defect of dowry with Nuns and Sisters, in whole or in part, provided that the economic state of the Institute suffer no detriment, and that the postulants be endowed with such qualities that there is certain hope that they will be of great utility to the Institute.

6. Of confirming the Confessor for a fourth and fifth triennium, provided that the consent of the greater part of the Religious women, summoned also those who in other business do not have the right of casting a vote, to be furnished capitularly and by secret votes, first accedes; provision having been made for those dissenting, if there are any and if they wish.

7. Of permitting the celebration of the Most Holy Sacrifice of the Mass on Thursday in the Supper of the Lord, license having been given to persons habitually dwelling in the Community of refreshing themselves with the S. Synaxis, even for fulfilling the paschal precept.

8. Of permitting Nuns to go down into the Church, that they themselves may be able to clean and decorate it with greater diligence; all outsiders first departing from the Church, not excepting the Confessor himself and those serving the Monastery and dwelling outside the Cloisters; let its doors be closed and the keys handed over to the Superioress; but let the Nuns always be two together, and let the door by which the interior approach to the Church lies open be closed with a double key, of which one is to be kept by the Superioress, the other by a Nun to be deputed by the Ordinary, and let it not be opened except in the cases stated and with the prescribed cautions.

9. Of permitting Nuns egress from the cloisters in an urgent case of a surgical operation to be undergone, although it does not bring with it danger of imminent death or of a most grave evil, for the time strictly necessary, the due cautions having been prescribed.

From the S. Congregation of Rites:

1. Of deputing priests, if it can be done, constituted in some ecclesiastical dignity, for consecrating fixed and portable altars, the rite and form of the Roman Pontifical being observed; and as regards portable altars, even by employing only the shorter ritual formula approved.

2. Of deputing priests, if it can be done, constituted in some ecclesiastical dignity, for consecrating fixed and portable altars which have become execrated, the shorter formula B being employed for the cases of Can. 1200, § 2, Cod. I. C.; while in the case of Can. 1200, § 1, the faculty has already been granted by the canon itself and formula A is to be employed.

3. Of deputing priests, if it can be done, constituted in some ecclesiastical dignity, for consecrating chalices and patens; the rite and form of the Roman Pontifical being observed.

4. When in the Mass of Holy Week the Passion is said, for priests who celebrate two Masses, by a special Apostolic Indult to be obtained, of reading in one Mass only the last part from the Passion (*Altera autem die*, etc.), after these have been premised: *Munda cor meum*, etc. - *Sequentia sancti evangelii secundum* (Matthew).

5. Of blessing nuptials outside Mass, or of reciting the prayers over the spouses, according to the approved formulas, with the power of subdelegating.

6. Of blessing and imposing the five scapulars under one formula, with the power of subdelegating.

7. Of blessing and imposing the five scapulars under one formula without recourse to the Ordinaries or competent religious Congregations, and without the burden of enrollment in cases of great concourse, at the time of spiritual Exercises and Missions, with the power of subdelegating.

8. Of blessing the sacred oils with that number of presbyters and sacred ministers which will be able to be found according to the circumstances of place and things, on Thursday in the Supper of the Lord (for the celebrating Bishop).

9. Of permitting thurification in a sung Mass without sacred ministers, nevertheless on Feasts of the double rite of the first and second class, Sundays, and when Mass is celebrated with chant before the Most Holy Sacrament of the Eucharist solemnly exposed.

10. Of permitting the use of the *Memoriale Rituum* of Benedict PP. XIII in churches or public and semi-public Oratories (not parochial or quasi-parochial) in the functions of the Greater Triduum of the Week and in the Blessing of Ashes, Candles, and Palms; provided nevertheless that it is certainly evident that enough has been provided for the decorum and reverence of the sacred Mysteries.

11. Of blessing objects of piety with the sign of the cross, the rites prescribed by the Church being observed. Nevertheless, on the occasion of pastoral visitation, when many ask and exhibit several and various objects of this kind to be blessed, often even with diverse formulas, in these cases one shorter formula is permitted while the sign of the cross is made over the objects, namely: "May God bless all these things, the Father and the Son and the Holy Spirit. Amen."

12. Of celebrating a read Mass of Requiem once in the Week by the Ordinary in his own Oratory; provided that there does not occur a Feast of double rite, of the first or second class, a Sunday or Feast of precept even suppressed, and also a privileged Octave, a Feria of Lent, of Ember Days, the Monday of Rogations, a Vigil, or a Feria on which the Mass of the Sunday is to be anticipated or first resumed: the Rubrics being observed in other respects.

From the S. Penitentiary:

I. Of absolving any penitents whatsoever (excepting heretics disseminating heresy among the faithful by design) from any censures and ecclesiastical penalties whatsoever incurred because of heresies externalized either with no one hearing or before others; after nevertheless the penitent shall have denounced, as by law, the professed teachers of heretical doctrine, if he has known any, and ecclesiastical and religious persons, if he has had any as accomplices in this matter; and insofar as, because of just causes, denunciation of this kind cannot be carried out before absolution, after there

has been made by him a serious promise of carrying out that denunciation itself as soon as and in what better manner it can be done, and after in individual cases he shall have secretly abjured the heresies before the one absolving; a grave salutary penance having been enjoined according to the measure of the excesses, with frequency of the sacraments, and with the obligation of retracting himself before the persons before whom he manifested the heresies, and of repairing the scandals caused.

II. Of absolving from censures and ecclesiastical penalties those who shall have defended books of apostates, heretics, or schismatics, defending apostasy, heresy, or schism, or others prohibited by name through Apostolic Letters, or knowingly without due license shall have read or retained them; a congruous salutary penance having been enjoined, and with the firm obligation of destroying, insofar as it can be done, before absolution, the aforesaid books, or of handing them over to the Ordinary or confessor.

III. Of absolving from censures those who shall have impeded directly or indirectly the exercise of ecclesiastical jurisdiction, whether of the internal or external forum, by having recourse for this to any lay power whatsoever.

IV. Of absolving from censures and from ecclesiastical penalties established concerning dueling, only in cases not brought to the external forum; a grave salutary penance having been enjoined, and other things having been enjoined which by law will have had to be enjoined.

V. Of absolving from censures and ecclesiastical penalties those who shall have given their name to the Masonic sect and to other associations of the same kind which plot against the Church or legitimate civil powers; yet in such a way that they separate themselves entirely from the respective sect or association and abjure it; that they denounce, according to Can. 2336, § 2, ecclesiastical and religious persons, if they know any enrolled in it; that books, manuscripts, and signs concerning the same, if they retain any, they hand over into the hands of the one absolving, to be transmitted cautiously to the S. Office as soon as possible, or at least, if just and grave causes require this, to be destroyed; a grave salutary penance having been enjoined according to the measure of the faults, with frequenting of sacramental confession and the obligation of repairing the scandals caused.

VI. Of absolving from censures and ecclesiastical penalties those who shall have entered the enclosure of Regulars of either sex without legitimate license, and also those who introduced or admitted them; provided nevertheless that this was not done for an end in any way gravely criminal, even if the effect did not follow, nor brought to the external forum; a congruous salutary penance according to the measure of the fault having been enjoined.

VII. Of dispensing for petitioning the conjugal debt with a transgressor of a vow of perfect and perpetual chastity, privately emitted after the completion of the eighteenth year of age, who shall have contracted marriage with the said vow; admonishing a penitent of this kind that he is held to observe that same vow both outside the lawful use of marriage and if he shall have survived the spouse.

VIII. Of dispensing over the occult impediment of crime, provided that it is without any machination, and that there is question of a marriage already contracted; the putative spouses having been warned concerning the necessary secret renewal of consent, and a grave and lasting salutary penance having been enjoined.

Likewise, of dispensing over the same occult impediment, provided that it likewise is without any machination, even in marriages to be contracted; a grave and lasting salutary penance having been enjoined.

It must be noted: The Ordinary, by special delegated authority of the Apostolic See, will be able to use the listed faculties, both of absolving from censures and of dispensing, for the forum of conscience, even outside sacramental confession and even outside the diocese, insofar as either he himself or the subject or both shall have been outside the diocese, for the flock committed to him; and he will be able to impart them within the boundaries of the diocese only to the Canon Penitentiary and also to Vicars Forane, likewise for the forum of conscience but only in the act of sacramental confession, even habitually, if it pleases him; but to other confessors when they shall have had recourse to the Ordinary himself in particular cases of penitents, for the case set forth, unless because of peculiar causes he judges that they are to be communicated to certain confessors to be specially subdelegated, for a time to be established at his judgment.

Norms concerning Taxes

1º. No tax is to be sought for license of reading and retaining prohibited books.

2º. Likewise no tax is to be exacted for the faculties of the S. Penitentiary, which are to be conceded altogether gratis.

3º. As regards matrimonial dispensations and sanations to be granted from faculties either of the S. Congregation of the Holy Office or of the S. Congregation on the Discipline of the Sacraments, let the Ordinary take care that those about to marry who are found able to pay make an equitable and congruous offering, according to the practice legitimately established at the Curias.

4º. With relation to alienations of ecclesiastical goods of which there is speech in faculty 5a of the S. Congregation of the Council (pag. 8 - here V), the offering to be made to the S. See should correspond in some measure, by the judgment of the Ordinary, to the emolument or utility obtained.

5º. Let the tax customarily sought for the other indults, by force of the faculties which are listed in this index, be fifteen lire.

6º. Nevertheless, according to the diversity of cases, taxes of this kind will have to be moderated or dispensed, because of the poverty of the petitioners, or other just causes, according to the prudent judgment and conscience of the Ordinary.

7º. Let the sum of all taxes and offerings which the Ordinary has actually exacted be transmitted at the end of each year to the S. See, through the channel of the S. Consistorial Congregation, with the parts which belong to the individual Sacred Congregations distinctly noted.

8º. The Ordinary himself, for any indult whatever, even matrimonial according to the sense of Can. 1056, will be able to add a tax of five lire, and retain it for himself to be expended in the necessities of himself or of the diocese; without prejudice to the prescription of n. 6.

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