CASES OF CONSCIENCE FOR ENGLISH-SPEAKING COUNTRIES, VOLUME II

Thomas Slater, S.J.

1912 · In the public domain.
This edition was prepared from the print, page by page,
for the Morals of the Church library, where the text may be read and searched online.

Contents

Title Page **12**

Contents (as printed) **13**

Duties of Particular States **17**

Duties of Laymen **18**

Case 1. A Judge's Duty **19**
Part I 19
Solution 19

Case 2. A Solitary Witness **21**
Solution 21

Case 3. A Martyr of Science **23**
Solution 23

Duties of Clerics **25**

Case 1. Vocation to the Priesthood **26**
Part II 26
Solution 26

Case 2. A Doubtful Vocation **28**
Solution 28

Case 3. Clerical Celibacy **30**
Solution 30

Case 4. Clerical Life **32**
Solution 32

Case 5. Public Theatricals **34**
Solution 34

Case 6. Trading **36**
Solution 36

Case 7. Warlike Missionaries **37**
Solution 37

Case 8. Duty of Residence **39**
Solution 39

Case 9. Different Ideals of Parochial Work **41**
Solution 41

Case 10. A Negligent Parish Priest **43**
Solution 43

Case 11. A Priest's Proper Bishop **45**
Solution 45

Duties of Religious **47**

Case 1. A Vocation to Religion **48**
Part III 48
Solution 48

Case 2. Impediments to Entering Religion **50**
Solution 50

Case 3. Obstacles to Vocation **51**
Solution 51

Case 4. Religious and Seculars **53**
Solution 53

Case 5. The Obligation of the Rule **55**
Solution 55

Case 6. A Religious Legatee **57**
Solution 57

Case 7. Various Questions on Poverty **58**
Solution 58

Case 8. A Meddling Lawyer **59**
Solution 59

Case 9. A Wide Interpretation of the Rule **61**
Solution 61

Case 10. The Vow of Chastity **62**
Solution 62

Case 11. Solemnity of Vows **64**
Solution 64

The Sacraments **65**

The Sacraments in General **66**

Case 1. Reviviscence of the Sacraments **67**
Solution 67

Case 2. The Minister of the Sacraments **69**

Solution 69

Case 3. A Sheep That Strayed Into the Fold 71

Solution 71

Case 4. The Intention to Receive Baptism 73

Solution 73

Case 5. Simulation of the Sacraments 75

Solution 75

Baptism 77

Case 1. Baptism at Death 78

Solution 78

Case 2. A Young Convert 79

Solution 79

Case 3. Remembered His Own Baptism 81

Solution 81

Case 4. A Too Zealous Pastor 83

Solution 83

Case 5. A Convert from Judaism 85

Solution 85

Case 6. What Baptism Implies 87

Solution 87

Case 7. Parents' Neglect 89

Solution 89

Case 8. Non-catholic Sponsors 90

Solution 90

Confirmation 92

Case 1. Necessity of Confirmation 93

Solution 93

The Holy Eucharist 95

Case 1. Adulterated Matter 96

Solution 96

Case 2. Fasting Communion 97

Solution 97

Case 3. The Fast Broken **99**
Solution 99

Case 4. Doubtful Dispositions **101**
Solution 101

Case 5. Was Confession Obligatory? **103**
Solution 103

Case 6. Non-fasting Communion **105**
Solution 105

Case 7. Intention to Consecrate **106**
Solution 106

Case 8. Doubtful Consecration **108**
Solution 108

Case 9. Mass for a Non-catholic **110**
Solution 110

Case 10. Stipends for Mass **112**
Solution 112

Case 11. Funded Masses **114**
Solution 114

Case 12. Trading in Masses **116**
Solution 116

Case 13. Mass in a Private Room **118**
Solution 118

Case 14. Masses for the Dead **119**
Solution 119

Case 15. Altar Furniture **121**
Solution 121

Penance **123**

Case 1. Doubtful Matter **124**
Solution 124

Case 2. A Convert's Confession **126**
Solution 126

Case 3. An Anxious Penitent **128**
Solution 128

Case 4. No Sorrow for What She Has Done **130**
Solution 130

Case 5. Was He Prepared? **132**
Solution 132

Case 6. Probable Opinions in Penance **134**
Solution 134

Case 7. Confessions on Board Ship **136**
Solution 136

Case 8. A Privilege of Regulars **138**
Solution 138

Case 9. A Regular's Approbation **140**
Solution 140

Case 10. Confessor of Nuns **142**
Solution 142

Case 11. Full and Specific Confession **144**
Solution 144

Case 12. Absolution of the Dying **146**
Solution 146

Case 13. A Pair of Penitents **147**
Solution 147

Case 14. Absolution by Telephone **148**
Solution 148

Case 15. An Unfortunate Mother **150**
Solution 150

Case 16. Doubtful Jurisdiction **152**
Solution 152

Case 17. A Lie in Confession **154**
Solution 154

Case 18. A Dying Nun **156**
Solution 156

Case 19. A Bishop's Reserved Case **158**
Solution 158

Case 20. On the Absolution of an Accomplice **160**

Solution 160

Case 21. Feigned Absolution of an Accomplice 162

Solution 162

Case 22. An Empty Distinction 164

Solution 164

Case 23. Error Does Not Confer Jurisdiction 166

Solution 166

Case 24. Asking the Name of an Accomplice 167

Solution 167

Case 25. A Recidivist 169

Solution 169

Case 26. A London Actress 170

Solution 170

Case 27. A Loose Principle 172

Solution 172

Case 28. Requisite Knowledge in the Confessor 174

Solution 174

Case 29. The Seal Not Broken 176

Solution 176

Case 30. Confession with Unexpected Results 178

Solution 178

Case 31. Unlawful Use of Confessional Matter 179

Solution 179

Case 32. A Useless Device 181

Solution 181

Orders 182

Case 1. Anglican Ordinations 183

Solution 183

Case 2. A Priest's Support 185

Solution 185

Extreme Unction 187

Case 1. Repetition of Extreme Unction 188

Solution 188

Case 2. Short Form for Extreme Unction **190**
Solution 190

Matrimony **192**

Case 1. Informal Betrothal **193**
Solution 193

Case 2. An Action for Breach of Promise **195**
Solution 195

Case 3. A Promise Confirmed by Oath **197**
Solution 197

Case 4. Debts of Betrothed **199**
Solution 199

Case 5. Maternity Impossible **201**
Solution 201

Case 6. Parents Against Marriage **203**
Solution 203

Case 7. Banns **205**
Solution 205

Case 8. An Unhappy Marriage **207**
Solution 207

Case 9. A Drunken Husband **209**
Solution 209

Case 10. A Lawyer and a Divorce Case **211**
Solution 211

Case 11. Dispensation from Banns **213**
Solution 213

Case 12. Previous Marriage **215**
Solution 215

Case 13. A Too Accommodating Priest **217**
Solution 217

Case 14. Doubtful Baptism and Marriage **219**
Solution 219

Case 15. Affinity **221**
Solution 221

Case 16. Consanguinity **223**
Solution 223

Case 17. Sacred Orders **224**
Solution 224

Case 18. Fear **226**
Solution 226

Case 19. Crime **228**
Solution 228

Case 20. Was She Free to Marry? **229**
Solution 229

Case 21. Multiple Impediments **230**
Solution 230

Case 22. A Treacherous Friend **232**
Solution 232

Case 23. A Governess's Marriage **234**
Solution 234

Case 24. Marriage Before the Registrar **236**
Solution 236

Case 25. A Notable Case **238**
Solution 238

Case 26. General Leave of Parish Priest **240**
Solution 240

Case 27. Requisites for Marriage **242**
Solution 242

Case 28. Subjects of the Law of Clandestinity **244**
Solution 244

Case 29. The Month's Stay of *Lest [it be Done] Rashly* **245**
Solution 245

Case 30. Mixed Marriage **247**
Solution 247

Case 31. Impediment Dispensed **249**
Solution 249

Case 32. A Complicated Case **251**

Solution 251

Case 33. Married a Widow with Three Children 253

Solution 253

Case 34. Which Bishop Has Jurisdiction? 255

Solution 255

Case 35. Revalidation of Marriage 256

Solution 256

Case 36. Cohabitation of Married People 258

Solution 258

Case 37. A Troubled Wife 260

Solution 260

Case 38. A Husband in Difficulties 262

Solution 262

Case 39. Unwilling to Return to Her Husband 264

Solution 264

Censures 265

Case 1. A Mistake in the Man 266

Solution 266

Case 2. Parochial Rights 268

Solution 268

Case 3. A Fallen Priest 270

Solution 270

Case 4. Countenancing a Duel 272

Solution 272

Case 5. A Masonic Ball 274

Solution 274

Case 6. A Special Interdict 276

Solution 276

Case 7. Is He to be Avoided? 278

Solution 278

Irregularity 279

Case 1. A Priest Practising Medicine and Surgery 280

Solution 280

Ecclesiastical Burial **281**

Case 1. Mixed Cemeteries **282**

Solution 282

Indulgences **284**

Case 1. The Apostolic Blessing **285**

Solution 285

Case 2. The Jubilee **286**

Solution 286

Title Page

1912

Contents (as printed)

- DUTIES OF PARTICULAR STATES
- Part I
- DUTIES OF LAYMEN
  - 1.—A Judge's Duty — p. 15
  - 2.—A Solitary Witness — p. 18
  - 3.—A Martyr of Science — p. 21
- Part II
- DUTIES OF CLERICS
  - 1.—Vocation to the Priesthood — p. 23
  - 2.—A Doubtful Vocation — p. 25
  - 3.—Clerical Celibacy — p. 27
  - 4.—Clerical Life — p. 29
  - 5.—Public Theatricals — p. 32
  - 6.—Trading — p. 35
  - 7.—Warlike Missionaries — p. 37
  - 8.—Duty of Residence — p. 39
  - 9.—Different Ideals of Parochial Work — p. 43
  - 10.—A Negligent Parish Priest — p. 46
  - 11.—A Priest's Proper Bishop — p. 49
- Part III
- DUTIES OF RELIGIOUS
  - 1.—A Vocation to Religion — p. 53
  - 2.—Impediments to Entering Religion — p. 56
  - 3.—Obstacles to Vocation — p. 58
  - 4.—Religious and Seculars — p. 61
  - 5.—The Obligation of the Rule — p. 64
  - 6.—A Religious Legatee — p. 67
  - 7.—Various Questions on Poverty — p. 69
  - 8.—A Meddling Lawyer — p. 71
  - 9.—A Wide Interpretation of the Rule — p. 74
  - 10.—The Vow of Chastity — p. 76
  - 11.—Solemnity of Vows — p. 79
- THE SACRAMENTS
- THE SACRAMENTS IN GENERAL
  - 1.—Reviviscence of the Sacraments — p. 81
  - 2.—The Minister of the Sacraments — p. 83
  - 3.—A Sheep that Strayed into the Fold — p. 86
  - 4.—The Intention to Receive Baptism — p. 89
  - 5.—Simulation of the Sacraments — p. 92
- BAPTISM

    - 1.—Baptism at Death — p. 95
    - 2.—A Young Convert — p. 97
    - 3.—Remembered His Own Baptism — p. 100
    - 4.—A Too Zealous Pastor — p. 103
    - 5.—A Convert from Judaism — p. 105
    - 6.—What Baptism Implies — p. 107
    - 7.—Parents' Neglect — p. 109
    - 8.—Non-Catholic Sponsors — p. 111
- CONFIRMATION
    - Necessity of Confirmation — p. 113
- THE HOLY EUCHARIST
    - 1.—Adulterated Matter — p. 115
    - 2.—Fasting Communion — p. 117
    - 3.—The Fast Broken — p. 120
    - 4.—Doubtful Dispositions — p. 122
    - 5.—Was Confession Obligatory? — p. 124
    - 6.—Non-Fasting Communion — p. 126
    - 7.—Intention to Consecrate — p. 128
    - 8.—Doubtful Consecration — p. 131
    - 9.—Mass for a Non-Catholic — p. 133
    - 10.—Stipends for Mass — p. 135
    - 11.—Funded Masses — p. 138
    - 12.—Trading in Masses — p. 141
    - 13.—Mass in a Private Room — p. 144
    - 14.—Masses for the Dead — p. 146
    - 15.—Altar Furniture — p. 149
- PENANCE
    - 1.—Doubtful Matter — p. 151
    - 2.—A Convert's Confession — p. 154
    - 3.—An Anxious Penitent — p. 157
    - 4.—No Sorrow for What She Has Done — p. 159
    - 5.—Was He Prepared? — p. 162
    - 6.—Probable Opinions in Penance — p. 164
    - 7.—Confessions on Board Ship — p. 167
    - 8.—A Privilege of Regulars — p. 169
    - 9.—A Regular's Approbation — p. 171
    - 10.—Confessor of Nuns — p. 174
    - 11.—Full and Specific Confession — p. 177
    - 12.—Absolution of the Dying — p. 179
    - 13.—A Pair of Penitents — p. 181
    - 14.—Absolution by Telephone — p. 183
    - 15.—An Unfortunate Mother — p. 186
    - 16.—Doubtful Jurisdiction — p. 189

    - 17.—A Lie in Confession — p. 191
    - 18.—A Dying Nun — p. 193
    - 19.—A Bishop's Reserved Case — p. 195
    - 20.—On the Absolution of an Accomplice — p. 198
    - 21.—Feigned Absolution of an Accomplice — p. 200
    - 22.—An Empty Distinction — p. 203
    - 23.—Error Does Not Confer Jurisdiction — p. 206
    - 24.—Asking the Name of an Accomplice — p. 208
    - 25.—A Recidivist — p. 211
    - 26.—A London Actress — p. 213
    - 27.—A Loose Principle — p. 216
    - 28.—Requisite Knowledge in the Confessor — p. 219
    - 29.—The Seal not Broken — p. 222
    - 30.—Confession with Unexpected Results — p. 224
    - 31.—Unlawful Use of Confessional Matter — p. 226
    - 32.—A Useless Device — p. 228
- ORDERS
    - 1.—Anglican Ordinations — p. 231
    - 2.—A Priest's Support — p. 234
- EXTREME UNCTION
    - 1.—Repetition of Extreme Unction — p. 237
    - 2.—Short Form for Extreme Unction — p. 240
- MATRIMONY
    - 1.—Informal Betrothal — p. 243
    - 2.—An Action for Breach of Promise — p. 246
    - 3.—A Promise Confirmed by Oath — p. 248
    - 4.—Debts of Betrothed — p. 250

- 5.—Maternity Impossible — p. 253
- 6.—Parents Against Marriage — p. 256
- 7.—Banns — p. 259
- 8.—An Unhappy Marriage — p. 262
- 9.—A Drunken Husband — p. 265
- 10.—A Lawyer and a Divorce Case — p. 267
- 11.—Dispensation from Banns — p. 270
- 12.—Previous Marriage — p. 272
- 13.—A Too Accommodating Priest — p. 276
- 14.—Doubtful Baptism and Marriage — p. 279
- 15.—Affinity — p. 282
- 16.—Consanguinity — p. 285
- 17.—Sacred Orders — p. 287
- 18.—Fear — p. 289
- 19.—Crime — p. 292
- 20.—Was She Free to Marry? — p. 294

- 21.—Multiple Impediments — p. 296
- 22.—A Treacherous Friend — p. 299
- 23.—A Governess's Marriage — p. 301
- 24.—Marriage Before the Registrar — p. 303
- 25.—A Notable Case — p. 306
- 26.—General Leave of Parish Priest — p. 309
- 27.—Requisites for Marriage — p. 312
- 28.—Subjects of the Law of Clandestinity — p. 315
- 29.—The Month's Stay of *Ne temere* — p. 317
- 30.—Mixed Marriage — p. 319
- 31.—Impediment Dispensed — p. 322
- 32.—A Complicated Case — p. 325
- 33.—Married a Widow with Three Children — p. 328
- 34.—Which Bishop Has Jurisdiction? — p. 331
- 35.—Revalidation of Marriage — p. 333
- 36.—Cohabitation of Married People — p. 336
- 37.—A Troubled Wife — p. 339
- 38.—A Husband in Difficulties — p. 342
- 39.—Unwilling to Return to Her Husband — p. 344
- CENSURES
    - 1.—A Mistake in the Man — p. 347
    - 2.—Parochial Rights — p. 349
    - 3.—A Fallen Priest — p. 352
    - 4.—Countenancing a Duel — p. 354
    - 5.—A Masonic Ball — p. 357
    - 6.—A Special Interdict — p. 360
    - 7.—Is He to Be Avoided? — p. 362
- IRREGULARITY
    - A Priest Practising Medicine and Surgery — p. 365
- ECCLESIASTICAL BURIAL
    - Mixed Cemeteries — p. 367
- INDULGENCES
    - 1.—The Apostolic Blessing — p. 371
    - 2.—The Jubilee — p. 373

Duties of Particular States

Duties of Laymen

Case 1. A Judge's Duty

Part I

Titius, a good Catholic, recently deceased, had left in his will one hundred pounds to be expended on Masses to be celebrated for his soul; Caius, the executor, intended to pay this legacy according to the will of the deceased. Julius, however, a Catholic and the residuary legatee of Titius's goods, opposed this and brought the case before Marcus, a judge who was also a Catholic. Marcus, however, in accordance with English laws, declared the legacy of one hundred pounds invalid as having been assigned to superstitious uses, whence the whole sum accrued to Julius's residue. Finally Philip, the priest upon whom devolved the spiritual care of all those who have been mentioned, asks about their obligations that have been violated or perhaps still remain to be fulfilled. Hence it is asked:

1. What is a will for pious causes, and what is required for its validity?

2. Can a Catholic judge render judgment according to the unjust laws of his country?

3. What is to be said of the case?

Solution

1. What is a will in favor of pious causes and what is required for its validity?

Pious causes, or objects, are such as belong to the service of God and religion. Alms left for the support of religion or for charitable purposes, if the main object was the honor of God, are considered as left for pious causes. Such pious causes are subject to the legislation of the Church, which lays down that no special formalities are required for the validity of wills and legacies to pious objects; all that is requisite is that there should be moral certainty resting on the evidence of two or more witnesses about the intention of the testator.[1]

1 Ballerini-Palmieri, Opus Morale, tract, viii, pt. iii, c. iii, n. 703.

2. May a Catholic judge give sentence according to an unjust law?

If the law commands what is contrary to the law of God, no Catholic judge may pass sentence according to it. If the unjust law only affects the liberty of the subject or property rights, many theologians hold that a Catholic judge, like any other, may pass sentence according to such a law. His refusal to do so would not ordinarily benefit the accused, and the only effect would be to compel the judge to resign his office, and make it impossible for Catholics to hold such offices. Hence the accused may reasonably be presumed to submit to the action of the judge as long as the unjust law remains in force.[2]

2 Manual of Moral Theology, vol. i, p. 587.

3. The case. The legacy was void according to English law. Julius, however, was not justified in invoking the law to get the legacy declared void. He is a Catholic and is bound by the law of

the Church, and for him, subjectively as well as objectively, the legacy is valid. Mark could not help doing as he did and so he may be excused. Philip, the parish priest, should admonish

Julius, if the admonition will do any good, and tell him that he is bound in conscience to pay over the £100 for Masses to be said for the soul of the testator according to the testator's intention. It is a case where he can not have the benefit of the law.[1]

1 Manual of Moral Theology, vol. i, p. 506.

Case 2. A Solitary Witness

Lucia, Caia's maidservant, knew that Caia had committed adultery. When, however, she was summoned to give testimony on a future day concerning the adultery committed, in an action for divorce brought against Caia by her husband, she doubted whether she could and ought to reveal her mistress's crime, since she alone besides the parties themselves knew it. Hence she went to a confessor, who, insofar as by divine, civil, and ecclesiastical law two witnesses are required to prove a crime and a single witness is not lawfully questioned by a judge about a crime which that witness alone knows, replied that Lucia ought not reveal the crime. When Titius, another priest, heard this, he judged that the confessor had sinned against justice, since by his reply he had prevented the husband from obtaining a good, namely a divorce, to which he had a right. Hence it is asked:

1. What are the obligations of witnesses, and whence do they arise?

2. To what extent do the prescriptions of ecclesiastical law and English law differ concerning the number of witnesses required to prove a crime, and is the English law just?

3. What is to be said of the case?

Solution

1. What are the duties of witnesses, and whence do they arise?

The question concerns witnesses in Courts of Justice, and in general any one may be under an obligation to give evidence about what he knows when this is necessary to prevent great harm to others or to the State. One who is summoned by lawful authority is also bound to give evidence by the obedience which he owes to that authority. As he has sworn to tell the truth, he will be bound also by his oath to tell the truth in answer to the questions that are put to him lawfully.[1]

1 Manual of Moral Theology, vol. i, p. 504.

2. How does English law differ from canon law concerning the number of witnesses necessary to prove a crime, and is English law on the point just?

In canon law, as in the Mosaic and Roman law, two witnesses were necessary and sufficient to prove a crime. Except in the case of treason and one or two other crimes, one witness is held sufficient to prove a fact in English and many modern systems of law. This provision of modern law can not be called unjust, for practically always the evidence of the one witness is corroborated by other circumstantial evidence of the crime.[2]

2 Stephen's Commentaries, vol. iv, p. 357; Génicot, vol. ii, n. 17.

3. The case. If the trial were about to take place in an ecclesiastical Court, in which Caia's husband wished to obtain a divorce a toro et mensa, Lucy would not be bound to tell what she knows, unless there were already semiplena probatio of Caia's guilt. To avoid needless complications in the case we will waive the question about the State's competence in marriage

cases. In England it is at least competent in cases of judicial separation. If, then, Lucy were summoned in such a case she would practically be bound to tell what she knows. Nor is this substantially at variance with the provisions of canon law,' for ordinarily when a witness is summoned, there is semiplena probatio, or infamy, or evident signs of guilt, and in those circumstances a single witness was obliged to give evidence even according to canon law. From what has been said it will be clear how far the confessors were right or wrong.

Case 3. A Martyr of Science

Caius, a physician, in order to test whether the fever commonly called malaria is truly caused by the bites of a certain fly commonly called a mosquito, lived during the summer in a place particularly pestilential near Ostia on the Tiber, with all the precautions necessary to avoid the bites of the said fly, unconcerned about other causes of infection. Afterwards, in order to complete the experiments, in England, where malaria is almost extinct, he exposed himself to the bites of mosquitoes infected with the contagion in Italy, and contracted the disease, rejoicing nevertheless at the discovery of the cause of the fever, at the benefit thereby acquired for mankind, and also at the glory procured for himself. Titius, however, a Catholic, when he had read all these things in the newspapers, asked a confessor whether they had been done lawfully. Hence it is asked:

1. What obligation is there to preserve one's own life and health?

2. What are the special obligations of physicians?

3. What is to be said of the case?

Solution

1. What sort of an obligation is there to preserve one's life and health?

There is a grave obligation of using ordinary means to preserve life and health and of not exposing either to serious and proximate risk without sufficient reason.

This obligation is derived from the Fifth Commandment, which forbids killing in so far as it is a negative precept, and prescribes ordinary care of life and health in so far as it is positive.

2. What are the ethical obligations of doctors?

Doctors, like other professional men, should have the knowledge requisite for the practice of their profession, and they should use at least ordinary care and diligence in that practice. They should use the safer remedies, and they are not allowed to make experiments on living human subjects with danger to life or health.[1] In desperate cases they may use remedies that are only probable if no better can be had.

1 Manual of Moral Theology, vol. i, p. 596 f.

3. The case. If Caius was practically certain that the bite of mosquitoes is the cause of malaria, he did not commit sin by living during the summer in the pestilential neighborhood of Ostia. He was convinced that he thereby exposed himself to no special risk. In allowing himself to be bitten in England by plague infected insects he voluntarily exposed himself to the morally certain risk of contracting the disease. The reasons given for thus acting are not sufficient to justify him in exposing himself to the certain risk of serious disease. Evil must not be done that good may come. We may not kill one man to save others. However, as malaria is not a very serious disease when the proper remedies are applied in time, Caius may be excused from

grave sin, and perhaps even from venial under the circumstances. There is no harm in exposing ourselves to the danger of illness for good reasons.

Duties of Clerics

Case 1. Vocation to the Priesthood

Part II

Titius, a religious priest, was giving spiritual exercises to young men about to be initiated into holy orders. Caius, one of them, a man of excellent disposition and character, came to him and said that he wished to renounce his intention of receiving the priesthood because he was not certain that he was called by God. He applied to himself the words of St. Alphonsus (vi, 802): "Therefore those who, not called by God, thrust themselves into sacred ministries are themselves those of whom it says through Jeremiah: 'I did not send the prophets, and they themselves ran.' Indeed, as the Catechism says, nothing can be more unhappy and wretched than this kind of men, nothing more calamitous to the Church." Titius, however, wished to know how Caius should be treated. Hence it is asked:

1. What is a divine vocation to a definite state of life?

2. How can a divine vocation to the priesthood be recognized?

3. What is to be said of the case?

Solution

1. What is a divine vocation to a certain state of life?

A divine vocation may be defined as a purpose of Divine Providence choosing a person for a special state of life and giving him the helps that are required for it. Such a vocation is manifested in him who is called by an internal and external fitness for the state, and by special lights of the understanding and motions of the will by which he is conscious that he could serve God and save his soul in that state.

2. How may a divine vocation to the priesthood be known?

A divine vocation to the priesthood may be known by the signs which have just been mentioned. If the person in question be fit to exercise the duties of the priesthood, if he hold out hopes that he will do so with the help of God, if he wishes to receive the priesthood so as to be able the better to serve God, help his fellow men, and save his soul, he shows the ordinary signs of a vocation from God.

3. The case. Titius should put a few questions to Caius with a view to finding out whether he is fit for the priesthood and whether there is a prospect of his being able to fulfil its duties properly. As he is a youth of excellent disposition and character and therefore fit for the priesthood, it will be well to ask him why up to the present he fostered the intention of becoming a priest. In all probability the answer will be satisfactory and will show that his intention was supernatural, resting on faith, on the desire to please God and save his soul. In that case he should be encouraged to persevere; he should be told to put his trust in God, who will never forsake those who trust in Him; he should be told that the words of St. Alphonsus

are not meant for him, but for such as are unfit for the priesthood and who do not intend to fulfil its duties, but who intrude themselves into the clerical state for worldly motives.

Case 2. A Doubtful Vocation

Julius, the youngest son of a certain nobleman, who was soon to be initiated into the subdiaconate, came to Caius, a priest who was giving spiritual exercises to certain clerics about to be ordained. Caius had described the burdens of the priesthood in grave words, and thereby had aroused anxieties and doubts in Julius's mind. For Julius had never seriously thought about those burdens; almost from infancy he had always heard from his parents and from a certain bishop who was a very close friend of the family that he ought to devote himself to the service of the Church, which needs such men to hold ecclesiastical prelacies. Led by this purpose he had pursued his studies at college, and had become a cleric rather to answer the expectation of his parents and friends than to indulge his own inclination. He intends faithfully to fulfill, with God's help, whatever the duties of the state may be; he hopes that he can bear the burdens, and moreover he is imbued with good morals. When Caius heard these things, he began to doubt Julius's vocation and whether he ought not advise Julius to return to his parents and to the world. Hence it is asked:

1. What is a divine vocation to the priesthood?

2. What is the obligation to follow a divine vocation?

3. Does one who becomes a priest without being called sin, and to what extent?

4. What is to be said of the case?

Solution

1. This question is answered above, p. 23.

2. What obligation is there to follow a divine vocation?

A vocation to the priesthood is a great favor bestowed by God and it should be thankfully received. It is not commonly imposed by God as a precept, and so there would not be sin in neglecting to follow it except in cases where by so doing he who is called knowingly exposes his salvation to danger.

3. Is sin committed and how by becoming a priest without a vocation?

One who is unfit for the priesthood or who does not intend to live up to its obligations and yet becomes a priest sins grievously. One who is not unfit and who intends to live up to his obligations, but who becomes a priest from natural motives without a divine vocation, acts rashly, but in the judgment of many theologians he does not sin grievously. The reason is because such a one violates no grave precept, nor does he expose himself to serious danger of losing his soul or doing serious harm to others.[1]

1 Ballerini-Palmieri, Opus Morale, tract, ix, c. ii, n. 6.

4. The case. Julius is not unfit for the priesthood, though the motives which have led him so far. are natural rather than supernatural. Caius would do well to tell him to take the opportunity of

the retreat to think seriously over his position. He might teach him how to make his election of a state of life on supernatural principles. Let him think therefore on the duties and helps of the priesthood, and of its dangers as well, and then if in the presence of God he thinks that he can serve God and the Church and save his soul as a priest, and if he can purpose to do this, let him be ordained. If any doubt remains he should defer ordination for a time until his course is clear. But if he can not look at things from this supernatural point of view he had better return to his family.

Case 3. Clerical Celibacy

Titius, an Anglican minister, in order to be certain of the validity of his ordination, had been ordained by a certain schismatic bishop, and afterwards married. After some years, having been converted to the Catholic faith, he now inquires whether and under what conditions he may exercise the sacred ministry, or even make use of marital rights; concerning the validity of the priesthood received, however, there can be no doubt. Hence it is asked:

1. To what are clerics in sacred orders bound by the law of celibacy?

2. May a married man receive sacred orders, and under what conditions?

3. Would impure thoughts be sacrilegious in a priest who had been ordained in ignorance of the law of celibacy?

4. What is to be said of the case?

Solution

1. To what are clerics in sacred Orders bound by the law of celibacy?

They are bound to observe perfect chastity, in thought and deed, and they are incapable of contracting a valid marriage.[1]

1 Manual of Moral Theology, vol. i, p. 601.

2. Is a married man allowed to receive sacred Orders and on what conditions?

A man who was married but whose wife is dead or lawfully divorced, when this is possible, may receive sacred

Orders. One whose wife is still living and not lawfully divorced may not be ordained without the free and express consent of his wife, who, if she consents, must herself take a vow of chastity.[1]

1 Manual of Moral Theology, vol. i, p. 602.

3. Would bad thoughts be sacrilegious in a priest who had been ordained in ignorance of the law of celibacy?

Such a one would not be bound by vow to observe chastity, for a vow can not be taken by one who is ignorant of it. He would, however, be bound to observe chastity by ecclesiastical law. But probably law does not touch merely internal acts, and so although bad thoughts would be sins against the Ninth Commandment, probably they would not have the additional malice of sacrilege, as bad thoughts of priests ordained under normal conditions certainly have.

4. The case. Titius, an Anglican minister, to make sure of his ordination, got ordained by a schismatic bishop and afterwards married. It is supposed in the case that this ordination is certainly valid. As sacred Order is a diriment impediment of marriage, 2 it follows that the

minister was not married validly. As he is not married he has no marital rights, and he must separate from his reputed wife. The greatest consideration should be shown to the lady which is possible under the circumstances. Titius was ordained by a schismatic, and he thus incurred irregularity, which prohibits him from exercising his orders. He should submit his case to the bishop, who after inquiring into all the circumstances of the case, and if necessary consulting the Holy See, will settle what is best for all concerned.

*Cf. Ballerini-Palmieri, Opus Morale, vol. vi, n. 1143 nota.

Case 4. Clerical Life

Caius, an English priest ordained under the title of patrimony, holds no office in the diocese. Hence, being free, he is accustomed to spend the greater part of the year traveling outside England. He does not shave his beard or wear the tonsure, and without scruple attends stage performances in public theaters outside England, since the inhabitants think that he is an Anglican minister. He readily defends his manner of acting, since according to canonists only this is established by ecclesiastical law: "A cleric shall grow neither long hair nor a beard; that is, an excessive cultivation of the hair which smacks of a wanton and effeminate fashion is forbidden to him."[1] And although attendance at public spectacles is also forbidden to him, obscene and shameful spectacles are understood.[2] Titius, however, a newly ordained priest, having heard these things, cannot reconcile them with the doctrine that he heard in the seminary. Hence it is asked:

1 Santi, Praelect. Jur. Can. iii, 1, n. 36. 2 Ibid., n. 41.

1. What do the written ecclesiastical laws prescribe concerning the things that occur in the case?

2. Has custom always interpreted those same laws in the same sense?

3. What is to be said of the case?

Solution

1. What does the written ecclesiastical law prescribe concerning the matters touched on in the case?

By the written common law clerics are forbidden to cultivate the beard with special care, after the manner of dandies, as Santi explains in the passage quoted. But provincial law and custom approved by authority in England goes further and prohibits the wearing of hair on the cheeks or on the chin (iv Westmon., d. xi, n. 13). The common law prescribes the clerical tonsure, but in this matter custom in England is contrary to the law, and ecclesiastical authority does not intervene.

With regard to theaters the law in England is severe; it prohibits " ecclesiastics who have received sacred Orders from being present at stage representations in public theaters or in places temporarily made use of as public theaters, under the penalty to transgressors of suspension to be incurred ipso facto, such as has hitherto been the rule in all parts of England with reservation to the respective Ordinaries."[1] More or less similar prohibitions exist in most provinces. The old written law was as stated by Santi.[2]

1 Manual of Moral Theology, vol. i, p. 614.

2 Cf. Ben. xiv, De Synodo Dicecesana, xi, c. x, n. 11.

2. Has custom always interpreted these laws in the same way?

No; as is clear from what has just been said, both the law on these matters and its interpretation have varied considerably in different ages and countries. There is not uniformity with regard to them even

now, so that the provincial or synodal decrees have mainly to be consulted and followed by the conscientious cleric.

3. The case. Although Caius had been ordained on his patrimony he was not at liberty to wander about as he chose. He had been ordained for the service of the diocese to which he belongs, and the bishop should see that he has suitable employment as long as he can work. He did wrong in growing his beard, though custom excuses him with regard to the tonsure. In going without scruple to plays in public theaters when out of England he also did wrong, for now the common law of the Church, introduced by universal provincial law, forbids clerics to go to public theaters. Out of England, however, he would not incur the suspension inflicted by English Provincial law, nor, inasmuch as he is a peregrinus, would he incur any penalty which the law of the place inflicts for such an offence. He might, however, be punished by the bishop of the place where he transgressed the law, inasmuch as it is a mere application of the prohibition of the common law by which clerics are forbidden to do what is not becoming in them.[1]

1 Génicot, Casus Conscient., vol. i, p. 20; Analecta Ecclesiastica, 1910, p. 174.

Case 5. Public Theatricals

Caius, a missionary priest in England, in order to pay the expenses of the mission, persuaded certain young people of both sexes to perform a celebrated play about the Nativity of the Lord in the municipal hall (Town Hall). Since the people, both orthodox and heterodox, attended the hall in great numbers and contributed a large sum of money, on the second day of the performance Caius himself, with Patrick, a priest-friend from Ireland, attended the play in order to show his gratitude both to the actors and to the people. When the Bishop, however, a diligent defender of ecclesiastical law, heard this, he asked a certain theologian whether each of them had not incurred the suspension imposed by the Fourth Council of Westminster, decree xi, no. 9. Hence it is asked:

1. Give a doctrinal interpretation of the law in question in the case.

2. Are travelers bound by the laws of the place?

3. What is to be said of the case?

Solution

1. Give a doctrinal interpretation of the law in question.

The wording of the law is as follows: " We strictly prohibit ecclesiastics initiated into sacred orders from being present at stage performances in public theaters or in places serving temporarily for the use of a public theater, imposing upon transgressors the penalty of suspension to be incurred by the fact itself—

—which has hitherto been in force everywhere in England, with reservation to the respective Ordinary." Hence all ecclesiastics in sacred Orders are strictly forbidden to be present at scenic representations (stage plays?) either in public theaters or in places which are used for the time being as public theaters, and the penalty of suspension is ipso facto incurred by those who violate this precept, and their absolution is reserved to their respective Ordinary. Private theatricals in a place not open to the public do not come under the law. If the public are admitted with or without payment and a stage play is exhibited, the place is being used as a theater and persons in sacred Orders must not be present. Plays given by school children are excepted by custom, even if they be given in a public hall or theater.

2. Are peregrini bound by local laws?

Probably peregrini are not bound by the special laws which are in force in the place where they are staying for the time.[1]

1 Manual of Moral Theology, vol. i, p. 94.

3. The case. As far as I am aware there is no authoritative definition of what is meant by a scenicum spectaculum. Still there can be no reasonable doubt that an opera is comprised in the term. An opera is a scenic representation or stage play, which is perhaps as near an English

equivalent of scenicum spectaculum as can be got. The opera was acted by youths of both sexes in the Town Hall, and the public flocked to hear it. It, therefore, came under the prohibition, and Caius violated the law in being present. The law is mentioned in all the faculties granted to priests in this country, and so we must presume that Caius knew that he was violating it. Caius, therefore, was suspended and must not exercise the duties of a priest until he has been absolved by his bishop, or by some one who has special faculties for the case from the bishop. Patrick is a stranger, and does not incur suspension, but he does wrong in being present at the opera and renders himself liable to punishment at the hands of the bishop.

Case 6. Trading

Caius, the procurator of a certain religious Order, proposed to Julius, his confessor, certain scruples of conscience to be resolved. For since the Order needed money to build new monasteries, and the government stock which it possessed was not very profitable, Caius, having found an opportunity when its price had risen modestly, sold it and bought more remunerative shares, some in railways and others in a certain recently established company for providing all things (General Stores). Afterwards, however, he doubted whether these things were lawful for religious. Hence it is asked:

1. What is trading?

2. What kind of trading does ecclesiastical law prohibit, and to whom?

3. What is to be said of the case?

Solution

Trading in the strict sense is buying commodities with the intention of selling them at a higher price without changing their nature. Buying commodities for use or for consumption is not trading, nor is selling the produce of one's own land or labor.

2. What sort of trading is forbidden by ecclesiastical law and to whom?

Ecclesiastics in sacred Orders and all religious are forbidden to trade in the strict sense. They are also forbidden to buy material and change it by hired labor for sale at a profit, and to buy animals and fatten them for sale on hired land, for such actions have the appearance of trading. Benedict XIV also declared that they are forbidden to trade by means of agents.

3. The case. Caius did nothing reprehensible in selling government stock at a profit when it rose in price, provided that it was not bought cheaper with the intention of selling afterwards at a profit when it should rise. Nor did he do wrong in investing part of the proceeds in railway stock which brought in a higher interest. There is more difficulty about his buying shares in the company which owned the stores. Most authors would say that this is not lawful, inasmuch as Caius thereby became a member of a trading company and traded by means of the servants of the company. However, unless he is a director of the company or otherwise takes an active part in managing its affairs, it is probable that he does not do wrong here either. Practically all that he does is to buy the right to receive a dividend on his shares if the company succeeds in business; there is no scandal, and no interference with his spiritual avocations. This is the opinion of several recent authors, quoted and followed by Génicot (II, n. 41), and others. We suppose of course that Caius has no reason to suspect that the company does business dishonestly.

Case 7. Warlike Missionaries

Four Catholic missionaries were preaching the Gospel with great fruit to peoples in central Africa, far removed from other Europeans. The natives, however, began a war of extermination against all Europeans, killing those whom they found scattered about. Hence the rest fled to fortified places, and one day a band of Europeans came to the missionaries to conduct them to a safe place. But behold, on the journey a great multitude of barbarians attacked the small band from every side, so that there was scarcely a slender hope of escape unless all fought. Hence the missionaries were placed in the greatest straits, for Christian examples seemed to teach that in such circumstances they should rather die patiently and without resistance; on the other hand, however, unless they fought, not only they themselves but also the brave band with them would almost certainly perish. Finally they took guns and, fighting like the others, reached the safe place. Hence it is asked:

1. By what law are clerics forbidden to bear arms?

2. Do clerics who are homicides never incur a penalty?

3. What is to be said of the case?

Solution

1. By what law are clerics forbidden to bear arms?

Clerics are bound by their profession to manifest in their conduct the meekness of Christ, and all that militates against this obligation is forbidden by the natural and divine law. To bear arms like soldiers would be contrary to their profession and would give scandal, so that it is forbidden by natural and divine law. It is also expressly forbidden by positive law: " Let clerics who bear arms be excommunicated."[1]

1 Corpus Juris Can., iii, tit. 1, c. ii.

2. Does a cleric who commits homicide incur any special penalty?

Yes, " whoever by any unjust and gravely culpable action, directly or indirectly, physically or morally, are guilty of homicide, thereby contract irregularity. Even casual homicide produces irregularity if it is the effect of grave negligence. If any one is killed in an unjust war all who fought on the other side contract irregularity, unless they were compelled to fight, or abstained from any action which could be the cause of death."[2]

2 Manual of Moral Theology, vol. ii, p. 438.

3. The case. The missionaries acted wisely in taking guns and helping to defend themselves and those who had come to their rescue. They were being attacked as whites, not as preachers of the Gospel, and they would certainly have been killed unless they had defended themselves. They also had obligations of gratitude and charity towards the small band that came to rescue them. When the taking up of arms is necessary for self-defence it is not forbidden; necessity

knows no law. Even a cleric may lawfully kill another in self-defence without incurring irregularity or any other penalty.

Case 8. Duty of Residence

Titius and Caius, regular priests, were serving a certain mission in England. Titius, the superior, departed early in the morning to conduct certain business and would not return until ten o'clock in the evening. Caius also, although he knew that some of the parishioners were ill, since he thought no one was placed in grave danger, left the house after the superior in order to visit friends. Returning at nine o'clock in the evening, Caius heard that a messenger had come at four o'clock reporting that a certain parishioner was gravely ill. Hastening to the sick man's house, Caius sorrowfully found that he was already dead and had not received the sacraments before death. He was therefore tormented by scruples as to whether or not he was guilty of mortal fault. Hence it is asked:

1. What is the obligation of residence that rests upon priests, and what is its nature?

2. Do both the superior and the regular subjects who serve missions in England have the care of souls?

3. What is the obligation of missionaries to administer the sacraments and care for the sick?

4. What is to be said of the case?

Solution

1. What is the duty of residence which is incumbent on priests with the cure of souls?

" In order that they may be able to fulfil the duties of their charge, and be always ready to help the faithful in their spiritual needs, parish priests are bound to reside in the church house or in some place near the church. This law was enforced by the Council of Trent, and it has been further determined in particular points by provincial law. In the province of Westminster curates must give notice to the head priest if they wish to absent themselves even for a day. When there is another priest in residence, the head priest may absent himself for a few days without acquainting the bishop, provided that he has some good reason, that he takes care that it does not occur too often, and that he is not away on a Sunday or on a day of obligation. If he wants to be away on one of these days he must have the leave of the bishop or of the vicar-general in writing, except when the case is urgent, and then he must leave a suitable person as his substitute, and give notice to the Bishop or to the vicar-general as soon as possible." 1

2. Do both the regular superior and his subjects who serve a mission in England exercise the cure of souls?

Yes, they are all presented to the bishop by their religious superior and they receive their faculties and office from the bishop. When there are several priests who have the cure of souls in one mission, whether they be seculars or regulars, one is named by the bishop as head priest; the others are his assistants, but all have the cure of souls according to the Westminster Synods. " We decree that all others exercise the care of souls only with dependence on the first one. " (iv West, x, 2). " Moreover, from the fact that the care of souls is principally entrusted 1 Manual of Moral Theology, vol. i, p. 630.

to the rectors of missions, let the assistants not think themselves exempt from so great a burden; for it is their duty, in dependence upon the rector, to assist him, namely by preaching, hearing confessions, teaching catechism to children, visiting the sick and administering the sacraments to them, and fulfilling the other duties of a missionary " (iv West, xi, 6).

3. What is the obligation of missionary priests to administer the sacraments and look after the sick?

Missionary priests who have the cure of souls are bound to administer the sacraments to those under their charge whenever these ask for them reasonably. They should take special care of the sick as the Ritual admonishes them: " The parish priest must first remember that care of the sick is not among the least parts of his office. Therefore, as soon as he knows that anyone among the faithful committed to his care is sick, he shall not wait to be called to him, but shall go to him of his own accord; and that not only once, but rather often, so far as there is need" (*De Visit. et Cura Infirm.*).

4. The case. Titius in the case was justified in leaving home for the day; explicitly or implicitly he left Caius in charge. Caius followed the example of Titius and left home for the day although he knew that there were several sick people in the parish, but he thought that none of them was in serious danger. As a matter of fact one died without the sacraments while the priest was away, and he might have had them if Caius had stayed at home as he should have done. There is no indication in the case that Caius went away on necessary business; it would appear that he went on pleasure. He can not be excused from all fault in leaving when he knew that there were several in the parish who were sick. If he had left advert-ing to the probability of one of them dying in consequence without the sacraments, he would have sinned grievously. As this can hardly be said, we must say that he sinned at least venially, unless with full knowledge of all the circumstances he judged that no harm would result to his flock.

Case 9. Different Ideals of Parochial Work

Titius and Caius, each a missionary in England, converse about the duties of a priest upon whom the care of souls devolves. Titius says that it belongs to such a priest, by the law of residence, to remain at home and there await the parishioners, who may come to him if they wish. Accordingly, on Sunday indeed the priest will not lack external labor; on the other days he will very properly devote himself to preparing his sermon with the greatest care and to sacred studies, without ever leaving home except when expressly called to a sick person or to perform some other similar duty, or for the sake of honorable recreation. Caius, on the contrary, says that the best priest is at home only to take necessary food or sleep, and that throughout the rest of the day he ought to visit the parishioners, seek the lost sheep, even those that are outside the fold, and on Sunday, in place of a formal sermon, as it is called, he can well give in familiar discourse the substance of his morning meditation or even read something from some pious author. Since they cannot in any way reconcile such diverse opinions, by mutual consent they approach a theologian to determine the matter according to theological principles and the mind of the Church. They therefore ask:

1. Do the states of parish priest and missionary among us differ, and how?

2. What are the principal obligations of such a missionary?

3. What is to be said of the case?

Solution

1. Does the status of parish priests differ from that of missionary priests in England, and how?

Parish priests are canonically instituted to their parishes, from which they can not be removed except for canonical causes and by canonical process. They have ordinary jurisdiction in the internal forum. On the other hand our missionaries are nominated by the bishop whose delegates they are, and they can be more easily removed than can parish priests. With regard to their duties, parish priests and missionaries are on the same footing, except that parish priests are bound on Sundays and holidays of obligation to say Mass for their flocks, which missionaries are not strictly bound to do.[1]

1 Manual of Moral Theology, vol. i, p. 626 ff. The decree Maxima Cura, 25 Aug., 1910, must now be consulted.

2. What are the chief duties of a missionary priest?

He is bound to residence, to preach on Sundays and solemn feasts, to catechize, to administer the sacraments to those who reasonably ask for them, to visit his people, and to look after the sick.[2]

2 Manual of Moral Theology, vol. i, p. 627.

3. The case. Titius and Caius have different notions of the duty of a parish priest and neither of them has quite the right notion. To get at the correct notion according to the mind of the Church, we must join them both together. The parish priest, as Titius maintains, should find some time for study, he should have a fixed time for it every day as far as possible. Of course

he can not make a cast-iron rule on the subject, never to be broken; but he should keep the fixed time sacred for study unless a more urgent duty prevents it. During this time he should prepare his sermons and catechisms. On the other hand, there are other duties which the parish priest must not neglect. He must visit his flock, and especially the sick, without waiting to be called; he must seek out those who are straying from the fold, and promote the good of his people in other ways, which zeal and charity will suggest according to the wants of his mission. Caius should raise his standard of what preaching the Gospel demands, and he is altogether wrong in saying that the parish priest satisfies his obligation of preaching by reading a pious book.

Case 10. A Negligent Parish Priest

Titius, a missionary priest who alone has the care of souls in a certain English town, being somewhat fatigued, decided to spend the last three days of the week at the seaside, since nothing of great importance detained him at home. Returning home on Saturday evening, he found a message that called him to Patrick, who was gravely ill. He knew from experience that such parishioners often call the priest, especially on Saturdays, to settle quarrels between spouses and others; hence he decided to remain at home. On the next day before dinner he received an urgent message from an honorable friend of Patrick that Patrick was placed in most grave danger. Nevertheless, he calmly ate dinner and afterwards set out for the sick man's house. He found that Patrick was already dead; since, however, the fact of death is difficult to know and he thought that perhaps Patrick was still alive, he absolved him conditionally and returned home anxious. Afterwards, to quiet his conscience, he asks:

1. Do the obligations of parish priests and of our missionaries differ?

2. What is the obligation of residence, and what excuses parish priests from it?

3. To what is a parish priest bound toward sick parishioners, and under what obligation?

4. What is to be said of the case?

Solution

1. This question was answered above, p. 44.

2. What is the duty of residence, and what excuses parish priests from the duty?

The first part of this question was answered above, p. 40.

The second part may be answered in the words of the " Manual of Moral Theology," (vol. i, p. 631).

" For some good reason, and the need of relaxation is sufficient, a parish priest may, by the common law, absent himself from his charge for a period of two months every year. The exigencies of modern parish duties rarely permit of so long an absence every year. Parish priests may be absent from their parishes for a longer period than the two months allowed by the common law when it is made necessary by Christian charity, urgent necessity, due obedience, and the evident advantage of Church or State. The approval of the bishop is always required in these cases."

3. What are the duties of the parish priest toward the sick, and how serious are those duties?

The principal duty of a parish priest toward a parishioner who is in danger of death is to administer to him the last rites of religion. As he is under a grave obligation to administer the sacraments to his parishioners when they ask for them reasonably, the obligation to administer them to one in danger of death when they are specially necessary is still more grave. The priest should not be satisfied with administering the sacraments, but he should repeat his visits, and strive to console and help the sick

in their trials and temptations, as the Ritual directs. The Ritual also prescribes that the priest should do what he can to assist the temporal necessities of the sick poor.*

4. The case. Provided that he did not absent himself too often, Titius did not do wrong in going to the seaside for a short holiday inside the week when he felt tired. He should, however, have some arrangement with a neighboring priest so that in his absence an urgent sick-call may be sent on to the nearest priest. Unless Titius had good reason to think that Patrick was one of those who send for the priest without necessity or reason, he should not have neglected to go at once. Better go without necessity many times than miss a real case once. When he got an urgent message next day from a respectable friend of Patrick saying that he was in the greatest danger, Titius should have put off his dinner and gone at once to the sick man. He can not be excused from a grave dereliction of duty in not doing so. On finding Patrick apparently dead he did well to absolve him conditionally, and he might also have administered Extreme Unction conditionally. Apparent death may precede real death for an hour or two, as modern authorities hold.

1 Ritual, De Visit. et Cura Infirmorum.

Case 11. A Priest's Proper Bishop

Titius pronounced simple vows in a certain diocesan Congregation and was ordained a priest under the title of the Mission. After a certain period of time, he obtained dismissal from the Congregation and found a benevolent receiver in the bishop of a neighboring diocese, who entrusted him with the care of souls in a certain Mission. When the bishop of the diocese in which the Congregation had been established heard this, he asked a theologian whether he could recall Titius to his own diocese and assign work to him. Hence it is asked:

1. By virtue of ordination, is a priest bound to a particular diocese?

2. To what are those bound by the oath of the Mission specially obliged?

3. Can a priest be transferred from one diocese to another, and how?

4. What is to be said of the case?

Solution

1. Is a priest attached to a particular diocese by his ordination?

Yes, the Council of Trent (XXIII, c. 16, De Ref.) prescribed that in future no one was to be ordained without being ascribed to that church or pious foundation for whose necessity and service he was accepted, and where

60- he was to exercise his functions, and not wander about without fixed abode. And if he abandons his post without leave of the bishop, he is to be forbidden the exercise of his sacred ministry.

2. To what are those specially obliged who are ordained on the title of the mission?

By the terms of the missionary oath they are bound to work in the diocese for which they were ordained under the direction of the bishop, and they can not enter into any Religious Order or Congregation without the leave of the Holy See.

3. Can a priest be transferred from one diocese to another, and how?

Yes, by the mutual consent of the respective bishops, for just cause, a priest may be excardinated from one diocese and incardinated in another. It should be done in writing. If a priest has been ordained on the title of the mission he requires the leave of the Holy See to pass to another diocese and he should take the missionary oath afresh. The Bishops of the Province of Westminster were empowered by a decree (S.C. de P. F., 18 Aug. 1885), by mutual consent to effect the transference of such a priest from one diocese to another without a renewal of the oath.[1]

1 Collectanea S. C. de P. F. n. 1641 ed. 2da. The Bishops of the United States have a similar faculty.

4. The case. Titius had been ordained priest in a certain diocesan Congregation on the title of the mission. If the Congregation was restricted to a particular diocese, he was ordained for that

diocese, and when he leaves his Congregation he becomes merely the subject of the bishop of that diocese, and he can not leave it without the bishop's permission. If he does so, he can be recalled under threat of censure. If the Congregation was spread in several dioceses, Titius on leaving his Congregation became subject to the bishop of his origin, and if he wants to join another diocese he should arrange with the bishop of his origin.[1]

1 Vermeersch, De Religiosis Institutis, vol. i, nn. 335, 484.

Duties of Religious

Case 1. A Vocation to Religion

Part III

Caius, a young man of excellent ability and good morals, educated in a certain Catholic College, as the time for leaving the College approached, went to his confessor and asked what he ought to do. For he fears that he may be called to the religious state, since for almost an entire year the thought of entering religion has very frequently come into his mind, and he is persuaded that he would easily attain salvation in that state, whereas this would be rather difficult in the world because of his lively disposition and inclination to pleasures; nevertheless, his spirit shrinks from the austerity of religious life. He therefore wishes to know whether he is bound to enter religion. Hence it is asked:

1. What is a divine vocation, and how is it known whether someone has a vocation?

2. Does one who is called sin if he does not follow the vocation, or one who is not called if he thrusts himself into the religious state?

3. What is to be said of the case?

Solution

1. This question is answered above, p. 23.

2. Does one who is called to religion sin if he does not follow his vocation, and does he sin who enters religion without a vocation?

The answer given above with regard to vocation to the priesthood may be applied to this question. With regard to religious life which does not involve the priesthood, many divines hold with St. Thomas that a general vocation is given by God to all who are free and suited to the religious state. So that any such persons who choose to enter religion for some supernatural motive are in fact called thereto by God. As a vocation to a religious life is a call to perfection and to the practising of the counsels of the Gospel, which do not bind under sin, no sin is committed per se by one who does not follow such a vocation. If, however, he is conscious that by remaining in the world he would expose his salvation to serious danger he would of course commit sin by neglecting the necessary means to save his soul. 1

3. The case. Caius, a young man of excellent disposition and good morals, is afraid that he has a vocation to the religious life. The thought of it has often been in his mind during the past year; he is persuaded that he could easily save his soul in that state of life, while he is afraid that on account of his lively disposition and inclination for pleasure he would find it difficult to do so in the world. What deters him is the austerity of religion. Caius manifests some of the ordinary signs of a religious vocation. His fear of the austerity of the life does not militate against his having a genuine vocation, and should not be reckoned when trying to come to a decision. The confessor therefore should tell Caius that a religious vocation is a great grace which God gives to those whom He specially loves, 1 Manual of Moral Theology, vol. i, p. 642.

as He did to the young man in the Gospel. He might tell him that he has many of the signs of a religious vocation, but he should not attempt to settle the question himself; he should let Caius do that, recommending him to make a retreat for the purpose.

Case 2. Impediments to Entering Religion

Caia, a nun who recently professed simple vows, discloses to Titius, her confessor, that before entering Religion she had contracted with Paul a debt of twenty pounds that was not yet paid, of which she had made no mention to the superiors. Furthermore, she says that she brought fifty pounds with her into religion and gave it to the Order to compensate for the board and clothing furnished to her during the novitiate. Titius indeed knows that debt is an impediment to religion and that justice must be observed; nevertheless, he does not know what is to be done in the case. Hence it is asked:

1. Who may enter religion?

2. How do substantial and secondary impediments to entrance into religion differ?

3. Is a religious Order bound to pay the personal debts of its members?

4. What is to be said of the case?

Solution

1. Who may enter Religion?

All those who have the aptitude for the duties of religious life and who ar£ not prevented by any special obstacle may enter religion. The chief obstacles are: the necessity of supporting parents, consummated marriage, and debts. Bishops can not become Religious without the leave of the Holy See. The different Religious Orders have special impediments in addition to these.[1]

1 Manual of Moral Theology, vol. i, p. 643.

2. How do substantial impediments differ from secondary?

The former make religious profession invalid if they are not removed beforehand, the latter only render it unlawful. Debts constitute a secondary impediment.

3. Is a Religious Order bound to pay the personal debts of its members?

Certainly not. Personal obligations of this sort only affect him who contracted them.

4. The case. Caia did wrong to enter Religion without paying her debts. She has given all the money she had to pay for her own support during the novitiate to her superiors, who know nothing about the debt. She has no money left to pay the debt now. If she obtains any afterwards by inheritance or otherwise she will be obliged to pay the debt with the customary interest. In the meantime it will be sufficient if she repents of her fault, and resolves to fulfil her obligations when she can do so.

Case 3. Obstacles to Vocation

Patrick, a secular priest and a missionary in England but born in Scotland, seeks the counsel of Caius, a regular, in these circumstances. A few years ago Patrick entered a certain diocesan seminary in England and, after taking the oath of the Mission, was at length ordained under the title of the Mission. Afterwards, serving a certain Mission for two years, he brought forth much fruit in the vineyard of the Lord. Nevertheless, having experienced the dangers of such a life and having been captivated by love of religious perfection [a conjectural restoration of one corrupt printed word], he asks the Bishop for permission to return to his native country with the intention of entering a certain monastery there. The Bishop refuses; indeed, he asserts that Patrick is already in a state of perfection and that there is no reason for desiring religious life. So that he may forget it more easily, the Bishop orders him to go to another, very poor Mission, where neither labor nor poverty will be lacking. Patrick therefore asks Caius:

1. What obligations to serve the Mission rest upon him?

2. Is it true that the state of a secular priest is a state of perfection?

3. Can he enter religion, and under what conditions?

4. Is he bound to obey the Bishop with regard to the other Mission?

Solution

1. Under what obligations does Patrick lie of serving the Mission?

Patrick is bound to serve the diocese for which he was ordained by the very fact of his ordination and by his promise of canonical obedience to the Bishop. He is also bound by the terms of the missionary oath which he has taken.[1]

1 Trent, xxiii, c. 16 De Ref.; Manual of Moral Theology, vol. i, p. 634.

2. Is it true that the state of a secular priest is a state of perfection?

A certain stability of life is necessary to constitute a state of life in the strict sense, and that it may be a state of acquiring perfection it should impose the obligation and offer special means to attain perfection. The secular priesthood is not a state of acquiring perfection, as there is not the requisite stability, nor does it offer special means of acquiring perfection. On account of the want of stability it can not strictly be called a state in which perfection is exercised like the state of bishops, but in the opinion of Suarez it may be called an imperfect and inchoate state of exercising perfection on account of the priest's duty of working for the sanctification of others.[2]

2 Suarez, De Relig., tract, vii, lib. i, cc. 14, 15, 17.

3. Can Patrick enter Religion and under what conditions?

If Patrick can get the leave of the Holy See he may enter Religion, but that leave is required by the terms of the missionary oath. He should therefore be advised to make up his mind whether as far as can be known he has a true vocation, and then if he wishes to follow it he must ask leave from the Holy See, which will doubtless first consult the Bishop and then grant leave or not as it judges to be for the best.

4. Is he bound to obey the Bishop and accept the poor Mission assigned to him?

It may reasonably be doubted whether Patrick is so obliged if he does not wish to leave his present post. To transfer him to a poorer and harder Mission has the appearance not of promotion but of degradation, and Patrick has done nothing to deserve that. When the First Council of Baltimore laid it down that priests were obliged to obey the bishop when he bade them accept any mission within the diocese, the S. Cong, de Prop. Fide substituted for it this clause: " We admonish priests that mindful of the promise made at their ordination they should not refuse to accept any mission assigned to them by the bishop " (Collectio Lacensis recent. Concil., Ill, p. 22). Which is much less peremptory.

Case 4. Religious and Seculars

Caius, a secular priest ordained under the title of the Mission for a certain English diocese, having experienced in himself not slight signs of a vocation to the religious state, and not for a brief time, consults his missionary Rector about the matter. The Rector says that he does not understand what Caius lacks for acquiring the highest perfection, since it is written in the Fourth Council of Westminster, decree XII, no. 7: "Moreover, by the Lord, who has compassion on our weaknesses, exceptional aids are granted to us in England, who fight for the kingdom of truth, for acquiring priestly perfection. To the priesthood with which missionaries are distinguished is entrusted the care of souls and therefore spiritual gifts of every kind that are attached to the pastoral state; furthermore, pastors are especially pastors of the poor, the friends of Jesus, 'who have nothing with which to repay us,' and they themselves also are poor, and are nourished and contented by the alms of the poor. There is added also the daily and almost perpetual denial of one's own will in lightening the burdens of others, in comforting the sick, and in assisting the dying by day and night. Finally there remains the remarkable grace and privilege of the missionary oath, by which, on the threshold of the apostolate they have undertaken, after the likeness of the offering of Jesus made on the Cross, they freely offer themselves day by day as a living and pleasing sacrifice to God the Father." "Behold for you," says the Rector, "a state of perfection, and indeed one made stable by virtue of the oath of the Mission; poverty also, chastity, and obedience. What else can you have in religion that conduces to acquiring perfection?" Caius, however, still not content, secretly consults Julius, a regular, who, recognizing an excellent vocation, affirms that nothing prevents Caius from passing immediately to religion, since this privilege is granted in law to secular priests, nor does the oath of the Mission stand in the way, because, insofar as it is contrary to the evangelical counsels, it places an obstacle before the Holy Spirit, according to St. Thomas, in III, distinction 39, question 1, article 3, minor question 3, reply to 2, where the Angelic Doctor [correcting an evident omitted-letter printing error] adds these words: "By the very fact that someone swears that he will not enter religion, he is perjured." Hence it is asked:

1. Is the state of a secular priest with the care of souls a state of perfection?

2. Is at least the religious state a higher state of perfection than the state of a secular priest with the care of souls?

3. Which state is of greater dignity?

4. What is to be said of the case?

Solution

1. This question is answered above, p. 59.

2. Is the religious state a higher state of perfection than that of a secular priest with the cure of souls?

Yes, the office of a secular priest with the cure of souls is not a state of perfection in the strict sense, for he is bound by no perpetual obligation to give himself to the duties of his office. The Church permits them to abandon their office and enter religion, which is a proof that the religious state is of greater perfection than the office of a secular priest, as St. Thomas teaches (II— II, q. 184, a. 8). This, of course, does not prevent some priests being personally more perfect than some religious, as St. Thomas also teaches (II— II, q. 184, a. 4).

3. Which state is higher in dignity?

Secular priests have precedence over Religious, and this is a mark of their greater dignity of rank in the ecclesiastical hierarchy.

4. The case. The quotation from the Fourth Council of Westminster shows the excellence of the priestly office, and the necessity of having great virtue in order to fulfil its duties worthily. But as was said above, it wants the stability required for a state in the strict sense, and it does not of itself provide the safeguards and the helps which a state of perfection should provide for the acquiring of perfection. The missionary oath does not bind a priest perpetually to devote himself to the cure of souls, nor is he under vows of poverty and obedience. His promise of canonical obedience only binds him to obey the bishop in matters belonging to clerical discipline, and not to leave the diocese without the bishop's consent. In religious life the priest will be under the perpetual obligation of the three vows, and he will have innumerable helps and safeguards for the practice of the highest perfection. Julius was also wrong in saying that Caius might enter religion at once. He must not enter without leave of the Holy See as he is bound by the missionary oath. This oath does not bind him not to enter, but not to enter without leave of the Holy See, whose business it will be to find out whether the public good of the diocese will permit of his abandoning his office and seeking his private good in religion. So that the quotation from St. Thomas is not to the point.[1]

1 Cf. Instruct. 8. C. de P. F., 27 April, 1871, De Titulo Ordinationis, n. 10.

Case 5. The Obligation of the Rule

To Caius, a religious of the Society of Jesus, those Doctors seem to sin against the express words of the Holy Founder, who established that no Constitutions, Declarations, or any order of living can induce an obligation to mortal or venial sin, when they teach that a religious who transgresses the rule, notwithstanding the said declaration of the Holy Founder, sins venially at least when he does so frequently. By their glosses, wholly unfounded as it seems to Caius, the said Doctors introduce a snare of sin, into which the legislating Father took the greatest care that his sons should not fall through violation of the rule. Against Caius, Titius, another religious, urges that St. Ignatius wished all the Constitutions, Declarations, and the order of living to be observed exactly, so that they should impose at least some obligation, lest they be regarded as mere counsels; and furthermore, that the nature of the religious state and of the matter itself must be weighed. Hence it is asked:

1. What is the rule of a religious Order?

2. What ordinarily is the obligation of the rule of religious Orders?

3. What is required for a human act to be good, and what suffices for it to be evil?

4. What is to be said of the case?

Solution

1. What is the Rule of a Religious Order?

The Rule of a Religious Order in the strict sense is distinguished from the Constitutions. In the older Orders the Rule was a brief method of life drawn up by some of the great founders of Religious Orders, SS. Basil, Augustine, Benedict, and Francis, in order to guide their followers in the striving after the perfection proper to their state. The Constitutions were added subsequently and further developed and explained those Rules. In the Society of Jesus the Constitutions were drawn up by St. Ignatius, and the Rules were added subsequently. In the following case Rule is used widely to designate both Constitutions and Rule in the strict sense.

2. What is ordinarily the obligation of the Rule of Religious Orders?

Certain precepts which are often contained in the Rule bind under grave or venial sin according to the matter and the intention of the lawgiver. What immediately concerns the vows also binds under sin. Rules merely prescribing external discipline bind according to the will of the legislator. In most Religious Orders these rules do not bind directly under pain of sin, but only under the penalty imposed by authority.[1]

1 Normae S. C. EE. et RR., 1901, n. 320; S. Thomas, Summa, II-II, q. 186, a. 9.

3. What is required that a human act be good, and what is sufficient that it be evil?

The object, the end, and all the circumstances must be good that the action may be good; any defect will make it at least partially evil.

4. The case. Caius does not distinguish what certainly requires distinction. The rule of silence, for example, does not bind under sin, so. that a Religious who breaks it does not sin against the Rule. But if a Religious talks when he should keep silence, there will generally be some fault in what is said, or in the manner of saying it, or in the motive for breaking silence. There will generally be something said against charity or obedience, some loss of time on one side or on the other, some weakening of discipline, some indulgence of the spirit of curiosity, grumbling, or idleness, so that often there will be venial sin committed. This follows from the nature of things, and could not be prevented even if the founder wished to prevent it. Actions that are inordinate can not be made ordinate at the will of the legislator. This is what St. Thomas (l.c.) means, and other theologians after him, when they say that frequently religious commit sin by violating their Rule, even when it does not directly bind under sin.

Case 6. A Religious Legatee

Caius, a religious, was visiting Titius, his old friend, whom he found dying. As Caius was about to leave, Titius called him back and said that in his will he had left him one thousand pounds sterling. Caius had already sought his dismissal from the Order, which he expected would take place within a few weeks; hence he asked Titius to arrange for the legacy to be paid to a certain bank, to be delivered to him whenever he should ask for it. After receiving his dismissal, Caius sought and received the legacy; anxious, however, as to whether this was lawful and valid or not, he consulted a confessor about the question. Hence it is asked:

1. What is the vow of poverty, and what are its effects?

2. How is the gravity of sins against poverty measured?

3. What is to be said of the case?

Solution

1. What is the religious vow of poverty and what are its effects?

The essence of religious poverty consists in the voluntary renunciation of personal and independent ownership and use of property for love of Jesus Christ. The effects of the solemn vow differ from those of the simple vow. The effects of the solemn vow are to render the Religious incapable of individual and personal ownership of any property that has money value. The simple vow does not deprive the Religious of the direct, but of the indirect ownership of property; so that he can not lawfully use or dispose of anything that has a money value without the leave of his superior.[1]

1 Manual of Moral Theology, vol. i, p. 649 f.

2. How is the gravity of sins against poverty measured?

By the same rule that measures the gravity of sins against justice, for as the malice of theft consists in taking what belongs to another against his reasonable wish, so the malice of sins against religious poverty consists in disposing of property without leave of the Superior against one's promise made to God and against that Superior's wish.[2]

3. The case. If Caius was under solemn vows at the time when the legacy was paid in to the bank at his request he has no right to keep the money except with the leave of the Order to which he belonged. For in that case the legacy belongs to his Order: Quidquid monachus acquirit non sibi sed monasterio acquirit. If, however, he was only under simple vows he was capable of receiving the legacy validly, as his personal property, and he may keep the money as his. Whether in accepting the legacy he sinned or not against his vow of poverty depends on whether he had at least the reasonably presumed leave of his superior or not.

'Ibid., p. 651.

Case 7. Various Questions on Poverty

Caius, a religious, asks his confessor whether a violation of religious poverty or a sin is present in any of the following acts done by him. (a) He received five pounds sterling from a friend to distribute to the poor, which he distributed without any permission of the superior. (b) He asked a friend to pay the expenses of a certain boy's education. The friend agreed on the condition that Caius should ask him for and pay the required sums as often as necessary; Caius did this also without consulting the superior. (c) A secular priest, who was burdened with more Masses to be celebrated for stipends than he could celebrate, asked Caius to accept twelve to be celebrated without charge; he did this, again without consulting the superior. (d) Although the superior had forbidden his subjects ever to dine outside the house without express permission, Caius dined sumptuously at a friend's house without the superior's knowledge. Hence it is asked:

1. To what does the vow of religious poverty oblige?

2. What kind of sin is a violation of poverty?

3. What is to be said of the case?

Solution

1. To what does the vow of religious poverty oblige?

The vow of poverty obliges the Religious not to exercise any act of ownership with regard to things that have a money value without the leave of the superior.

2. What sort of a sin is a breach of poverty?

Of its kind a breach of poverty is a mortal sin, but it may be venial for lightness of matter. Matter which is grave in theft is also grave in violations of poverty.

3. The cases, (a) Caius, a Religious, received from a friend £5 for his poor, and distributed the money without the Superior's permission. If he distributed it as his own in his own name he violated poverty; otherwise, if he acted merely as the almoner of his friend. Often Religious are forbidden by rule to keep money, and if the Order to which Caius belonged had such a rule, he broke it by having money in his keeping. (b) In asking a friend to pay for a boy's education and acting as his intermediary Caius did not violate poverty. There was no act of ownership in the matter. We suppose that Caius did not make himself liable for the money, (c) Caius did not sin against poverty by promising to say twelve Masses gratis for the secular priest. He merely disposed of his Mass, which he may do without violating poverty. (d) Against the express orders of his Superior, Caius took dinner with a friend outside the monastery. He sinned against obedience and also against poverty, according to the common opinion. For without the leave of his superior he disposed of food, a thing which has money value. Lugo excuses him from a violation of poverty on the ground that one who eats a dinner merely passively receives a benefit; but it may be replied that one who eats a good dinner is by no means merely passive.

Case 8. A Meddling Lawyer

Caius, a priest of the Society of Jesus, while giving spiritual exercises in a certain convent of nuns who, with the approval of the Holy See, pronounced simple vows, was asked by the superior whether the convent could accept an inheritance coming to a nun from her father who died intestate. For a Catholic lawyer whose advice the convent used denied this, guided, as he said, by a recent example among the Jesuits, whose legal adviser he also was. Caius replied that it was desirable that the lawyer restrict himself to giving advice about the prescriptions of English law and not attempt ecclesiastical law; for since even professed members of the Society of Jesus may accept legacies for the monastery, and an inheritance in the sense of English law corresponds rather to a legacy than to an inheritance of Roman law, nothing prevents professed members of the Society of Jesus in England from also accepting inheritances for the monastery. Hence it is asked:

1. What is religious poverty, and what are its effects from the very nature of the matter?

2. What are the effects of religious poverty from the disposition of ecclesiastical law?

3. What is to be said of the opinions of the lawyer and of Caius?

Solution

1. What is religious poverty and what are its natural effects?

The first part of this question is answered above, p. 67.

The effects which follow from the nature of religious poverty may be summed up by saying that one who has taken a vow of poverty can not lawfully accept, dispose of, or use any property without leave of his superior. Acts of ownership are unlawful, not invalid.

2. What are the effects of religious poverty which are due to ecclesiastical law?

The personal incapacity of one who is solemnly professed to own property, and the consequent invalidity of acts of ownership exercised by him, are effects of positive law. Similarly, that one who has a simple vow may retain the direct ownership of property, but that its income must be spent and not allowed to accumulate, is due to positive law. To the same source is due the rule that whatever a Religious acquires he acquires for his monastery, not for himself; and the special rule of some Orders by which the solemnly professed can not acquire anything by inheritance or operation of law even for their monasteries.

3. The case. The rebuke administered to the lawyer by Caius was not undeserved. It by no means follows that because a professed Father of the Society of Jesus can not succeed to property left by an intestate relative, therefore a nun with only simple vows can not do so. In fact such property becomes hers, but she can not dispose of it or administer it without leave of her Superiors. There is some foundation for what Caius says about the difference between an inheritance in Roman and in English law. The heir in Roman law represented the person of the deceased and succeeded to all his rights and obligations. Hence one good reason why a

Religious should not succeed as heir. In English law the executor or personal representative is more akin to the Roman heir than is the English heir-at-law. Still in practice Jesuits who have taken their last vows are held incapable of succeeding to property that would devolve upon them by operation of law if they had not taken their last vows. Entailed property and property of intestates come under the rule, but not legacies.

Case 9. A Wide Interpretation of the Rule

Caius, a religious, went to the city to consult a physician, having received from the superior the expenses of the journey and of a dinner to be eaten in the city. He, however, visited a certain friend in the city, dined most sumptuously at his house, and was furnished with a first-class railway ticket for returning home; he spent the money received from the superior for dinner and the return journey on buying cigars, for, as he told himself, he had received permission for small things. Afterwards, however, when the cigars had been consumed, he began to be tormented by scruples, especially since the friend had spent more than one pound sterling on him. Hence it is asked:

1. What permission of the superior excuses a religious from a violation of poverty?

2. What kind of sin do religious commit who violate poverty?

3. What is to be said of the case?

Solution

1. What sort of leave of the Superior excuses a Religious from a violation of poverty?

Express, virtual, and tacit leave certainly are sufficient to excuse a Religious from committing sin when he disposes of property. Presumed leave is also sufficient if the Superior can not be asked. Whether it is sufficient or not when the Superior can be got at but is not asked on account of the trouble it involves, or for some similar reason, is a disputed point. Probably it is sufficient, because a Religious who acts with the presumption that the Superior would give his consent if he were asked does not act independently of his Superior; he does not exercise an act of private ownership. Venial sin, however, may be committed even then, because the Superior is unwilling that leave should be presumed without necessity, though he would grant it if he were asked.[1]

1 Génicot, vol. ii, n. 94.

2. What sort of sin do Religious who violate poverty commit?

This question was answered above, p. 70.

3. The case. Caius dined with his friend without leave of his Superior. If this act was against the will of his Superior so that he had not even presumed leave, he sinned against poverty according to the common opinion, as was said above. In accepting a first-class ticket for his railway journey back, he did not violate poverty any more than he would have done if his friend had driven him back in his carriage. In buying cigars with the money saved, he sinned against poverty, for he used the money as his own without any leave of his superior. It would, however, only be a venial sin, for the matter was not very grave, and the transaction cost the monastery nothing.

Case 10. The Vow of Chastity

Catherine, a professed nun in a certain religious Congregation, confesses with great difficulty and after many evasions that she sinned against the second vow by indulging in evil thoughts and also by touching herself immodestly. From her other statements Titius, the confessor, gathers that she sometimes procured an emission of semen, as she asserts, in no way for the purpose of taking pleasure but only to allay itching. Having heard this, Titius tells her that in such matters it is sufficient to confess the immodest touching. Hence it is asked:

1. What is the object of the religious vow of chastity, and does it comprehend internal acts?

2. Is there a specifically distinct sin of self-pollution both among men and among women?

3. Is it ever lawful to procure an emission of semen outside the use of marriage?

4. What is to be said of the case?

Solution

1. What is the object of the vow of religious chastity, and does it include internal acts?

" It is so well established among all that by the vow of chastity, by reason of religion, not only external acts of lust but also every internal act is forbidden, that it is unnecessary to dwell upon it.," says Lehmkuhl (I, n. 687).

2. Is there a specifically distinct sin of masturbation both among men and among women?

" Even in women there is an emission which differs specifically from incomplete venereal pleasure, and therefore must be distinctly accused in confession. Thus we opine with the common doctrine, even of the more recent authors," says Génicot (I. n. 396).

3. Is it ever lawful to procure an emission of semen outside the use of marriage?

Insofar as a voluntary emission of semen outside marital intercourse is gravely and intrinsically evil, it is never lawful directly to procure it.

4. In the case. In order to fully confess, Catharina should declare how often she has indulged in evil thoughts, and how often she has touched herself impudently. She sought the emission of semen or full sexual pleasure to relieve itching, not to obtain pleasure. However, as far as the emission of semen was directly sought as a means to the end, and that means is intrinsically and gravely evil, Catharina committed a mortal sin. Lehmkuhl says (I, p. 586), nota: " According to St. Alphonsus (III, 476), all condemn as mortal sin not only permitting pollution but procuring or intending it, even if it were done for the sake of health or of preserving life. Therefore the distinction between physiological and moral pollution, as though only the latter, which is done for the sake of pleasure, were unlawful, while the former were lawful if the intention and approval of pleasure were absent, is plainly excluded."

From what has been said it follows by itself it is insufficient even for women to confess only an impure touch when complete venereal pleasure has been admitted. Nevertheless, a woman a confessor is not required to interrogate a woman who confesses an impure touch whether she committed pollution for, as Génicot says, citing Berardi: "Berardi rightly writes (*Practice of Confessors*, no. 851): 'When a penitent says, "I touched myself," if it is established that the person truly touched himself or herself lustfully, it must be presumed that the act was carried through to its natural end; hence (whether men or women are in question) I would say that questions about this matter can be omitted.' It is true that some interrupt the act, even though they began it lustfully; but it cannot thence be concluded that confessors are obliged, for each and every person who confesses having touched himself or herself, to add questions in ordinary confessions about this interruption itself."

1 Génicot, vol. i, n. 396.

Case 11. Solemnity of Vows

Caius, a solemnly professed religious, after preaching with the applause of all in a certain secular church, is asked by Paul, the missionary who serves that church, to preach there again at Easter, and Paul is unwilling to accept any excuses. Caius therefore seriously promises that he will come. Nevertheless, having returned home and remembered the opinion of the Doctors according to which a solemn vow renders invalid every obligation undertaken by a subject independently of the superior's will, he doubts whether he is bound to anything by reason of the promise. Hence it is asked:

1. In what does the solemnity of vows consist?

2. What difference exists between a simple and a solemn vow of obedience?

3. What is to be said of the case?

Solution

1. In what does the solemnity of vows consist?

This is a disputed question among canonists and divines. The better opinion seems to be that it consists in a certain efficacy by which a Religious who is solemnly professed is thereby firmly and perpetually devoted and bound to the service of God in religion and to his Order. It may be called a consecration with St. Thomas.[1]

1 Lehmkuhl, vol. i, n. 647.

2. What is the difference between a solemn and simple vow of obedience?

All must admit that there is a difference inasmuch as the solemn vow is dispensed with greater difficulty than the simple vow. Besides this greater firmness in the solemn vow, some authors maintain that the solemn vow renders the Religious incapable of binding himself by promise or contract except with leave of his Superior, while the simple vow does not render a Religious incapable of binding himself, but he can not bind himself lawfully independently of the will of the Superior who can annul the obligation. Other authors deny that there is such a difference between the solemn and the simple vow of obedience, though it certainly exists between the solemn and simple vow of poverty. Génicot, vol. ii, n. 103.

3. The case. Caius, a solemnly professed Religious, seriously promised a secular priest to come and preach for him. The promise was made without his Superior's knowledge, but not against his orders. Caius would certainly be bound by such a promise to do what in him lay to fulfil his engagement. The utter invalidity of such promises made by one who is solemnly professed is not necessary for the end Sof religious life, and it can not be shown to exist. Caius therefore should, tell his Superior of his promise, and unless the Superior uses his authority to forbid him, he should fulfil it.

The Sacraments

The Sacraments in General

Case 1. Reviviscence of the Sacraments

Peter, a missionary called to a dying man, fortified him with the last sacraments and the blessing at the point of death. As Peter was about to leave the dying man's room after the sacraments had been administered, he was called back by the dying man, who said: "Father, I made a bad confession." After the confession was heard again and absolution given, Peter doubted whether or not he ought to repeat the other sacraments and the blessing. Hence it is asked:

1. What is an unformed and a formed sacrament?

2. When the obstacle has been removed, does an unformed sacrament revive?

3. When does one who has been blessed at the point of death gain the indulgence by the papal blessing?

4. What is to be said of the case?

Solution

1. What is a formed and unformed sacrament?

A formed sacrament not only has everything required for its validity but the requisite dispositions are present in the recipient, so that it produces grace when it is received. An unformed sacrament is validly received, but for want of the necessary dispositions in the recipient it does not at the time produce grace in the soul.[1]

81 *

1 Manual of Moral Theology, vol. ii, p. 17.

2. Does an unformed sacrament produce grace when the impediment to grace is removed?

Baptism, Confirmation, Order, when received unformed, according to the common opinion, produce grace in the soul on removal of the obstacle. Many authorities teach the same with respect to Matrimony and Extreme Unction. Penance probably does. The Eucharist does not.[2]

2 Ibid., p. 18.

3. When does the last blessing take its effect?

The last blessing takes effect at the moment of death. It may be given immediately after Extreme Unction and then its effect is suspended until the moment when death takes place.[3]

3 Lehmkuhl, vol. ii, n. 709.

4. The case. Peter, a missionary, had given a dying man the last sacraments and the papal blessing. When he was leaving the room the dying man called him back and told him that the confession which he had just made was a bad one. Peter heard his confession again and absolved him, but was in doubt as to whether he should repeat the other sacraments and the

papal blessing. He should not repeat Extreme Unction for it can be received only once in the same sickness, and the doctrine of reviviscence makes repetition unnecessary. Nor need he repeat the last blessing, for it will take its effect at the moment of death. He may and should administer Holy Communion again for the previous Holy Communion was sacrilegious.

Case 2. The Minister of the Sacraments

Caius, a missionary priest and a religious, heard at his own home the confession of his sick friend Titius, who was not, however, dangerously ill and who lived in the district of Julius, a secular priest, and refreshed him with Holy Communion. When Julius heard this, he wrote the following to Caius: Unless he had been ignorant of the ecclesiastical law which prescribes that the sacraments are to be received from one's own priest, he would not have administered the sacraments outside the district assigned to him. Caius denied that he had done anything contrary to any ecclesiastical law, and affirmed that, if some common ecclesiastical law were in force which prescribed that the sacraments are to be sought from the parish priest, it did not affect missionaries such as we have in England. Hence it is asked:

1. By common law are the sacraments to be administered by one's own parish priest, and by the quasi-parish priest in this region?

2. Is there a special law that prohibits religious from administering the Eucharist?

3. What is to be said of the case?

Solution

1. Are the sacraments to be administered by one's own parish priest according to the common law, and by the priest who has charge of the district in England and America?

The parochial sacraments of Baptism, Extreme Unction, Marriage, the Easter Communion, and Viaticum must be so administered according to the common law. Penance may be administered by any priest who has faculties in the place where the confession is heard. In England and in the United States the Easter Communion according to present discipline may be made in any church or public oratory.[1]

1 Manual of Moral Theology, vol. i, p. 627.

2. Is there a special law which forbids Religious to administer the Eucharist?

Religious strictly so called are forbidden under pain of excommunication reserved to the Pope from administering Extreme Unction or the Eucharist as Viaticum to the clergy or laity except in case of necessity without leave of the parish priest.[2]

2 Manual of Moral Theology, vol. ii, p. 406.

3. The case. No objection could lawfully be made to Caius hearing the confession of Titius, his sick friend. The faithful have a perfect right to go to confession to any priest who has faculties in the place. With regard to Holy Communion there is more difficulty. Whenever Holy Communion is of precept, as is the Easter Communion and the Viaticum, it is per se a parochial sacrament, and Religious are specially forbidden to administer it. However, in the case, communion was not of precept, but of devotion. To carry the Blessed Sacrament publicly

to the sick is reserved to the parish priest. In English-speaking countries it is not carried publicly to the sick, and some authors maintain that in such places Regulars may carry Holy Communion to the sick in secret unless the Bishop prohibits it. In England the Bishops make

Digith I by LiOOQie known their wish that Holy Communion should not be carried to the sick by Regulars or others without the permission of the priest of the district. The Society of Jesus has a special privilege in this matter for use in the Missions under Propaganda.

Case 3. A Sheep That Strayed Into the Fold

Julius, recently appointed a missionary in a certain district in England, was visiting Catherine, a widow of rather advanced age. When Julius asked whether she was a Catholic, she affirmed that she was, but at the same time said that she had once been an Anglican. "By whom were you received into the Church?" Julius asks. "By no one, but I came," the other replied, "for while an Anglican I always heard that each was essentially the same Church of Christ; hence I began to go to your church, where I receive the sacraments every month. For now I am a true Catholic, and I know that Anglicanism is infected with heresy and schism." Asked further whether she had been baptized, she said that she supposed this had been done to her as an infant in the neighboring Protestant church to which she would have belonged, but that her parents had almost entirely neglected religion. Julius said nothing else to Catherine, but inquired of the minister whether her name was in the register of those baptized in that Protestant church. When no indication of it was found, he proceeded to Catherine's house, where he found her stricken by a sudden illness and deprived of her senses. He wished to know what he should do in the case, and what he should do if Catherine recovered. Hence it is asked:

1. Who can validly and lawfully receive the sacraments?

2. What is the relation of

Baptism to the other sacraments?

3. What must be done when someone is received into the Church?

4. What is to be said of the case?

Solution

1. Who can receive the sacraments validly and lawfully?

In adults the intention to receive the sacraments is necessary for their validity. For the lawful reception of the sacraments of the living the state of grace is necessary, and for the lawful reception of the sacraments of the dead faith, hope, and attrition. No intention or disposition is necessary in those who have not the use of reason for the reception of the sacraments of which they are capable.[1]

1 Manual of Moral Theology, vol. ii, p. 41 ff.

2. What is the relation of Baptism to the other sacraments?

The valid reception of Baptism is necessary for the valid reception of the other sacraments.[2]

3. What is to be done when a convert is received into the Church?

Inquiry must first be made about the baptism of the new convert. If it is certain that he has never been baptized, after a profession of faith he should be baptized absolutely. If it be doubtful whether he was ever baptized he must make a profession of faith, be baptized conditionally in private with holy water without the ceremonies in England, be conditionally absolved from censures, and then

from sin after a full confession of his whole life. If he has been validly baptized already, he should make a profession of faith and be absolved from censures.[3]

4. The case. One may seriously doubt whether

‘Ibid., p. 41.

' Form for the Reception of a Convert, edited by the Bishop of Newport.

Catherine had ever been baptized. She herself supposed that she had been, but she had no positive information on the point; her parents were careless about religion, and her name was not to be found in the parish register. She should therefore be baptized conditionally again. If she is in danger of death, this should be done at once, though she is not conscious, and then she should be absolved conditionally and anointed. If she is not in danger of death, the priest should do nothing till she recovers. After recovery in any case she should be formally received into the Church according to the method described above, for as she had not formed an express intention of receiving Baptism, the validity of the Baptism administered while she was unconscious would be doubtful, even if she had not been baptized in infancy. Whether the sacraments which she had been in the habit of receiving every month were valid or not would depend on whether she had been validly baptized. Her reception of them was not lawful, but her good faith excused her.

Case 4. The Intention to Receive Baptism

Paul, an Anglican converted to the Catholic faith and raised to the priesthood, desired nothing more than to receive his father into the Church. Whenever he spoke with his father about the Catholic faith, the latter always put an end to the discussion by saying: "Neither do I wish nor do I not wish to be converted; but if it will be a consolation to you, you may baptize me before death," for he had been only doubtfully baptized as an infant. One day Paul received word that his father was gravely ill; when he hastened to him, he found that he had already died within the space of an hour. Without delay, after his father had been baptized conditionally, he absolved him and likewise anointed him conditionally. Hence it is asked:

1. What intention is required in the subject of the sacraments?

2. How can apparent death be distinguished from real death?

3. What is to be said of the case?

Solution

1. What sort of intention is required in the subject of the sacraments?

A neutral intention is not sufficient. In order that Baptism may be certainly valid the adult to be baptized must have at least an habitual and express intention to receive the sacrament. An implicit intention will probably

. CASES OF CONSCIENCE suffice. For Penance and Matrimony a virtual intention is necessary. A general or implicit intention is sufficient for the other sacraments.[1]

1 Manual of Moral Theology, vol. ii, p. 42 f.

2. How can apparent death be distinguished from real death?

The absence of vital functions, breathing, pulse, cadaveric spots on the body, and the loss of their luster by the eyes, are more or less certain signs of death. Unequivocal signs of death are putrefaction, and cadaveric rigidity, though the latter does not always appear so as to be perceptible.[2]

2 Capellmann, Pastoral Medicine, p. 201: Antonelli, Med. Pastoralis, vol. ii, nn. 568 ff.

3. The case. Paul, a convert and a priest, wished greatly to convert his father, whose baptism as an infant was doubtful. After talking about conversion the father used to close the conversation by saying: " I am indifferent about conversion, but if it will be any consolation to you, you may baptize me before death." One day Paul got a message that his father was seriously ill and he hastened off and found that he had died within an hour. He at once administered baptism, penance, and Extreme Unction conditionally. The father was not in fit dispositions to be received into the Church during his life; he had not the requisite faith. However, he had consented to be baptized before death, and was presumably in good faith. According to recent authorities real death, which is the separation of soul and body, does not take place for some

time after apparent death. The length of the period between apparent and real death, according to these authorities varies in different cases;

one or two hours is a safe mean reckoning. Paul is not to be blamed for using this opinion and doing all that he could do for his father's salvation. For although his father had no right to the sacraments inasmuch as he was not a visible member of the Church, yet it is a probable opinion that he had the requisite dispositions for being made one and for receiving the sacraments under condition at death.

Case 5. Simulation of the Sacraments

Agnes, because of grave fear instilled by a rather severe father, had promised to enter marriage with Albert, a marriage to which she was greatly opposed. On the very morning of the marriage she seeks Caius, the parish priest, with the intention of declaring that she was compelled by fear. Nevertheless, in the confessional itself she changes her plan, discloses some faults, and asks for absolution. Since Caius cannot obtain certain matter for absolution, he dismisses her with a simple blessing, without, however, warning her at all that absolution was not given. Afterwards Agnes goes through the form of marriage; when it is later lawfully proved that the marriage was entered through grave fear, it is declared null and void by ecclesiastical authority. When Agnes comes to confession the next time and says nothing about the simulated marriage, Caius remains in doubt whether or not he ought to question her. Hence it is asked:

1. What is it to simulate a sacrament?

2. Is it ever lawful to simulate a sacrament?

3. What is to be said of the case?

Solution

1. What is simulating a sacrament?

The 29th proposition condemned by Innocent XI asserted: " Urgent and grave fear is a just cause for simulating the administration of the sacraments." This false proposition was applied by its defenders to such cases as the following: To avoid death a priest might utter the words of consecration over all the bread in a baker's shop without the intention of consecrating it; or the words of absolution over an indisposed penitent without intending to absolve him; or might give a non-consecrated Host to one who was unworthy to communicate. Hence simulating the administration of a sacrament acquired a technical meaning and signified the use of the matter or of the form of a sacrament without the intention of completing and making the sacrament.[1]

1 Viva, Damnatae theses.

2. Is it ever lawful to simulate a sacrament?

The absolute condemnation of the above proposition by the Holy See shows that it is never lawful to simulate a sacrament either formally, when deception is intended, or materially, when deception is not intended but only permitted. The chief reason is because by such simulation a portion of a sacred rite instituted by Christ for the making of a sacrament and the conferring of grace on the souls of men, is used without the intention of completing the sacrament. Such an illusory use of a sacred sign is greatly injurious to God, and can not be rendered lawful even by the pressure of grave fear.

3. The case. Agnes should have kept to her resolution of telling the parish priest the truth about her case. Still she was not guilty of simulating the sacrament of marriage, for both the matter and form of this sacrament lie in the consent of the parties, and as Agnes did not consent, she

did not simulate marriage in the technical sense. A fortiori Caius did not simulate the sacrament of Penance, for he dismissed her with a blessing. Caius, therefore, was under no obligation of questioning Agnes about the simulation of marriage.

Baptism

Case 1. Baptism at Death

Caius, a missionary in southern Africa, had instructed Titius in the Catholic faith, which Titius indeed believed to be true; nevertheless, he was unwilling to embrace it before death. "I wish to be baptized before death," he used to say, "so that I may die a Christian, although I cannot live as a Christian." After a few years, Caius, hearing that Titius was dying, hastened to him and, finding him deprived of his senses, baptized him. Afterwards, however, Titius recovered and was unwilling to admit that he was a Christian. Caius therefore asks whether he ought to baptize Titius again if he should at some time be placed in danger of death. Hence it is asked:

1. What conditions are required on the part of the subject for the validity of Baptism?

2. What conditions are required on the part of the subject for the lawfulness of Baptism?

3. Can or ought Baptism to be repeated, at least conditionally?

4. What is to be said of the case?

Solution

1. What conditions are required for the validity of baptism on the part of the recipient?

The only condition on the part of the recipient who has the use of reason that is requisite for the validity ot Baptism is a wish to be baptized. An habitual wish is sufficient. In such as have never had the use of reason, not even this wish is required for the validity of the sacrament.[1]

1 Manual of Moral Theology, vol. ii, p. 62.

2. What conditions are required on the part of the recipient for the lawful reception of Baptism?

Faith, hope, and at least attrition for sin are necessary dispositions for the lawful reception of Baptism.[2]

2 Ibid., p. 62.

3. May Baptism be repeated or ought it to be repeated at least under condition?

Baptism may and should be repeated, under condition whenever there is prudent doubt whether a person has been validly baptized. Otherwise it should not be repeated.[3]

3 Ibid., p. 63.

4. The case. Titius had expressed a wish to be baptized before death. He must be presumed to have intended to procure Baptism when he was in danger of death, as he could not wait till he knew whether death in reality ensued or not. Caius, then, acted according to his express will when he baptized him on finding him out of his senses and in danger of death. The Baptism was therefore valid though afterward Titius would not acknowledge his obligations, and it should not be repeated if he again falls into the danger of death.

Case 2. A Young Convert

Anna, a Protestant girl twelve years of age and educated for several years by nuns in a Catholic elementary school, asks Titius, who served that Mission situated in England, to receive her into the Catholic Church. From her answers to his questions, Titius finds that she is a girl of excellent character, sufficiently well instructed in the Catholic religion, and possessed of a firm intention to embrace the Catholic religion. Nevertheless, he knows well that within a short time she will leave the school, that her father, who is exceedingly hostile to the Catholic Church, is ignorant of his daughter's will and will most certainly refuse consent; and he rightly fears that, if Anna is received, a considerable number of non-Catholics who send their children to the same school, anxious about their own children, may remove them from the school. Being doubtful, therefore, he asks:

1. What dispositions are required in adults that they may be admitted to Baptism?

2. Is it lawful to baptize children under parental authority whose parents are infidels or heretics, and when?

3. What is to be done in the case set forth above?

Solution

What dispositions are required in adults that they may be admitted to Baptism?

For valid reception they must have the will to be baptized, and that it may be lawful they must have faith, hope, and that sorrow for sin which is called attrition.[1]

1 Manual of Moral Theology, vol. ii, p. 62.

2. Is it lawful to baptize the children of infidels and heretics, and when?

The First Council of Westminster (d. XVI, n. 6) says: " A priest may baptize infants born of non-Catholic parents, provided that consent is had that they are to be educated in the true religion and that they have a Catholic godfather or godmother." When children come to the use of reason they are their own masters per se and independent of their parents in what relates to religion. However, in concrete cases, converts of tender years should seldom be received unless they can be brought up amid Catholic surroundings. The danger of their afterwards falling away, of scandal and the opposition of parents and others must be considered, lest more harm than good be done. Non-baptized parents are not subject to the Church and St. Thomas teaches that it would be against natural justice if an infant of such parents who is in no danger of death were to be baptized without their consent.[2]

2 Ibid., p. 63.

3. What is to be done in the case?

Ann, a girl of twelve, educated by nuns in a Catholic elementary school, asked Titius, the parish priest, to receive her into the Church. Titius finds out that she is a good girl, well instructed in the

Catholic faith, and determined to become a Catholic. However, in a short time she will leave school, her father is anti-Catholic, would certainly refuse his consent to her becoming a Catholic, and Titius fears that if she were received many non-Catholic parents would withdraw their children from the school. Under these circumstances Titius should tell Ann that he will receive her if she can get her father's consent; that until she can do this she should foster the grace that has been given her by being good, constant at her prayers, reading good Otholic books, and patiently waiting till she is older or can get her father's leave to enter the Church.

Case 3. Remembered His Own Baptism

Caius, converted from the Anglican sect to the Catholic faith, is questioned about his Baptism by Titius, the priest who is to receive him into the Church. "I remember all the circumstances well," says Caius, "for I was born a Unitarian and, when I had reached twenty years of age, became an Anglican. Indeed, before Baptism the Anglican minister explained to me that the rite of Baptism had no supernatural efficacy and was only an external ceremony by which men are joined to the Christian community. Astonished by this declaration, I began to inquire further, and now at last I wish to be received into the true Church." From Caius's other statements Titius gathers that the Anglican minister did not use in conferring Baptism the reverence and attention that he ought to have used, but that otherwise he duly applied the matter and form. Nevertheless, he doubts whether or not he ought at least conditionally to baptize Caius. Hence it is asked:

1. What attention and intention are required in conferring the sacraments?

2. What is prescribed in England concerning converts to the faith who are to be baptized?

3. What is to be said of the case?

Solution

1. What attention and intention are required in conferring the sacraments?

Attention, or advertence of the mind to what is being done, is requisite under pain of venial sin for the lawful administration of the sacraments, but it is not necessary for their validity. What sort of intention is required is explained by all approved authors.

2. What is prescribed with regard to baptizing converts in England?

The First Council of Westminster (d. XVI, n. 7), decreed: " We renew the rule absolutely, commanding that all converts from Protestantism are to be baptized conditionally unless it is most certainly established by indubitable proofs that in their baptism everything was duly performed with regard to the application of the matter and form. Such a baptism shall not be done publicly but entirely privately, with lustral water and without ceremonies. Sacramental confession also is always to be required in such a case."

From this decree may be gathered what is prescribed by other ecclesiastical regulations: viz., that whenever there is question of receiving any one into the Church, inquiry should be made about the postulant's Baptism. After inquiry, when there is any prudent doubt whether the person was ever baptized or whether the Baptism was valid, Baptism is to be administered conditionally, according to the method laid down in the decree.

3. The case. Caius well remembered all the circumstances of his Baptism administered by an Anglican minister when he was twenty years old. The Anglican minister did not act very reverently, but he rightly applied the matter and form. The intention to baptize Caius must be presumed. As all the essentials for valid Baptism were present, the Baptism was valid, and

Titius must not baptize him again. He must absolve him from censures after he has made a profession of faith, and then direct him to make a general confession of his sins committed after Baptism. The Anglican minister did not hold the Catholic faith about Baptism, but his heresy could not make the sacrament invalid, if it had all the essentials for validity.

Case 4. A Too Zealous Pastor

Caius, a priest most zealous for the salvation of souls, is accustomed not only to visit Catholics but also to seek lost sheep outside the fold. If he finds in Protestant families weak or sick infants who probably will never attain the use of reason, after asking permission to bless them he secretly baptizes them by applying to their heads a handkerchief previously moistened. Julius, however, another priest who serves the same Mission, condemns Caius for an injury against the sacrament and against the infants' parents. Hence it is asked:

1. Who are the minister and the subject of Baptism?

2. Is it lawful to baptize infants against their parents' will?

3. What is to be said of the case?

Solution

1. Who is the minister and who the subject of Baptism?

The ordinary minister of solemn Baptism is the parish priest, who may delegate his office to another priest, and for just cause even to a deacon. In case of necessity any one may baptize.[1]

1 Manual of Moral Theology, vol. ii, p. 52.

The subject of Baptism is any living person who has not been baptized.

2. Is it lawful to baptize children against the wish of their parents?

If the parents are baptized Christians the Church has a right to baptize their children even against their will, inasmuch as they themselves are subjects of the Church, and bound to obey her laws. In practice, such a right can only be used rarely and with great caution and proper safeguards. If the parents are not baptized and therefore not subject to the Church's laws, their children may not be baptized before they have reached years of discretion without the consent of the parents except when they are in danger of death. After they have attained years of discretion they are not subject to their parents in the matter of religion.[1]

1 Manual of Moral Theology, vol. ii, p. 63.

3. The case. Caius should exercise discretion in his zeal. If the children that he baptizes have never previously been baptized and are in danger of death his zeal may be praised. No injury is done to the parents and the children on dying are assured of a place in heaven. If the children have previously been baptized or if they are not in danger of death when he baptizes them, Caius does wrong. In the former case he is guilty of reiterating Baptism, in the latter he baptizes a child who will not be brought up as a Catholic. The mere probability of their dying before they attain the use of reason is not sufficient to justify his action. Mere application of the wet handkerchief to the children's heads would not be valid Baptism; the water must run,

or at least the wet handkerchief must Be moved so as to express the sacramental sign of washing.

Case 5. A Convert from Judaism

Rebecca, born of Jewish parents, had been entrusted by them to nuns to be educated in a convent. Now sixteen years of age and about to leave the convent the next year when her education was finished, she asked Titius, a regular priest, to receive her into the Church. Titius found her well instructed in the Catholic faith and fully persuaded of its truth, but her parents utterly unwilling that she should publicly embrace the Catholic religion. Titius, however, does not know whether in these circumstances he ought to grant her prayers, at least so that she may become a Catholic secretly. Hence it is asked:

1. Who is the subject of Baptism?

2. Can children under parental authority be baptized against their parents' will?

3. If a child of infidels or non-Catholics is baptized, what must be guarded concerning that child's education?

4. What is to be said of the case?

Solution

The first question was answered above, p. 103 and the second, p. 104.

3. If a child of infidel or non-Catholic parents be baptized, what should be done about its education?

Means should be taken to secure the child's education in the Catholic faith. With a view to this the First Council of Westminster (d. XVI, n. 6), decreed: " A priest can baptize infants born of non-Catholic parents born, provided that consent is had that they are to be educated in the true religion and that they have a Catholic godfather or godmother." The Holy Office has more than once replied to questions on the point that unless those who are offered for Baptism are in danger of death it is not lawful to baptize them if they are to be left under the care and education of their infidel parents. Thus on March 15, 1770, the following answer was given: " It is not lawful to confer Baptism on children offered by both infidel parents, whenever the same infants, after receiving Baptism, are to be left under the power and education of those same infidel parents."[1]

1 Bucceroni, Enchiridion Morale, p. 109.

4. The case. Rebecca should not be received unless she can publicly profess and practise the Catholic faith. She should be told that there would be no difficulty in receiving her if she could get her father's consent. Even if she can not get her father's consent to her reception into the Church directly, if a place in a Catholic family or amid Catholic surroundings could be provided for her, and her father agreed to her accepting the place, she might then be received at once. If she is under the necessity of returning to her father's house and living under his authority, and if she can not get his consent to her becoming a Catholic, her reception should be put off" till she becomes her own mistress. The danger of perversion, of scandal, of complaints against

convents, in general render immediate reception unadvisable in these circumstances. She should be taught how she may preserve her good dispositions by prayer, leading a good life, reading good books, etc., until such time as she can be received into the Church.

Case 6. What Baptism Implies

The following case was proposed in *Pastoralia*, Jan. 1901.

On a certain Sunday a woman with a Protestant godmother brought an infant to the Catholic church to be baptized. Questioned by the parish priest, she said that she and her husband had been brought up in the Catholic faith but no longer professed it, since one religion was as true as another. Their four other children had indeed been baptized in the Catholic church, but now attended the public school (Board-school), and she was unwilling to send them to the Catholic school. She had brought this infant to the Catholic church to be baptized because the others had been baptized there, and it would not be baptized in the Protestant church or elsewhere unless it were baptized by the parish priest. Hence the parish priest asks:

1. Ought he to have baptized the infant?

2. Since a Catholic sponsor could not be procured, was it lawful for him to admit the Protestant godmother?

3. Otherwise, ought he to have baptized without a sponsor and with the ceremonies?

4. In that case, what is to be said of the responses in the Ritual, and who ought to have held the infant while it was being baptized?

Solution

1. Ought the priest to have baptized the child?

The Baptism would indeed have been valid, but it may be doubted whether the priest should administer Baptism in such cases. The child is in no danger of death, both parents have fallen away from the Faith and no longer profess to be Catholics, the mother openly asserting that one religion is as good as another. The other children are going to a non-Catholic school, and there is no probability that this one will be brought up a Catholic. Under these circumstances the priest should not baptize the child unless he can in some way secure a Catholic education for it.

2. As a Catholic sponsor could not be procured, could a Protestant be admitted in such a case?

No, a Protestant may never be admitted as a sponsor in Baptism.

3. Ought Baptism to be given without sponsor and with the ceremonies?

The Sacred Congregation de Propaganda Fide, April 1, 1816, answered that if proper sponsors can not be had, Baptism which is necessary must be given without sponsors who are not necessary.[1]

1 Collectanea S. C. de P. F., n. 618.

4. In that case who should make the answers in the Ritual, and who should hold the infant while it is being baptized?

The priest himself might make the answers, and the mother or any one else might hold the child, for that act alone would not make her a sponsor.

Case 7. Parents' Neglect

Lucius, a missionary priest in England, found, not without sorrow, that several boys and girls in his elementary school had not been baptized. Some were born of parents who were indeed Catholic but very negligent and vicious; others of Protestant parents who were indifferent in religious matters. After due instruction in the catechism had been given, he baptized all of them who were willing, and forcibly washed at the sacred font a certain four-year-old Lucillus, born of Catholic parents, who resisted vigorously with feet and fists. The neighboring priests heard these things not without astonishment. Hence it is asked:

1. Can children be baptized against their parents' will?

2. Can children of heretics be baptized, and under what conditions?

3. At what time and under what obligation are parents bound to procure Baptism for their children?

4. What is to be said of the case?

Solution

The first question was answered above, p. 104, and the second, p. 98.

3. When and under what obligation are parents bound to have their children baptized?

Catholic parents are bound to have their children baptized as soon after birth as they can conveniently. According to approved theologians it would be a grave sin for parents to put off their child's Baptism for a month without good cause.[1]

1 Manual of Moral Theology, vol. ii, p. 63.

4. The case. Lucius did right to baptize the children of Catholic parents who had not been baptized. They are being educated in the Catholic school and they can thus be instructed in the Catholic religion. It is plain that there has been grave and culpable negligence on the part of their parents. For the same reason he was right too in baptizing Lucillus. He was only four years old and had not yet the use of reason, so that his resistance need not cause scruple or doubt. It was probably directed against a function which he considered objectionable but which he did not understand. As his parents were Catholics the Church had a right to baptize him. Lucius should not have baptized the children of Protestant parents without procuring a promise from the parents that they should be brought up Catholics and allowed to practise the Catholic religion. He should in addition have provided them with sponsors whose duty it would be to watch over their Catholic education. The Baptism, however, even of these was valid, and Lucius should do what he can to educate them as Catholics and induce them to lead Catholic lives.

Case 8. Non-catholic Sponsors

Julius, a missionary in England, at the customary time on a certain Sunday goes to the church to administer Baptism if there should happen to be anyone to be baptized. He finds an infant to be baptized with a godmother and Tullius, a Catholic, who says that he is acting as proxy for the infant's uncle, who promised to be the godfather. Questioned about the uncle, Tullius says that he is an Anglican, but rich, and that the infant's parents entertain no slight hopes from him. Julius, however, is doubtful what he ought to do in the case. Hence it is asked:

1. Who and how many can or ought to be sponsors?
2. What are the obligations of sponsors?
3. Can a non-Catholic sponsor be admitted at a Catholic Baptism, or a Catholic at a heretical baptism?
4. What is to be said of the case?

Solution

1. Who may be sponsors in Baptism and how many may there, or ought there, to be?

All who have attained the use of reason and have been baptized themselves may be sponsors unless they are expressly excluded by law. The following are excluded: " The parents of the person baptized, if both are living, heretics, those who are excommunicated, or interdicted, public criminals or people without reputation, those who ill are ignorant of the rudiments of the Faith, and members of Religious Orders. Others are sometimes prohibited by Provincial law, as the following in England: those who have not reached the age of puberty, those who have not been confirmed or who have not made their Easter duties, and ecclesiastics."[1]

1 Manual of Moral Theology, vol. ii, p. 60.

According to the Council of Trent one only, whether male or female, or at most one male and one female may be admitted as sponsors.

2. What are the duties of sponsors?

They answer for the person baptized at Baptism, receive him from the hands of the minister after Baptism, and if necessary act as his instructors in the Faith.

3. May a non-Catholic sponsor be admitted in Catholic Baptism, or may a Catholic be sponsor in non-Catholic Baptism?

No; both are prohibited as being communicatio in sacris.

4. The case. Julius can not allow the Anglican uncle to be sponsor in Baptism for a Catholic child. If he is afraid that great offence would be given to the parties concerned if he were openly to

refuse to allow him to be sponsor the easiest way out of the difficulty would be to let the godmother, who is a Catholic, act alone without saying anything to Tullius. The latter would be permitted to stand by while the Baptism was being administered, but he would not be allowed to touch the child.

Confirmation

Case 1. Necessity of Confirmation

Caius, a missionary in England, goes around the district to learn who ought to be confirmed by the Bishop who is soon to come. He finds Tullius, a Catholic head of a family, who denies that he has ever been confirmed. Asked how this happened, he says that out of shame he did not come to be confirmed as a boy at the appointed time, and that for the same reason he did not afterwards dare confess this to the priest. Caius persuades him at least now to receive a sacrament so necessary in our days, but doubts whether, because of his neglect, Tullius ought to make a general confession from boyhood. Hence it is asked:

1. What are the matter and form of Confirmation?

2. When and by whom is it to be conferred?

3. Is it a necessary sacrament?

4. What is to be said of the case?

Solution

1. What are the matter and form of Confirmation?

The common opinion is that the anointing with chrism, together with the simultaneous imposition of the hand of the bishop on the forehead of the confirmed person while he makes on it the sign of the cross with the chrism, is the adequate and essential matter of the sacrament. The form is: " I sign thee with the sign of the cross and I confirm thee with the chrism of salvation, in the name of the Father, and of the Son, and of the Holy Ghost."[1]

1 Manual of Moral Theology, vol. ii, p. 67 f.

2. When and by whom is Confirmation to be administered?

According to modern discipline Confirmation is given to baptized persons who have attained the use of reason and have been well instructed in Christian doctrine. The bishop of the diocese is the ordinary minister of Confirmation; a priest may be delegated by the Pope to administer it.

3. Is it a necessary sacrament?

It is not necessary necessitate medii; whether it is necessary necessitate praecepti is a disputed point among theologians. St. Thomas with many other approved authors deny that it is.[2]

2 Ibid., p. 74.

4. The case. Tullius neglected to receive Confirmation not out of contempt but from shyness. As is clear from the dispute among theologians, it is not certain that in doing this he committed a mortal sin, and no one should be held guilty of mortal sin unless it is clear and certain that he

has committed mortal sin. Tullius, therefore, should not be obliged to make a general confession, unless indeed he thought that he sinned mortally by acting as he did.

The Holy Eucharist

Case 1. Adulterated Matter

Sylvius, a priest, hears that the adulteration of foods has gone so far as to corrupt the wheat and wine that serve the altar. For in order that the flour from which the hosts are made may be as white as possible, the genuine wheat having been removed, alum is mixed in; and from a small quantity of genuine wine, by means of water and chemical art, a fourfold quantity is made. With such matter Sylvius celebrated Mass for almost a year, and often for a stipend. Having taken suitable means so that henceforth at least he may have the due matter, he asks what he must do with regard to the past. Hence it is asked:

1. What is the matter of the Most Holy Eucharist?

2. Is consecration under one species valid, or ever lawful?

3. What is to be said of the case?

Solution

1. What is the matter of the Holy Eucharist?

The remote matter of the Eucharist is twofold, wheaten bread and wine of the grape.[1]

1 Manual of Moral Theology, vol. ii, p. 82.

2. Is consecration under one species valid, and is it lawful?

It is certainly never lawful. Consecration of one species is certainly valid when there is the intention of consecrating both species, but the consecration does not take effect, because, for example, the host is not wheaten bread or what is in the chalice is not wine of the grape. Even if a priest pronounces the words of consecration over one species with the intention of consecrating it alone, the consecration will be valid, but it does not constitute the Sacrifice of the Mass, since Mass consists essentially of the consecration under both species.

3. The case. The taking away of the germ from the grains of wheat and the addition of a little alum for the sake of greater whiteness would not change the wheat substantially, and so hosts made of such wheat would still be valid matter for the Eucharist, but it should not be employed. The sophisticated wine, however, was not wine of the grape, and it was not valid matter for Mass. The consecration under one species was nevertheless valid, and perhaps sufficient for the application of the fruits of Mass to the intentions of those who gave the stipends. Ballerini says that in such cases priests have recourse to the Holy See to know what should be done, but he admits that probably all obligations resting on the priest by reason of accepting the stipends have been fulfilled by the consecrations under one kind.[1]

1 Ballerini, Opus Morale, tract, x, sec. iv, n. 230.

Case 2. Fasting Communion

Titius, a missionary priest in England, wishes to know whether he may bring Holy Communion to Mary, a parishioner who is not fasting, who suffers from consumption and must take milk every two hours by the physician's prescription, although she is not confined to bed. Sometimes, feeling better, Mary comes to Mass at nine o'clock in the morning and would then like to receive Holy Communion even though not fasting, if this is permitted. Titius himself also, being old and sometimes suffering from influenza and its aftereffects, is compelled to abstain from saying Mass for two or three months. He could, however, sometimes celebrate Mass if it were lawful to take extract of meat or something of this kind beforehand; concerning this he doubts and asks to be instructed. Hence it is asked:

1. To what does the law of fasting before Holy Communion oblige?

2. What did the decree of the Sacred Congregation of the Council of Dec. 7, 1906, concede?

3. What is to be said of the case?

Solution

1. To what does the law of fasting before Holy Communion oblige?

This law forbids those to receive Holy Communion who have taken any food or drink whatever after midnight. Those who are dangerously ill are excepted from the obligation of this law.

2. What mitigation was permitted by the decree S. C. C., Dec. 7th, 1906?

The dispositive portion of the decree is as follows: " The infirm who have been lying in bed for a month without a certain hope of soon recovering may, by the counsel of the confessor, receive Holy Communion once or twice in a week, if it is about the infirm who dwell in pious houses where the Holy Sacrament is kept, or who enjoy the privilege of celebrating Mass in the domestic oratory; once or twice in a month for others, even if they have drunk something in the manner of a drink or tea." By a subsequent decree dated March 6th, 1907, it was explained that the term decumbunt comprised those "although afflicted with grave illness and, in the physician's judgment, unable to observe the natural fast, nevertheless cannot remain in bed or can rise from it for some hours of the day."

The conditions therefore required for the application of this decree are: (a) The person should have been seriously ill for a month, and there should be no reasonable hope of recovery within a short time, say, a month. (b) With the advice of the confessor Holy Communion may be received once or twice a week if the Blessed Sacrament is reserved in the house where the sick person lies, in other cases once or twice a month, (c) Though something liquid has been taken after midnight, e.g., tea, chocolate, soup, even if an egg has been broken up in it.

3. The case. From what has been said it is clear that Titius may take Holy Communion to Mary even though she has taken milk every two hours after midnight.

The decree is not applicable to those who can and do go to Church not fasting, according to the interpretation put upon the decree at Rome, and followed by approved authors. " It appears that the Holy Eucharist must be brought to the chamber," says Génicot, (II, n. 202. ed. 6a).

The mitigation of the law is granted to the faithful who wish to communicate, not to priests who wish to say Mass.

Case 3. The Fast Broken

Titius, a priest who alone serves a certain Mission, suffering from a cough, is accustomed to put a lozenge into his mouth so that he may sleep at night. One night, awakened as the clock struck twelve, without intending it he swallowed some of the lozenge that still remained in his mouth. He begins to doubt whether in the morning it is lawful to celebrate the Mass which the people are bound by precept to hear (for it was Sunday), or whether he ought to dismiss them without Mass. Hence it is asked:

1. What is required for that eating by which the fast prescribed before Holy Communion is broken?

2. Can smallness of matter, either with regard to the food taken or with regard to the time after twelve o'clock, be admitted in this law of fasting?

3. Can intention cause a fast to be broken that otherwise is not broken?

4. What is to be said of the case?

Solution

1. What is required for a violation of the fast prescribed before Holy Communion?

What is taken must have the nature of food or drink or medicine; it must be from without the mouth; and it must be taken in the way food is usually taken, not e.g., by respiration.[1]

1 Manual of Moral Theology, vol. ii, p. 110.

1 Manual of Moral Theology, vol. ii, p. 110.

2. Is lightness of matter allowed in this law either in what is taken or in the time?

No, the law admits of no lightness of matter, for the prohibition does not fall on the food or time, but on the receiving of Holy Communion after taking the least food or drink after midnight.[1]

3. Can the intention cause the fast to be broken when otherwise it would not be broken?

According to the rubric of the Missal (De Def., IX, 3) if a drop of water is swallowed inadvertently while washing the mouth it does not hinder Holy Communion. And theologians apply the same rule to a drop of rain, or soup mixed with the saliva and swallowed inadvertently. In these cases the common opinion, which St. Alphonsus says is certainly to be held, maintains that if this is done intentionally the fast is broken.[2]

2 Theol. Mor., lib. vi, 279.

4. The case. Midnight is past after the first stroke of twelve. Titius therefore after twelve swallowed a piece of the pastille which still remained in his mouth. In doing this he broke his

> fast even though he did it unintentionally, for the sucking of the pastille must be regarded as a continuous action of eating which did not finish until after twelve.[3]

3 Ibid.

If the necessity for the people to hear Mass is the only reason why Titius should say it, he should abstain from saying it, and explain the reason to the people. He may have prayers and give them a sermon. If he has reason to fear scandal or grumbling on account of his acting in this way he may say Mass, according to a sound opinion.[4]

4 Manual of Moral Theology, vol. ii, p. 111.

Case 4. Doubtful Dispositions

Philip confesses on Saturday evening with the intention of receiving Communion on the following day. That night, however, while conversing familiarly with friends, he spoke about the secret crime of a certain third person. Afterwards he doubted vehemently whether perhaps by doing this he had committed a mortal sin. Still doubtful, on the next morning he went to church with the intention of confessing his doubt before Mass to the priest who alone served the church. When, however, he reached the church, behold, the priest had already begun Mass. Philip was unwilling to omit Holy Communion, and he had no other confessor to whom he could confess. In such great straits he thought that he could approach Holy Communion with the others during Mass, which he did. On the following Saturday, however, agitated by scruples, he came again to confession, declared what he had done, and asked what he ought to have done. Hence it is asked:

1. What dispositions of soul are required for Holy Communion?

2. How and concerning whom is that Tridentine phrase "Let him confess as soon as possible" (Session XIII, chapter 7) to be understood?

3. What is to be said of the case?

Solution

1. What dispositions of soul are required for Holy Communion?

The dispositions of soul required for Holy Communion are the state of grace and a good and upright intention.[1]

1 Manual of Moral Theology, vol. ii, p. 106 ff.

2. How and of whom is the precept of the Council of Trent to be understood: " Let him confess as soon as possible " (Sess. XIII, c. 7)?

This is a grave precept imposed by the Council on those priests who though conscious of mortal sin and sorry for it did not go to confession before saying Mass on account of not having a confessor to whom they could confess.[2]

2 Ibid., p. 107.

3. The case. Philip was in doubt whether he was in the state of grace or not, because he was not sure that he had not committed a mortal sin of detraction since his last confession. As he was in doubt, he was not conscious of mortal sin, and only those who are conscious of mortal sin are bound to go to confession before Holy Communion. However, as the Eucharist is a sacrament of the living, and does not of itself certainly confer grace on a soul deprived of the supernatural life of God's grace, those who receive it are bound to have moral certainty of their freedom from mortal sin in order that the sacrament may be fruitful. Therefore, one who doubts whether he is in the state of grace, although he is not bound to go to confession, yet he

is bound to elicit an act of contrition so that thereby he may make sure, morally speaking, of being in the state of grace. Philip, therefore, should have done this, though he did not sin in omitting it, because he was in good faith.

Case 5. Was Confession Obligatory?

Caius, a missionary Rector in England, sinned at night with the maidservant. Obliged to celebrate Mass the next morning, since he was unwilling to confess to the young priest who was his curate, inasmuch as the curate would suffer scandal and might suspect who the accomplice was, and since no other priest lived within three miles, he elicited an act of contrition and celebrated Mass. Afterwards, however, he was tormented by scruples when he considered that he could have confessed to the curate without making any mention, or making only some mention under general terms, of the sin with the maidservant, or at least could have gone by tramway to another priest without grave inconvenience. Hence it is asked:

1. What integrity is required in confession, and by what law?

2. Must the integrity of confession be procured even by revealing the sin of an accomplice?

3. What obligation rests upon a priest who, burdened by mortal sin, has celebrated with contrition alone because of the lack of a confessor?

4. What is to be said of the case?

Solution

1. What sort of integrity is required in confession and by what law?

By divine law formal integrity is required in confession, which consists in mentioning all the mortal sins which occur to the mind after a diligent examination of conscience and which have not previously been directly absolved, or at least those mortal sins which the penitent is bound under the circumstances to confess.[1]

1 Manual of Moral Theology, vol. ii, p. 164 f.

2. Is the integrity of confession to be procured by manifesting also the sin of one's accomplice?

If the penitent can not confess a sin without thereby making known his accomplice in the sin to his confessor, it is probable that he is not bound to confess that sin to this confessor. The contrary opinion that he is bound to confess it is also probable, so that he is free to do so if he choose.[2]

2 Bucceroni, vol. ii, n. 720.

3. What obligation rests on a priest who because he had not a confessor merely made an act of contrition for a mortal sin and celebrated Mass?

He is bound to go to confession as soon as possible according to the decree of the Council of Trent (Sess. XIII, c. 7).

4. The case. Caius was not bound to go to confession so early in the morning to the neighboring priest. His going and inquiring for his confessor at so unusual a time could scarcely help

creating suspicion and comment. If he had no other mortal sins on his conscience he was not bound to go to his curate; for the danger of causing him scandal and the probability that he would suspect who was the accomplice excused Caius from confessing this sin to him. If he had other mortal sins not yet confessed which he could confess to his curate without these inconveniences he would be bound to confess them before Mass. Otherwise if he has the grace to make a good act of contrition he will only be obliged to confess his sin as soon as possible, i.e., within the next three days.

Case 6. Non-fasting Communion

Caius, the missionary Rector, had determined to perform the Offices of Holy Week himself. When, however, on Friday in the Preparation he felt unwell, he sent a message to the assistant that he should perform the sacred functions on that day. It was reported that the assistant had already eaten breakfast; notwithstanding this, Caius ordered him to complete all the customary Offices. When a certain theologian heard this, he doubted whether it had been done lawfully. Hence it is asked:

1. By what law is fasting before Holy Communion established?

2. Does one sin who takes food immediately after Communion?

3. What exceptions to this law are admitted?

4. What is to be said of the case?

Solution

1. By what law is fasting prescribed before Holy Communion?

Although reverence for Holy Communion suggests that it should be received before any other food, still in strictness it is only the positive law of the Church which prescribes fasting before Holy Communion.

2. Is sin committed by taking food immediately after Holy Communion?

Reverence also suggests that other food should not be taken immediately after Holy Communion but, as there is.no law on the point, sin is not committed by taking food immediately after Communion.

3. What exceptions to the law of fasting Communion are recognized?

Danger of death, danger of scandal or serious loss of reputation, danger of profanation of the Blessed Sacrament, long continued illness with incapacity to observe the fast, necessity of completing the Sacrifice of the Mass, and probably the necessity of consecrating the Viaticum for a dying person, are recognized as valid excuses for saying Mass and receiving Holy Communion though not fasting.[1]

1 Manual of Moral Theology, vol. ii, p. 111.

4. The case. As Good Friday is not a day of obligation, and no law imposes a grave precept of saying the Mass of the Presanctified, Caius did wrong in bidding his curate who had taken his breakfast perform that function and consequently receive Holy Communion not fasting. The curate might perhaps have performed the first part of the service and omitted the Mass of the Presanctified, if a considerable number of people had come to church in expectation of the service.

Case 7. Intention to Consecrate

Caius, a priest doubtful whether he had given consent to an evil thought, anxiously began to celebrate Mass. While celebrating Mass he judged now that he had consented and now otherwise; occupied with his doubts, he did not notice that the server, since the Most Holy Sacrament was not reserved on the altar, had placed on the corporal a small host for Communion. After receiving Communion and hearing the Confiteor recited by the server, he looked and saw the small host on the corporal. At first he did not know what was to be done, but soon, remembering that some years before he had formed the intention of consecrating at Mass whatever capable of being properly consecrated was placed on the altar, although afterwards, having forgotten the intention, he had never renewed it, he gave the host to the server for Communion. Afterwards, however, tormented by doubts, he asked a confessor whether he had sinned by celebrating without previous confession or contrition, and whether he ought to have given the host to the server. Hence it is asked:

1. What is required for a valid consecration of the Eucharist?

2. How does a priest sin by celebrating in mortal sin?

3. What is to be said of the case?

Solution

1. What is required for the valid consecration of the Eucharist?

The proper matter must be physically present and must be determined by the intention of the priest when he utters the words of consecration.[1]

1 Manual of Moral Theology, vol. ii, p. 84.

2. How does a priest sin who celebrates in mortal sin?

He commits several mortal sins: by consecrating the

Holy Eucharist in sin, by communicating in sin, and by administering Holy Communion to himself though he knows that he is unworthy to receive it.[2]

2 Ibid., p. 33.

3. The case. Caius should have made up his conscience finally before saying Mass as to whether he had sinned or not. Frequently this can be done in such cases by means of presumptions. If more frequently than not he consents to such bad thoughts when attacked by them, he should presume that he consented in this doubtful case, and should go to confession. If he does not usually consent, the presumption is in his favor, and he may conclude that he did not consent in this doubtful case. If he can not make up his mind but remains in doubt he should at least elicit an act of contrition before saying Mass. He should not have given the host for Communion to his server, for it could hardly have been consecrated under the circumstances. An actual or at least virtual intention is required for the validity of the consecration. He had

not an actual intention, for he had not noticed the small host until the communion. Nor had he a virtual intention, for the purpose which he had formed many years before of consecrating whatever was capable of being consecrated with decency had not been renewed, and had been forgotten. It could not then continue to have an influence on the act of consecration, and some influence is required for a virtual intention. We must, then, conclude that the small host was not consecrated and it should not have been given for communion.

Case 8. Doubtful Consecration

A certain Bishop had ordained twelve new priests, but after his Communion it was noticed that a ciborium containing hosts for communicating the new priests had inadvertently been left on the credence table at the side of the altar. As the master of ceremonies doubted what was to be done, one person advised that it should be suggested to the Bishop that here and now he consecrate the ciborium conditionally and distribute the consecrated particles; another insinuated that they had without doubt already been consecrated by virtue of the virtual intention certainly possessed by the Bishop; a third suggested that one of the new priests ought to pronounce the words of consecration over the ciborium so that it would certainly be consecrated; finally, a fourth suggested that as many hosts should be taken from the tabernacle so that the new priests might complete the Mass celebrated by each of them simultaneously with the Bishop. Hence it is asked:

1. What is required for a valid consecration in Mass?

2. What is required for a lawful consecration?

3. What is to be done by the Bishop in the case, and what is to be said of the various means suggested to the master of ceremonies?

Solution

The first question was answered above, p. 129.

2. What is required for the lawful consecration of the Eucharist?

For the lawful consecration of the matter of the Eucharist the hosts must be whole, clean, and of the usual size and shape, the chalice and ciborium must be on the corporal and uncovered, and the consecration must be in Mass as it is prescribed to be said, and under both kinds.[1]

1 Manual of Moral Theology, vol. ii, p. 85.

3. The case. The first suggestion is altogether inadmissible, if followed it would mean that the bishop was to say Mass again without following the order prescribed by the Church, and was to consecrate under one species alone. I

The bishop could hardly have had an intention to consecrate the ciborium according to the second suggestion, for if he had thought of it at all he would have noticed that it was not on the altar. It is true that it might have been validly consecrated on the credence table, but unless the bishop actually intended to do it this should not be assumed.

The third suggestion has all the inconveniences of the first, for the newly ordained priests celebrate Mass with the bishop.

The reason given for the fourth suggestion is incorrect, for the hosts in the tabernacle were consecrated in another Mass and can not be used to integrate this Mass. However, this suggestion

seems to be the best, for thus the new priests can at any rate receive Holy Communion, though the hosts were not consecrated in this Mass as they should have been.

Case 9. Mass for a Non-catholic

Caius, an old missionary in England, recently indeed poured forth private prayers to God for the deceased Queen, but thought it would be a sin to do anything else. Not therefore without astonishment did he hear that in a neighboring Catholic church an evening memorial service, as it is called, had been held with a special sermon; that in another a Mass had been privately applied, as the priest there afterwards publicly announced; and that in another a Requiem Mass had been publicly celebrated for the soul of the deceased. Wondering, therefore, Caius consulted a theologian about what was to be judged concerning the aforesaid things. Hence it is asked:

1. Is it prohibited by divine or natural law to pour forth prayers publicly or privately, or to apply Mass, for any persons whatsoever?

2. What is prohibited in this matter by ecclesiastical law?

3. What is to be said of the case?

Solution

1. Is it forbidden by divine or natural law to pray publicly or privately or to apply Mass for any one?

Apart from scandal or other extrinsic reasons we are not forbidden by divine or natural law to pray or to offer Mass for any one whom it will benefit. It is useless to pray or to offer Mass for the damned.

2. What is forbidden in this matter by ecclesiastical law?

The Church by her sentence deprives excommunicated persons of a share in the public suffrages offered by her ministers in her name. All acknowledge that by this law it is forbidden to pray or offer Mass publicly for those who are to be avoided as excommunicates. Some hold that it does not prohibit public prayer for those excommunicates who are tolerated. Some think that it is a law which has force only in the external forum, and that privately we may offer Mass for all whom it will benefit, as we may and certainly should pray for all men privately.[1]

1 Manual of Moral Theology, vol. ii, p. 116.

3. The case. The wonder felt by Caius at an evening memorial service with sermon being held in a Catholic Church for one who had died out of her communion, was not without grounds. Such a thing savors of heterodoxy, not of Catholicism, which does not allow such things to be introduced into her public worship by private authority. If the priest who said Mass privately for the dead Queen had kept it to himself, nothing could have been said against him, but when he announced publicly that he had done it, it was much the same as if he had publicly announced beforehand that he was going to do it, and this is not tolerated by the usage of the Church. The Requiem Mass publicly offered for the dead Queen was contrary to the practice of the Church, which we should follow in all things, and against the express declaration of Gregory XVI, 16 Feb. 1842: "By both ancient and new discipline it is forbidden that persons

who have died in the external and notorious profession of heresies be honored with Catholic rites."

Case 10. Stipends for Mass

Caius, a missionary priest in England, while occupied with spiritual exercises, is troubled by scruples about the obligation to celebrate Mass by reason of a stipend. He therefore goes to a confessor, to whom he relates that he is accustomed to accept more Masses to be celebrated for stipends than he can satisfy. He is unwilling, however, to hand the stipends to another priest; hence sometimes he retains the stipend but does not celebrate the Mass, which he hopes is not mortal because of the small amount, for it does not exceed two shillings and sixpence. Sometimes also he defers for four or six months the celebration of a Mass due by reason of a stipend. Indeed, if it concerns stipends handed over by a certain pious association established to promote devotion toward the souls in purgatory for the souls of the departed in general, without scruple he defers the due celebration of the Mass beyond six months. Hence it is asked:

1. Whence arises the obligation to celebrate Mass by reason of an accepted stipend, and is it a grave obligation?

2. Within what time must a Mass be celebrated by reason of a stipend?

3. What is to be said of the case?

Solution

1. Whence arises the obligation of saying Mass by reason of accepting a stipend, and is the obligation a grave one?

The obligation of saying Mass for the intention of the person who has given a stipend arises from a contract which the priest enters into with the giver, and from ecclesiastical law. It is not a contract of buying and selling, but an innominate contract — Do ut facias. The stipend is given for the support of the priest, and the priest undertakes to apply Mass for the intention of the giver. The obligation is a grave one of justice, as the nature of the obligation, the intention of the parties, and the law of the Church make manifest. Innocent XII commanded that " absolutely let as many Masses be celebrated as shall have been prescribed by those offering alms."

2. Within what time is Mass to be said for which a stipend has been given?

The decree S. C. C. Ut debita, 11th May 1904, answers this question:

" A reasonable period for fulfilling obligations of manual Masses is one month for one Mass, six months for one hundred Masses, and another longer or shorter span of time, more or less according to the greater or smaller number of Masses."

3. The case. In accepting more stipends for Masses than he can satisfy Caius transgressed the decree S. C. C., Ut debita, which prescribes:

" It is lawful for no one to undertake so many Masses that he probably cannot himself satisfy them within a year from the day the obligation was undertaken." In neglecting to celebrate Mass although

bound to do so on account of having received a stipend for it Caius committed grave sin, and he is bound to restore the stipend to the giver if the occasion on account of which the Mass was asked for has now passed by, or otherwise to say the Mass as soon as possible. If he can not do this, he should hand over the stipends to his Ordinary, or to some reliable priest of the diocese. In deferring the celebration of Mass for which he has accepted a stipend much beyond a month he has committed so many grievous sins.

Case 11. Funded Masses

Caius, a Catholic, by will left his houses to Titius, a missionary priest in England, on the condition that in perpetuity twenty Masses should be celebrated each year for the repose of his soul. The annual rents arising from the houses then easily exceeded twenty pounds sterling, and so Titius gladly accepted the legacy. Within a few years, however, because of the dilapidation of the houses and because the neighborhood had become less respectable, Titius sorrowfully received scarcely a tenth part of the former sum each year. Hence he reduced the number of Masses to eight, so that one Mass remained for five shillings, the diocesan rate; indeed, he sent some to his friend Lucius to be celebrated, who gladly accepted half a crown for each Mass. Hence it is asked:

1. What are manual and funded Masses?

2. To whom does it belong to accept and reduce obligations of Masses?

3. Is it lawful to transfer to another the obligation of celebrating a Mass while retaining part of the stipend?

4. What is to be said of the case?

Solution

1. What are manual and funded Masses?

The distinction is explained in the decree S. C. C., Ut debita, May 11, 1904: " The Sacred Congregation declares that by manual Masses in the present decree are understood and held all those which the faithful ask to be celebrated for an offered manual stipend, to whomever or in whatever manner they hand over this stipend, whether by direct hand or in wills, provided that they do not constitute a perpetual foundation, or one of such kind and so long-lasting that it ought to be regarded as perpetual."

2. To whom does it belong to accept and to reduce the burden of Masses?

The Fourth Council of Westminster (d. X n. 11 says): " Let the rectors of churches of the secular clergy remember that the right of imposing burdens of Masses upon churches, whether they are temporal or perpetual, belongs to the Bishop alone; and that burdens already imposed can neither be changed nor diminished without the Holy See having been consulted." The consent of the bishop (or of the regular prelate for Religious) is not required for the validity, but only for the lawfulness of the transaction.[1]

1 Gasparri, De Eucharistia, vol. i, n. 561.

3. Is it lawful to transfer the burden of saying Mass to another while retaining part of the stipend?

No, as a general rule. The decree Ut debita says: " It is decreed that the stipend assigned by the faithful can never be separated from the celebration of the Mass, nor diverted to other things or diminished, but must be handed over to the celebrant in full and in its own kind." In certain cases, however, it is not unlawful to retain part of the stipend, as, for example, when more than the ordinary sum has been given out of friendship, or other special reason, when the priest who says the Mass without being asked voluntarily foregoes part of the stipend, or when there is question not of manual but of funded Masses in the strict sense annexed to a church.[2]

2 Lehmkuhl, vol. ii, n. 281, 11th edition.

4. The case. Titius went beyond his powers when he accepted the legacy without the consent of the bishop, as is clear from what was said above. Titius still further exceeded his authority when he reduced the number of Masses to be said on account of the reduction of income from the property. He should have recourse to the Holy See, say what he has done, and ask what he is to do in the matter in future. Under the circumstances he did not do wrong in getting his friend Lucius to say some of the Masses for half-a-crown, which is commonly given as a stipend for Mass by the poor in England. No definite sum had been apportioned by the testator for the celebration of each Mass.

Case 12. Trading in Masses

Caius, a priest, wrote to Titius, likewise a priest and the author of a theological book, and asked that a copy of the said book be sent to him. The author sent the book and at the same time wrote that the best manner of paying the price would be for Caius to celebrate five Masses, for he had more intentions than he could satisfy, and those five had already been in his hands for two months. Caius, however, doubts whether it is lawful for him to buy the book in this way; indeed, he thinks that Titius has offended against the decree of the Sacred Congregation of the Council of May 11, 1904. Hence it is asked:

1. How is it shown that it is lawful and honorable to accept stipends for Masses?

2. What did the Sacred Congregation of the Council determine on May 11, 1904, concerning the doubts to be treated in the case?

3. What is to be said of the case?

Solution

1. How is it shown that it is lawful to receive stipends or Masses?

The Mass is not sold for the stipend, but the priest undertakes to say a Mass for the intention of the person who asks for it. But it is only right and proper that one who occupies himself for the benefit of another, should receive his support or part of it from him for whose benefit he labors. A soldier fighting or training to do so for his country's defence has a right to be supported meanwhile at his country's expense. In the same way the stipend is given to the priest for his support by one who benefits spiritually by the priest's celebration of Mass.

2. What did the S. C. C. decree May 11, 1904, bearing on the points in the case?

The decree S. C. C., Ut debita, contains the following: " Almsgiving of the Mass can never be separated from the celebration of the Mass, nor be exchanged or diminished for other things, but must be handed over to the celebrant in full and in its own kind;" furthermore, " to sell or buy books, sacred utensils or any other things and to enter into associations (as they call them) with newspapers and periodicals by means of Masses is unlawful and altogether prohibited. This, however, is valid not only if it is about Masses to be celebrated, but also about Masses already celebrated, whenever it passes into use and habit and tends to the benefit of some commerce."

3. The case. Caius would seem to have interpreted the decree too strictly The decree indeed, forbids trading with stipends for Masses, and as a general rule prescribes that the whole stipend received for a Mass is to go to the priest who says the Mass. It is specially forbidden for booksellers to collect intentions for Masses and get them said by priests who receive books instead of the stipends. However, Titius did none of these things. He had some Masses to be said for stipends, and he was at liberty to ask Caius, if he knew him to be an honest priest, to say some of those Masses. Caius was indebted to Titius for the price of the book. It was lawful

to square accounts without the necessity of sending money backwards and forwards. Fr. Lehmkuhl says: "Only if [a priest]

has surplus stipends not deliberately collected or who entrusts Masses to be celebrated to other priests with the right to the full stipends, but they, moved by another consideration, buy periodicals from him, it will be lawful to balance the account of what was given and received."[1]

1 Casus Conscientiae, vol. ii, n. 223.

Case 13. Mass in a Private Room

Caius, a recently ordained priest, greatly desires to celebrate Mass in the presence of his father. His father, however, is very old and never rises from bed; hence it will be necessary for Caius to celebrate privately in his father's room if what he desires is to attain its effect. He therefore wishes to know what must be done in order that the desire may be fulfilled. Hence it is asked:

1. In what place must Mass be celebrated?

2. Can the Bishop give permission to celebrate privately in a room?

3. What is to be said of the case?

Solution

1. In what place should Mass be celebrated?

By ecclesiastical law Mass may regularly be said only in churches and in oratories dedicated solely to the service of God and therein on duly consecrated altars. The Council of Trent forbade bishops to allow priests to say Mass in private houses, though bishops have the personal privilege of saying Mass on a portable altar in private houses in which they may be staying. In the United States bishops commonly have a privilege granted by the Holy See of allowing priests to say Mass in any decent place, but they are told to do this only once in a way, and on account of special circumstances. The superiors of some regular Orders have a similar privilege.[1]

1 Manual of Moral Theology, vol. ii, 130.

2. Can a bishop give leave to celebrate Mass in a private room?

As has just been said he can not by his ordinary powers. If he has the special privilege granted by the Holy See of which mention has just been made, he may grant permission once in a way on account of special reasons.

3. The case. It is clear from what has been said that Caius can not say Mass in his father's room without special leave from the Holy See, or from the bishop, or regular superior in case Caius is a Religious, if they have the special privilege of allowing such an act. The occasion and the circumstances would seem to justify the exercise of such a special privilege, if the bishop or regular superior think proper to indulge the very filial desire of Caius.

Case 14. Masses for the Dead

Caius, a priest of a certain religious Order, hears that Julius, a companion of the same Order, has recently died and is to be buried on that very day. The following day is of the double rite; if it is lawful by ecclesiastical laws, Caius and the other priest-companions who serve the same church would like to celebrate a Requiem Mass for the soul of Julius. Caius therefore asks whether this is lawful either by the decree of May 19, 1896, or by the decree of the Sacred Congregation of Rites of Dec. 11, 1897, by which the Rubric of the Missal *On Masses of the Dead*, no. 2, is changed in this manner: in place of the words—"except on double feasts and Sundays"—the following are read: "Private Masses for the Dead, as on the day of death or burial, may be celebrated even on doubles when the body is present and unburied, or even when it has been buried for not more than two days; except on doubles of the first class, days excluding doubles of the first class, and feasts of precept." Hence it is asked:

1. When is a funeral Mass permitted and prohibited?

2. When is a private Mass for the Dead permitted and prohibited?

3. What is to be said of the case?

Solution

1. On what days may a solemn or sung Mass for the dead be said?

In the presence of the body it can be celebrated on any day, provided that the conventual Mass, where it binds, or the parish Mass, if it is a Sunday or feast day, and the divine offices are not impeded, and a great solemnity of the day does not prevent it.[1]

1 De Herdt, Sacra lit. Praxis, n. 56.

A list of the days on which according to this rule solemn or sung Mass for the dead is forbidden is usually given in the Ordo.

2. When may a private Mass for the dead be said?

It is prohibited on all Sundays and double feasts;

on days within the octaves of the Epiphany, Easter, Pentecost, the Most Holy Body of Christ, and the Nativity of the Lord; on Ash Wednesday; throughout Holy Week; on the vigils of the Epiphany, Pentecost, and the Nativity of the Lord; during exposition of the Most Holy Sacrament for a private cause, at the altar of exposition only; but when it is exposed for a public cause, at all the altars of the church; and on days of the station of the church or of another solemnity. On all remaining days a private Requiem Mass is permitted.[2]

2 De Herdt, n. 63.

Moreover, According to the decree of the Sacred Congregation of Rites of May 19, 1896, in any cemetery chapel duly erected or to be erected, the Masses which are permitted to be celebrated there

can be Requiem Masses on days not impeded by a double feast of the first or second class, by Sundays and other feasts of precept to be observed, nor by privileged ferias, vigils, and octaves. Ibid. n. 64. And, "For a poor deceased person whose family is unable to pay the expenses of a sung funeral Mass, this Mass can be read under the same clauses and conditions under which a sung Mass is granted, provided that on Sundays and other feasts of precept the Mass corresponding to the office of the current day is not omitted.

"In a church or oratory, whether public or private, and in chapels belonging to seminaries, colleges, and religious or pious communities of either sex, on the day on which a funeral is held there with a solemn funeral Mass, throughout the time in which the body of the deceased is physically or morally present, private Requiem Masses are permitted, provided that they are applied for the deceased himself; except on the following days: all Sundays; all double feasts of the first class; the privileged ferias of Ash Wednesday and Monday, Tuesday, and Wednesday of Holy Week; the vigils of the Nativity of the Lord and Pentecost; and the octave days of the Nativity of the Lord and the Epiphany."[1]

1 De Herdt, n. 57.

3. The case. Caius may have one solemn or sung Mass de Requie on the day mentioned, as De Herdt says, n. 58. Private Masses de Requie are forbidden, as the body of Julius is not present either physically or morally. If the body of Julius were present all the priests might say a private Mass de Requie for the repose of his soul, but if they were said in a church or public oratory they should be said on the day when a solemn or sung Mass was said for the funeral.

Case 15. Altar Furniture

Caius, a priest, had charge of a certain mission in England. When the Bishop visited that mission, he found some things, as it seemed to him, less conformable to ecclesiastical laws. Among other things, a chasuble of yellow-colored silk thread was used for Mass; other chasubles were made externally of silk mixed with cotton, but internally of alpaca; electric light was attached on either side of the tabernacle and served to give light; and the chalice used for celebrating Mass bore the donor's name engraved around the foot, with the inscription "Pray for the happy condition of N." added. In the decree of visitation the Bishop prescribed that these things were to be reformed according to the rubrics unless Caius could allege approved authors who permitted them. Hence Caius asks:

1. From what material must chasubles be made?

2. Must the color of vestments for Mass be observed under pain of sin?

3. What is prescribed concerning altar lights?

4. What is to be said of the case?

Solution

1. Of what material should the chasuble be made?

Chasubles should be of silk, or silver or gold cloth, although the cross and other ornaments on them may be of linen, wool, or cotton.[1]

1 Gasparri, De SS. Eucharistia, n. 692.

1 Génicot, Theol. Moral. Institutionee, vol. II, p. 246.

2. Is the color of the vestments a matter of precept?

Yes, of light precept, according to St. Alphonsus, VI,

378.

3. What is prescribed about the lights of the altar? There should be two wax lights, or more according to the quality of the Mass, on the altar while Mass is being said. Besides these, no lights should be placed on the altar, though nothing prevents lamps, gas, or the electric light, from being used in the church to give light; but any theatrical effect should be avoided.[1]

4. The case. Yellow vestments have often been forbidden and they should not be used.[2]

2 Gasparri, De SS. Eucharistia, n. 693.

Chasubles of silk mixed with cotton should not be used; unless the cotton appears only in the ornaments and accessories. The Sacred Congregation of Rites answered (23 March, 1882) that lining

of cotton or linen or wool, and we may add alpaca, for silk chasubles could be tolerated in poor churches.

The electric light on the tabernacle is forbidden (S. R. C. 13 April, 1883).

There is nothing reprehensible in the inscription on the chalice.[3]

3 Ibid., n. 749.

Penance

Case 1. Doubtful Matter

Titius, twenty years of age, converted to the Catholic faith and conditionally baptized because of doubt about the previous Baptism received in the Anglican church, began to lead a most holy life. He confessed every Saturday, but because for the most part he had only the same light sins, he added some grave sin committed by him while still a Protestant; indeed, once, out of a certain embarrassment because the same things were always repeated, he simply said, "I committed some light sins and ask for absolution." The confessor, however, doubts whether such a confession suffices for the validity of the sacrament; this doubt is then extended to that past sin of his life which Titius was accustomed to add. Hence it is asked:

1. What is the matter of the sacrament of Penance?

2. Is the same matter valid and lawful?

3. Is it lawful to give absolution when the matter is doubtful?

4. What is to be said of the case?

Solution

1. What is the matter of the sacrament of Penance?

The remote matter of Penance are the sins which the penitent has committed after Baptism. Mortal sins are necessary matter inasmuch as each and all must be confessed; venial sins and mortal sins which have been confessed and absolved before, are free matter and sufficient for absolution. According to the common opinion, the proximate matter of Penance are the acts of contrition, confession, and satisfaction,* performed by the penitent.[1]

1 Manual of Moral Theology, vol. ii, 148 ff.

2. Is matter which is valid also lawful?

The question is disputed. The difficulty arises about the sufficiency of confession in general terms, when the penitent has no necessary matter. May a penitent be absolved if he says simply: " I accuse myself of some light faults." Absolution in such a case is valid, and some divines say that it is also lawful, as there is no precept which binds the penitent to say more about matter which he is free to confess or not. Other divines say that if such a penitent chooses to confess light matter, he is bound to particularize it, so that the confessor may be able to pass judgment on it, and the opposite opinion would lead to abuse.[2]

2 Ibid., 150.

3. Is it allowable to give absolution when the matter is doubtful?

No, it is not generally lawful. The priest as minister of the sacrament is bound to procure certain matter as far as he can; otherwise the sacrament is exposed to the danger of nullity. Sometimes, as

when the penitent is in danger of death, and certain matter can not be procured, the confessor may give conditional absolution.[3]

3 Ibid., 153.

4. The case. Titius, a convert from Protestantism, used to mention a grave s: n of his past life when he went to confession, to make sure of sufficient matter. As the sin was committed by him while he was a Protestant and only probably baptized, it is only doubtful matter of penance, and the mentioning of it is useless for Titius' purpose. He also confessed some venial sins under the general formula: " I have committed some venial sins and ask for absolution.' Although theoretically there is ground for saying that such a confession is valid and lawful, yet it is against the practice of the Church, is liable to lead to abuse, and should not be used nor ordinarily allowed by confessors.

Case 2. A Convert's Confession

Albert, an Anglican, was received into the Church at Rome by a certain Roman priest who did not require from him, as one doubtfully baptized in the Anglican sect, an integral confession. Returning to his native country, Albert related this to Titius, his parish priest and confessor, who was thereafter tormented by scruples. For he had read in a recent author that the question of requiring an integral confession from those doubtfully baptized when they are received into the Church had been practically resolved, and that it was now established that such persons must make an integral confession by divine law. If this opinion is true, Albert seems to be bound by divine law by an obligation which he has not yet satisfied. Titius therefore wishes to know whether he ought to warn him of this obligation. Hence it is asked:

1. What is the matter of the sacrament of Penance?

2. What ought a confessor who receives a new convert into the Church to do?

3. What principal documents have emanated concerning the confession to be required in such a case?

4. What is to be said of the case?

Solution

The first question is answered above, p. 151.

2. What ought a priest to do when he receives a convert into the Church?

He must first of all see to his instruction in the Catholic faith, and then inquire about his Baptism. If the convert was never baptized, he is only required to make a profession of faith. If he has been validly baptized, besides a profession of faith he must be absolved from censures, and then be absolved in confession from his sins. If there be a doubt about his Baptism, he must make a profession of faith and be baptized conditionally, in England with holy water in secret without the ceremonies. He must, furthermore, make a full confession of all the mortal sins of his life, and receive conditional absolution from them. In some dioceses leave from the bishop is required to receive a convert. 1

3. What are the chief documents that have been issued about, requiring a full confession in such a case?

The following: I Westmon. d. XI, n. 8; S. 0. 17 Junii 1715, 17 Dec. 1868, 20 Julii 1859; S. C. de P. F. 12 Julii 1869; Tanquerey, De Poenit. n. 133; Collectanea S.C.deP.F.

4. The case. Albert, an Anglican doubtfully baptized, was received into the Church by a priest in Rome who did not require him to make a full confession of his life. When Albert returned to England, he told this to Titius, his parish priest, who was in doubt whether a full confession was not still obligatory by divine law.

According to the principles laid down by some theologians (v.g. Lehmkuhl, Casus, II, n. 288; Tanquerey, De Poenit. n. 34,) Albert would seem still to be under the obligation of making a full confession. It is advisable that he should do so, but the strict obligation is difficult to prove. The arguments adduced to prove it are not conclusive. The Cardinal Prefect of Propaganda indeed 1 Form for the Reception of a Convert, C. T. S., 1901.

did declare July 10, 1869, that the answer of the Holy Office Dec. 17, 1868, " contained a universal law," but a private assertion made by a Prefect of Propaganda could not make it a universal law if it was not one already. No universal legislative authority has ever made such a law. Nor is there a presumption of law with regard to the matter in hand. There is such a presumption with regard to a question of the validity of marriage. It is a well-recognized rule of law that doubtful Baptism is presumed valid in questions concerning the validity of subsequent marriage, but this presumption of law must not be transferred to quite another matter such as this is. And if it be said that the Church has jurisdiction over those who are doubtfully baptized, this has to be proved. If in fact the person is not baptized, the Church has no jurisdiction over him: " For what have I to do to judge them that are without?" (1 Cor. v. 12).[1] It seems still to be probable that a full confession is only necessary by positive law, and in places where such positive law binds, as in Great Britain and in the United States of America. But as Albert was received in Rome where there is no positive law on the point, he need not be required to make a full confession after his return to England.

1 Cf. Wernz, Jus Decretalium, iv, n. 508.

Case 3. An Anxious Penitent

Catherine, troubled by anxieties, opens her conscience to her confessor. She says that she indeed wishes that she had not offended God, but that she is not sorry for her sins, or at least is much less sorry for them than for temporal evils. Furthermore, she affirms that she is certain that she will fall again into the same sins immediately or within a few days after confession; and finally, that unless fear of hell stood in the way, she fears that she would abandon the service of God and indulge in vices, since she does nothing for the love of God. Hence she thinks that she is in no way disposed to receive sacramental absolution. Hence it is asked:

1. What is required on the part of the penitent for the validity of the sacrament of Penance?

2. What is signified among theologians by the statement that sorrow ought to be supreme?

3. What is to be said of the case?

Solution

1. What is required for the validity of the sacrament of Penance on the part of the penitent?

For the validity of Penance the penitent must make a formally integral confession of all the mortal sins which he has committed after Baptism and which have not been directly absolved, and he must have true and supernatural sorrow for them.

2. What do theologians mean when they say that sorrow for sin must be supreme?

They mean that the sinner must regard sin as the greatest of all evils, and that he must be prepared to do and to suffer anything rather than commit sin again.[1]

1 Manual of Moral Theology, vol. ii, p. 156.

3. The case. Catherine tells her confessor that she wishes that she had not offended God, but that she has no sorrow for her sins, or at least much less sorrow for them than for temporal evils. Catherine probably means that she does not feel sorrow for her sins, as she does for temporal evils. She should be told that the sorrow required in Penance is in the will, and she should be asked whether she proposes to avoid sin in future, with God's grace, come what may. If she says Yes, she shows she has sorrow for her sins. Catherine further says that she is certain that she will fall into sin again immediately, or at least within a few days after confession. She should be asked whether here and now she proposes to avoid the proximate occasions of sin and to do her best not to fall into it again. If she again says Yes, she should be encouraged to trust in God's help and be absolved.

She says she does nothing out of love for God, and that she fears that she would commit sin if it were not for the fear of hell. Catherine should be told not to torment herself by such idle suppositions; it is enough if through fear of God's punishments she observes His commandments and avoids sin. She thus fulfils the precept of love substantially: " He that hath My commandments, and keepeth them,

he it is that loveth Me ” (John xiv. 21). Of course it will be well for Catherine to exercise herself in special acts of the love of God, in which we can always advance.

Case 4. No Sorrow for What She Has Done

Anna, who recently contracted marriage with Titius, a Protestant, in a Protestant church because she could not obtain from the Bishop a dispensation for a mixed marriage, comes to confession to Caius, a missionary priest in England. Concerning her other sins Anna declares that she is sorry from her heart; concerning the clandestine marriage, however, she is in no way sorry, nor can she be, because she loves her husband so ardently and rejoices in the union. Caius proposes various motives for sorrow, namely that so good a God was offended by marriage with a heretic, grave ecclesiastical laws were despised, and scandal was given to the faithful. At last, with tears, Anna professes that she is sorry for the manner in which the marriage was celebrated; for the marriage itself she neither can nor wills to be sorry, and indeed in the same circumstances she would do the same again. Caius, however, although he has faculties received from the Bishop for validating the marriage, doubts whether Anna is sufficiently disposed to receive absolution. Hence it is asked:

1. What kind of sorrow is required in the sacrament of Penance?

2. What kind of purpose of future amendment is required?

3. What is to be done by Caius?

Solution

1. What sort of sorrow is required in the sacrament of Penance?

The sorrow must be true and sincere, supernatural or rooted in faith, universal or it must embrace all the mortal sins that are to be forgiven, and it must be supreme, or the sinner must detest sin more than any other evil, and he must be prepared to do and suffer anything rather than sin again.[1]

1 Manual of Moral Theology, vol. ii, 156.

2. What sort of purpose of amendment is required?

The purpose of amendment must be sincere, efficacious, or the sinner must be prepared to take the means necessary to avoid sin in the future, and it must be universal, or extend to all mortal sins at least.[2]

2 Ibid., 161.

3. The case. Ann had married a Protestant in the Protestant Church and when she came to confession to Caius, she said she could not be sorry for what she had done; indeed she said she would do the same again in the same circumstances. Caius got her to see the malice of her action, and then she said she was sorry for the way in which she had married, but could not feel sorry for the marriage. It is not necessary that she should be sorry that she has the man she loves for her reputed husband, and as far as the past is concerned, it is enough that she is sorry for the way in which she was married against the Church's laws. But she is still ill disposed for absolution, inasmuch as she says she would do the same again under the same

circumstances. Caius must try to put her in better dispositions. In order to do this he may tell her that it will be better not to think of what she would do under the same circumstances, as she will never again be placed in the same circumstances. If she can be got to be really sorry for what was wrong in her action, and to hope that God would give her grace never to yield again, and that she would do all on her side to co-operate with the grace of God, she might be absolved, and then the marriage could be put right. For this it will now be requisite that the parties should contract marriage in the ordinary way before the parish priest or his delegate and two witnesses.

Case 5. Was He Prepared?

Titius, a well-instructed Catholic, is accustomed to elicit an act of contrition before going to bed. On a certain Saturday he enters the church to confess, but he had scarcely knelt down to prepare himself when someone came out of the confessional and no one among the crowd that was waiting entered immediately. Since Titius knew well that he had committed one grave sin since his last confession, and that this alone besides some venial sins troubled his conscience, having obtained the opportunity he entered the confessional without special preparation, confessed his sins, and received absolution. Afterwards, however, he doubts whether he had sufficient sorrow, which ought to constitute a part of the sacrament and to be elicited in relation to receiving the sacrament. Hence he afterwards questions the confessor, who therefore asks:

1. When must sorrow be elicited in order to suffice for the sacrament of Penance?

2. Must the required sorrow be elicited with the intention of receiving the sacrament?

3. What is to be said of the case?

Solution

1. When ought the act of sorrow to be elicited in order that it may suffice for the sacrament of Penance?

As sin can not be forgiven unless the sinner is sorry for it, the act of sorrow must be elicited before absolution is given, or at least it must exist when absolution is given.[1]

1 Manual of Moral Theology, vol. ii, 157.

2. Ought the act of sorrow to proceed from the intention of receiving the sacrament?

Some theologians hold that it should do so, just as the washing with water in Baptism should be ordained to the confection of the sacrament of Baptism. However, it seems safe to say with others that the subsequent referring of the act of sorrow to the confection of the sacrament which necessarily takes place when the penitent confesses his sins with sorrow in order to receive absolution is sufficient. Or, that the intention of confessing the sin which is present in the mind with the act of sorrow, is sufficient to refer the latter to the confection of the sacrament.[2]

2 Ibid., 157.

3. The case. As is plain from the answer given above, there is no ground why Titius should be disturbed about the sufficiency of his sorrow. It is indeed advisable to make special and immediate preparation for confession, and Titius should not repeat the action which gave rise to his scruples. Still there was nothing essentially defective in his confession. It was formally integral, and the acts of contrition which he made every night before going to bed made him habitually contrite, and they were made sufficiently sensible and referred to the sacrament by

his confession. For, of course, he had always intended to confess his sins when he made his acts of contrition.

Case 6. Probable Opinions in Penance

Caius, who devotes himself to the study of moral theology, is pressed by difficulties concerning the choice of opinions in the matter of the sacrament of Penance. For, an ardent follower of Probabilism in other matters, he gathers from the agreement of all the Doctors that it is not lawful to use a probable opinion while leaving aside the safer one when the validity of a sacrament is at issue. Nevertheless, approved authors everywhere in the matter of Penance seem to suppose that it is lawful to use a probable opinion in this Sacrament. For they adduce as probable the opinions that supernatural attrition from fear of temporal punishments suffices, that aggravating circumstances are not necessary matter of confession, nor doubtful sins, and other opinions of this kind according to which they seem to concede that a penitent may act; yet in these matters the validity of the sacrament is evidently at issue. To resolve these difficulties he asks:

1. Why is it not lawful to use a probable opinion when the validity of a sacrament is at issue?

2. When is the validity of the sacrament of Penance in fact at issue?

3. What is to be said of the difficulties of Caius?

Solution

1. Why is it not lawful to use a probable opinion when there is question of the validity of a sacrament?

When there is only a probability that a sacrament will be valid it is also probable that it will be invalid, and so it remains doubtful whether the sacrament will be validly administered. To perform a sacred rite instituted by Christ except in case of necessity with a probability that it has not all the requisites for validity is grossly wanting in reverence to Jesus Christ, who instituted it, and it is contrary to justice and charity for a minister of the sacraments to expose the faithful to the danger of not receiving a valid sacrament to which they have a right. 1

2. When in fact is there question of the validity of Penance?

There will be question of the validity of Penance when it is not certain that all the essential elements of the sacrament are present in the particular case. The essential elements of Penance are contrition, and formally integral confession on the part of the penitent, and on the other part, absolution given by a priest who has faculties. Sometimes when the priest has only probable jurisdiction the Church can supply and does so. Otherwise in this and in the other essential elements it will be unlawful to use only probable opinions about the validity of the sacrament except in case of necessity, when for the sake of the recipient's salvation it is better to administer a sacrament that is only probably valid, rather than not administer it at all.

3. What about the difficulties of Caius?

Although there have been controversies as to whether attrition for sin on account of the punishments which God inflicts on the sinner in this life is sufficient as a disposition for absolution, these controversies are now practically 1 Manual of Moral Theology, vol. ii, 31.

settled, and the opinion that it is sufficient is no longer merely probable, but morally certain. Aggravating circumstances affect only the material integrity of confession, and in this and in similar questions we may use probable opinions, as there is no question of the validity of the sacrament. In the same way if there is other certain matter of the sacrament, doubtful sins only affect the material integrity of the confession.

Case 7. Confessions on Board Ship

Titius, a regular priest and missionary in a certain English diocese, was sent by his superiors with a scholastic and a lay brother to southern Africa to cultivate the vineyard of the Lord there. While he was awaiting the departure of the ship in a certain house of the Order, a question arose concerning Titius's faculties for hearing confessions during the journey. Some Fathers thought that he already had everything required to hear the confessions both of his companions and of outsiders on the ship; others thought that he required a special delegation of the Father Provincial and that this sufficed; finally, others said that for outsiders he ought to seek faculties from the Bishop of the port from which the ship would sail. Hence it is asked:

1. What is required and sufficient so that Titius may hear the confessions of his companions during the journey?

2. Are the said companions bound to confess to him, and could Titius permit them to confess to any other priest?

3. What is to be said of the case?

Solution

1. What is requisite and sufficient to enable Titius to hear the confessions of his companions during the journey?

Regulars on a journey must confess to to a suitable companion, if they have one. It is commonly held that a priest is idoneus who is neither under censure nor irregularity, even though he has no special approbation.[1]

1 St. Alphonsus, lib. vi, 575.

2. Are the said companions bound to confess to Titius, and could Titius grant them leave to confess to any other priest?

If Titius were not superior there would be no difficulty; his companions would be bound to confess to him as he is the only priest in the party. But by a decree of Clement VIII, May 26, 1593: " Regular Superiors are not permitted to hear the confessions of their subjects except when the subjects have committed some reserved sin, or the subjects themselves spontaneously and of their own motion have requested it from them." Hence some authorities think that if Titius is Superior of the party, his companions are under no obligation to confess to h m, and that they may confess even without special leave of Titius to any suitable priest. If Titius is Superior with the faculties of other local superiors, he can grant leave to his subjects to confess to any suitable priest.[2]

2 De Arcos, Appendix Theol. Moral, n. 53.

3. The case. Titius has all that is requisite and sufficient for hearing the confessions of his companions if he is idoneus, as we presume him to be. In order to be able to hear the

confessions of externs on board ship he must have faculties either from the bishop of the diocese where he was last stationed, or from the bi hop of the port of embarkation, or from the bishop of any other place at which the ship touches. We presume that he had faculties in the diocese where he was stationed, so that he has all that is requisite for hearing the confessions of anybody who comes to him on board.[3]

3 Manual of Moral Theology, vol. ii, 187.

Case 8. A Privilege of Regulars

Titius, the confessor of the pupils in a certain college of Regulars, during the vacation visits a house in another diocese which some of the pupils occupy, and one of them asks Titius to hear his confession. Titius agrees, but afterwards doubts the validity of the absolution given by him. Caius, a priest of the same Order who with a certain scholastic has charge of the pupils, tells that same pupil who wishes to confess that it is lawful to go to the secular priest who has the care of souls there. Hence it is asked:

1. What is required in the minister of Penance in order that he may lawfully and validly administer the sacrament?

2. To whom must or may Regulars confess, whether within their own house, in a house of the same Order that is not their own, or on a journey?

3. What is to be said of the case?

Solution

1. What is required in the minister of Penance in order that he may lawfully and validly administer the sacrament?

The minister of Penance in order to administer the sacrament validly must be a validly ordained priest, he must have jurisdiction, and also approbation, if the penitent be a secular. To act lawfully, he must be in the state of grace, free from censure, and he must observe all the regulations made by the Church for the proper administration of Penance.[1]

1 Manual of Moral Theology, vol. ii, 178, 27 ff.

2. To whom may or ought Regulars confess in their own monastery, in another monastery of the same Order, and on a journey when out of their own monasteries?

Regulars ought to confess to the confessors appointed fcr them by their Superior while in their own monastery; in another house of the same Order they may confess to the confessors appointed by the Superior of that house, who can absolve them even from reserved cases with the obligation to present themselves before their own superior or one delegated by him; while on a journey they must confess to a fit companion if they have one, otherwise they may confess to any fit priest, whether secular or regular.[2]

2 Ibid., p. 189.

3. The case. Titius is one of the confessors of the boys while they are in the college, and he retains his faculties while the boys remain under the Order's jurisdiction, so that there was no reason why he should doubt about the validity of the absolution given by him, even though he had no approbation from the bishop of the diocese where the confession was heard.[3]

3 Ibid., p. 188.

In the supposition, which seems to be excluded by the terms of the case, that Caius was a confessor of the monastery to which Titius belonged, and was not Superior, Titius would then be bound to confess to him. Otherwise Titius was not bound to go to confession to Caius, though he might do so if he chose. He was justified in confessing to any priest who was fit, whether secular or regular.

Case 9. A Regular's Approbation

Caius, a regular priest, after successfully passing the examination required by the Bishop, received from him ordinary faculties until the next synod. The superior of the house, who alone went to the synod, carried with him the faculty papers of the other Fathers to be renewed, but he could not find those of the absent Caius, which therefore were not renewed by the Bishop. Caius returned home on the following Saturday and there was not enough time to seek faculties from the Bishop; hence a doubt arose whether or not he could hear confessions. After some discussion of the doubt, the superior permitted Caius to hear the confessions of the faithful; afterwards, however, he was tormented by scruples concerning the validity of the absolutions that were given by Caius. Hence it is asked:

1. Who is the minister of the sacrament of Penance?

2. From whom do Regulars receive jurisdiction to hear the confessions of the faithful?

3. Can an absolution given by a priest who habitually lacks jurisdiction nevertheless sometimes be valid?

4. What is to be said of the case?

Solution

The first question is answered above, p. 169.

2. From whom do Regulars receive jurisdiction to hear the confessions of the faithful?

It is possible for Regulars to receive jurisdiction both from their own superiors and from the bishop of the place. As to whether they actually receive it from one or the other, or from both, depends on the intention of the bishop and of the superior in question. In any case the approbation of the bishop is required to hear the confessions of seculars.[1]

1 Manual of Moral Theology, vol. ii, 189.

3. Can the absolution given by a priest who is without habitual jurisdiction nevertheless sometimes be valid?

Yes, the absolution is valid if the Church supplies jurisdiction for the act, as she sometimes does. Thus any priest may validly absolve those who are in danger of death, or when it is probable that he has jurisdiction, or when the faithful go to confession to a priest under the general belief that he has faculties and when also he has a colorable title, and probably even when there is only the general belief without any colorable title.[2]

2 Ibid., 184.

4. The case. Caius, a Regular priest, was examined by the bishop and granted by him faculties till the next synod. His faculties were not renewed at the next synod and the question arose

whether he could go on hearing the confessions of the faithful. His Regular superior allowed him to do so, and thereby gave him jurisdiction which Regulars receive from the Pope through their Superiors. There was, however, a difficulty about Caius' approbation. He had been examined by the bishop, had passed with success, and had a right to receive general and perpetual approbation. However, the bishop only gave him approbation till the next synod. So that, whatever the merits of Caius were, in fact he had no approbation after the next synod was over. He should not then have heard confessions, unless indeed it was known to be the intention of the bishop that in such cases where a priest's faculties had not been renewed through inadvertence or by accident, they should not cease at the time appointed, but should continue. However, as the faithful knew nothing about this, those that came to him were probably absolved on account of the co mm on mistake, the Church probably supplying faculties.[1]

1 Manual of Moral Theology, vol. ii, 185*

Case 10. Confessor of Nuns

Caius, the missionary Rector in a certain town, had Julius as his assistant in the care of souls. Julius, who had indeed been specially approved by the Bishop to hear the confessions of the Sisters called Sisters of Mercy, who had a house in the town, was absent for a certain week. On the customary day on which Julius was accustomed to hear their confessions, Caius, although not specially approved by the Bishop, moved by a recent discussion in a certain ecclesiastical periodical, went to the convent and heard the confessions of the nuns. When Julius learned after his return that the nuns' confessions had been made to Caius, he maintained that they were to be repeated as invalid. Hence it is asked:

1. What is required in the minister of the sacrament of Penance?

2. What is specially required for hearing the confessions of nuns?

3. How do ordinary and delegated jurisdiction differ?

4. What is to be said of the case?

Solution

The first question was answered above, p. 169.

2. What is specially required in order to hear the confessions of nuns?

If a nun is lawfully outside her convent and makes her confession in a public Church, any confessor with ordinary diocesan faculties may hear her confession. If the confession is made in the convent, no priest can hear her confession unless he be specially approved by the bishop of the place for hearing nuns' confessions in that particular convent. This has long been the discipline of the Church with respect to nuns with solemn vows. Provincial Councils (I West. d. XXVIII) and practice applied the same rule to nuns with simple vows. Diocesan faculties in England generally contain some such clause as the following: " Of hearing the confessions of the faithful of either sex, but not of nuns or novices unless they are lawfully staying outside the cloister, nor, in monasteries or conservatories, the confessions of girls or women residing there." Finally Leo 'XIII decreed in his Constitution Conditae, Dec. 8, 1900: " But if they are women's associations, the Bishop shall likewise designate priests for confessions, both ordinary and extraordinary, according to the norm of the Constitution *Of Pastoral Care*, issued by Benedict XIV, our predecessor, and of the decree *In the Same Manner*, issued by the Sacred Congregation set over Bishops and Regulars on 17 Dec. 1890; which decree indeed applies also to associations of men who are in no way initiated into sacred orders."

3. How do ordinary and delegated jurisdiction differ?

" Ordinary jurisdiction is the authority which is exercised in virtue of an office which one holds and in one's own name; delegated jurisdiction is granted by one who has ordinary jurisdiction and is exercised in that person's name." 1

4. The case. Caius, a missionary Rector, had a 1 Manual of Moral Theology, vol. ii, 183.

coadjutor, Julius, who was specially approved by the bishop for hearing the confessions of the Sisters of Mercy who had a convent in the parish. While Julius was absent, Caius went and heard the confessions of the nuns, though he had no special approbation from the bishop. Some authorities hold that a parish priest, inasmuch as he has ordinary jurisdiction over all his flock, from which nuns with simple vows are not exempt, may hear the confessions of such nuns in their convent without special approbation from the bishop. Whatever may be said on this point, the doctrine can not be applied to Caius, who is not a parish priest, and who has only delegated jurisdiction. That jurisdiction was limited by the bishop and did not extend to nuns in their convent. However, as there was communis error, the absolution would probably be valid, as the Church would probably supply all that was wanted.[1]

1 Manual of Moral Theology, vol. ii, 185.

1 Manual of Moral Theology, vol. ii, 141 f.

Case 11. Full and Specific Confession

Titius, a confessor, notices that some penitents do not sufficiently distinguish the different species of sins when they confess fornication although they ought to say adultery. Hence, when he hears the confessions of adults who confess fornication, he is accustomed to ask whether they are joined in marriage; nevertheless, he remains uncertain whether or not he ought to ask whether they are betrothed, for if betrothed persons sin with someone other than the betrothed, they violate the fidelity of betrothal, which obliges from justice. Titius is likewise uncertain whether he ought to ask those confessing incest about the degree of consanguinity or affinity. To furnish Titius with some light, it is asked:

1. Whence is the specific distinction of sins derived?

2. What circumstances must necessarily be expressed in confession?

3. What is to be said of the case?

Solution

1. Whence is the specific distinction of sins derived?

Sins are specifically distinct when their formal objects are specifically different, or when they are opposed to specifically distinct virtues, or when they are transgressions of formally distinct laws.[1]

2. What circumstances must necessarily be mentioned in confession?

Those circumstances which change the moral or theological species of the sin must be mentioned in confession. There is a controversy among divines as to whether circumstances which notably increase or diminish the malice of a sin, but which do not change its nature, should be mentioned in confession. The negative opinion is probable and safe.[1]

1 Manual of Moral Theology, vol. ii, 165.

3. The case. If Titius has learned by experience that in a certain place penitents do not sufficiently distinguish between adultery and fornication, he does well in general to ask those who confess fornication whether they are married. He will not be obliged to put this question in every case of such a sin being confessed; without doubt the confessions of some penitents will be so minute and descend to particulars in such a way that he will be able to rely on the theological accuracy of the terms which they use. There is no necessity for Titius to ask those penitents who confess fornication and deny that they are married whether they are betrothed. Some theologians, it is true, teach that the circumstance of betrothal changes the species of a sin of fornication committed with another woman, but others deny it, on the ground that betrothal is only a promise to give marital rights; it does not actually give them.

Titius should not ask questions about the degree or kind of relationship when incest is confessed, for it is probable that incest committed with any relation is of the same species, unless it is committed

with a relation of the first degree of consanguinity in the direct line, and as this sin is very rare and asking about it might give scandal to the penitent, the confessor should not ask about it, unless in a particular case he has good reason to suspect that in fact such a sin was committed.

Case 12. Absolution of the Dying

Caius, a priest, is called to a parishioner who suffers from the disease called typhoid. He finds him dangerously ill, sunk in a most profound sleep, called a coma, and deprived of his senses. Those present deny that he asked for the priest before he came to this condition; nevertheless, Caius absolves him conditionally and administers the other sacraments. Hence it is asked:

1. What is the matter of the sacrament of Penance?

2. Can absolution be given if there is no sign of sorrow or confession?

3. What is to be said of the case?

Solution

The first question is answered above, p. 151.

2. May absolution be given if the penitent gives no sign of sorrow or contrition?

Absolution may not be given under these circumstances except when the penitent is in danger of death and can not make any sign of sorrow or of a wish to confess. Even when such a penitent is in danger of death, many distinguished theologians held that absolution could not be given, because there is no matter for the sacrament. St. Alphonsus, however, held that absolution may be given in such a case, according to the more common opinion as he asserted.[1]

1 Theol. Moral, lib. vi, 482.

To the difficulty about the matter of the sacrament, St. Alphonsus answers that perhaps the anxious breathing, sighs, and other movements of the dying person are attempts made by him to express sorrow for his sins and a desire to confess, and that the probability that this is so is sufficient to justify the giving of conditional absolution in such a case of necessity.[2]

2 Manual of Moral Theology, vol. ii, 176.

3. The case. Caius acted rightly in giving the dying person conditional absolution and the last sacraments, even though he could make no certain signs of sorrow or of a desire to confess. This has become the common practice in such cases since the time of St. Alphonsus, and it may be explained by the reasons which the saint gives or perhaps in other ways. Ballerini, for example (Opus Morale, V, 404), suggests another way of explaining the modern practice. According to him it is probable that the sacrament of Penance consists in the absolution of the priest alone. Contrition is required as a disposition, but that may be presumed in the dying. Confession is also of divine law, according to the Council of Trent, but even a divine law does not bind when it is impossible to fulfil it. Necessity has no law. Without deciding whether this theory is probable or not, we may allow it some weight.

Case 13. A Pair of Penitents

Caius, a missionary priest, is called very early in the morning to a certain house where several families live, to administer the sacraments to the sick. He is led to a certain room, not large but the only one they have, where he finds two old people, husband and wife, in the same bed suffering from influenza and, as it seems, in danger of death. He decides first to hear their confessions, but does not know how this can be done while preserving the seal. After deliberating about the matter, he approaches the side where the husband lies, asks whether he wishes to confess, and, when he assents, whether he is sorry for all the sins of his life; when he likewise assents, Caius absolves him, imposing the obligation of confessing integrally if he afterwards recovers. Approaching the other side of the bed, he does almost the same thing in the same words for the wife; finally, after administering the other sacraments, he leaves the sick with a blessing. Hence it is asked:

1. Is an integral confession required in the sacrament of Penance, and by what law?

2. Can someone be excused from an integral confession, and when?

3. What is to be said of Caius's manner of acting?

Solution

1. Is a full confession required in Penance and by what law?

A full confession of all mortal sins that have not been directly absolved before is required in the sacrament of Penance by divine law, as the Council of Trent defined.[1]

1 Seas, xiv, can. 7; Manual of Moral Theology, vol. ii, 164.

2. Can one be excused from a full confession and when?

Yes, physical and moral impossibility excuse a penitent from making a full confession. By moral impossibility is meant that a full confession could not be made without grave inconvenience, extrinsic to confession, affecting the penitent, the confessor, or some third person.[2]

2 Manual of Moral Theology, vol. ii, 168.

3. The case. The danger of a violation of the seal of confession, or the danger lest some one other than the confessor should hear the confession of the penitent, is considered by divines to be a sufficient inconvenience to excuse a penitent from making a full confession. There was, as is clear, this danger in the case proposed, and so Caius was justified in absolving the old couple without requiring a full and specific confession from them. If Caius thought that the suggestion of some venial fault, such as impatience, which they would find no difficulty in acknowledging in the hearing of the other party, would serve to make their contrition more definite and certain, there would, we think, be no objection to his mentioning such a sin, and asking them if they had been guilty of it, and were now sorry for it, and for all the other sins which they had committed.

Case 14. Absolution by Telephone

Titius, a Catholic priest, with great scandal to the faithful and in contempt of the obligations by which he was bound, attempted marriage with a certain woman, with whom he afterwards lived in a secular manner for several years as a businessman. At length Caius, a priest and former friend, heard that Titius had been placed in danger of death; he immediately went to the sick man's house and, with the intention of helping Titius, asked to be admitted. The woman harshly refused him entrance, affirming that the physician had most strictly forbidden entrance to everyone. Inflamed with zeal to save the soul, Caius devised every means by which he could communicate with Titius. He heard that Titius had a telephone in his private room by which he communicated with the office in the city. Caius hastened to the office and, having obtained permission under a certain pretext to use the telephone, spoke with Titius, disposed him to penance by his fervent exhortations, and, after Titius had confessed, absolved him by means of the telephone. Afterwards, however, doubting about the absolution given, he consults a theologian. Hence it is asked:

1. What is required to absolve penitents lawfully and validly?

2. Is a confession made by one absent or an absolution given by one absent valid?

3. What is to be said of the case?

Solution

1. What is required for validly and lawfully absolving penitents?

Besides what is requisite on the part of the minister of Penance and of the penitent, there are certain conditions required for valid and lawful giving of absolution. For validity the form of words, " I absolve thee from thy sins," or at least, " I absolve thee," is necessary; and at the time of absolution the confessor and penitent must be morally present to each other. The latter condition is interpreted to mean that the penitent must not be further removed from the confessor when absolution is given than the ordinary tone of voice will carry. For the lawful administration of Penance the rubrics of the Ritual must be observed, and in particular the form of absolution given there must be used, and the priest should have on surplice and stole.[1]

1 Manual of Moral Theology, vol. ii, 175.

2. Is confession or absolution valid when made or given by one who is absent?

No. This conclusion follows from the absolute prohibition under all circumstances by Clement VIII, 20 June, 1602, of confession made by letter to an absent priest or of absolution given by a priest to an absent penitent.[2]

2 Ibid., 164.

3. The case. Most of the theologians who have treated the question consider that absolution given by telephone is invalid. The speakers are not morally present to each other; the

instrument is a means of speaking with the absent and distant. But, as we have seen, moral presence of confessor and penitent is necessary for the validity of Penance. On the ground that by using the telephone the voice of the confessor reaches the penitent, some theologians hold that absolution given by telephone is valid. Others would allow a confessor to use the instrument in a case of extreme necessity. There was extreme necessity in the case proposed, so that Caius is not to be blamed for what he did. On being asked whether it is lawful to give absolution by telephone in a case of extreme necessity, the Sacred Penitentiary answered, 1 July 1884; " Nothing is to be answered."

Case 15. An Unfortunate Mother

Peter, a missionary priest, was called to a woman committed to his care who was said to be dying. He met a physician, a friend and a Catholic, who had been called to the same woman. From him Peter heard that the woman, whose husband had been with the army in southern Africa for a year, had become pregnant through sin and had procured an abortion upon herself not without grave danger to her life. Approaching the dying woman, Peter warned her of her dangerous condition and persuaded her to prepare for death. When, however, she said nothing in confession about the adultery or the abortion, although she spontaneously admitted that she had not confessed within the past year, Peter asked whether she had anything else that troubled her conscience, to which she replied, "No, nothing else." Peter did not know what was to be done in the case, especially since homicide was among the cases reserved by the Bishop in the diocese. Hence it is asked:

1. What penalty is established against those who procure abortion, and does a mother who procures an abortion upon herself incur it?

2. When homicide is reserved by the Bishop, is abortion considered to be comprehended?

3. What is to be done by a confessor when a penitent in confession denies a sin committed by that penitent?

4. What is to be said of the case?

Solution

1. What spiritual penalty is annexed to the crime of procuring abortion, and does a mother who commits the crime incur the penalty?

By the Constitution Apostolicae Sedis of Pius IX, those who procure abortion are excommunicated. The absolution of the censure is reserved to the bishops. St. Alphonsus (III, 395) teaches that a probable opinion excuses mothers from the penalty of excommunication inflicted by Sixtus V on those who procure abortion. According to many recent theologians this opinion remains probable with respect to the Constitution Apostolicae Sedis of Pius IX, since the object of Pius IX was to limit the number of censures, not to increase it.[1]

1 Lehmkuhl, II, 1247, eleventh edition.

2. When homicide is reserved by a bishop, is abortion comprehended in the term?

Not usually; in many of the pagellae of the bishops who reserve homicide, abortion is specially excepted, and even if it is not expressly excepted it may be understood as tacitly excepted, because it is a crime with its own special penalties inflicted by the Holy See.

3. What should a confessor do when a penitent denies that he has committed a sin which nevertheless the confessor thinks that he has committed?

The confessor should ask him whether there is not something more, and exhort him to make a full and sincere confession without fear. If the penitent still denies that there is anything more, the confessor should ordinarily absolve him. For ordinarily the confessor may and should believe the penitent both against and for himself. If it is evident to the confessor that the penitent is lying and making a bad confession, he should of course not absolve him, but occasions when he can be sure of this will be rare.[1]

1 Bucceroni, Theol. Moral., vol. ii, 824.

4. The case. After exhorting the woman to make a full confession without fear, and asking her again whether there is anything else on her conscience, as for example, against the sixth commandment, if she persists in her denial, Peter should absolve her. It might possibly be that she had not committed either formal adultery or abortion, or even if she had committed those crimes there might be some reason subjectively sufficient to excuse her from confessing them to Peter. As she is in danger of death, and all reservation ceases in such a case, even if abortion were comprehended under homicide and reserved, Peter could absolve her without recurring to the bishop.

Case 16. Doubtful Jurisdiction

Titius, a priest of the Diocese of Liverpool, boarded a railway at Liverpool to proceed to London and was alone in the carriage when Paul entered and, after the journey had begun, started a conversation with Titius. After speaking about other matters, at length they conversed about religion. Titius found that Paul was a Catholic but had not confessed for many years because of a disagreement with the parish priest; Paul was nevertheless prepared to confess here and now if Titius was willing to hear him. Titius doubted whether they were still within the boundaries of the Diocese of Liverpool, but since Paul wished to stop at Crewe, thinking that there should be no delay, he immediately heard the confession and absolved Paul. Afterwards, when he thought about the matter, several doubts occurred to him, which he proposes for resolution. Hence it is asked:

1. Who is the minister of the sacrament of Penance?

2. Is it lawful for one endowed with doubtful jurisdiction only to absolve a penitent?

3. Is one doubtfully absolved bound to confess again?

4. What is to be said of Titius's manner of acting?

Solution

The first question is answered above, p. 169.

2. May a priest who has only doubtful jurisdiction absolve a penitent?

He may not, except in case of necessity, for the sacrament would be exposed to the danger of nullity, and the penitent to harm. In case of necessity he may. Theologians admit as just reasons for giving absolution with doubtful jurisdiction the necessity of making one's Easter communion, or if the penitent has not confessed for a long time.

3. Is one who is doubtfully absolved bound to confess again?

Most theologians answer Yes, for the reason that he is bound to make certain that his sins have been submitted to the keys. This doctrine hardly agrees with the principles of probabilism, for unless there was some chance that the absolution would be valid there was no use giving it, and after the event *Standum est pro valore actus*. St. Alphonsus (VI, 432) seems to restrict the obligation of confessing again to the case in which the penitent afterwards finds out for certain that the priest had no jurisdiction when he granted absolution.

4. What about Titius' action? Titius had faculties only for the diocese of Liverpool, but when he gave absolution he was not certain whether he was in the diocese of Liverpool, or in that of Shrewsbury which borders on it. With this doubt in his mind he gave absolution. In this he acted rightly. For it was not certain that the jurisdiction with which he had started on his journey had ceased, and he could presume that he still had it. As Paul had probably submitted his sins to a duly qualified priest and had received absolution for them, he was not strictly

bound to confess them again, but Titius should have told him about the doubt concerning his faculties, so that Paul might confess again if he wished to make his absolution certain, or in case he became dangerously ill before going again to confession.[1]

1 Manual of Moral Theology, vol. ii, 185 f.

Case 17. A Lie in Confession

While confessing to Julius, a priest, Anna says that she is anxious about her last confession because she lied in it. Julius asks her how this happened. Anna replies that the confessor asked whether she had eaten meat on days of abstinence since her last confession, which she denied, although she was conscious that she had once eaten meat on a Friday because of weakness, on account of which she thought this was lawful for her; now, however, so that she may enjoy a tranquil conscience, she wishes to confess everything sincerely to Julius. Julius considers whether or not Anna ought to repeat her last confession integrally. Hence it is asked:

1. What is the necessary matter and what is the free matter of the sacrament of Penance?

2. Are aggravating or diminishing circumstances necessary matter of this sacrament?

3. Is there an obligation to answer sincerely when a confessor asks a question?

4. What is to be said of the case?

Solution

The first question is answered above, p. 151.

2. Are circumstances which increase or lessen the malice of sin the necessary matter of Penance?

The question is disputed, but probably circumstances which only increase or lessen the malice of sin and do not change its moral or theological species, are not necessary matter for Penance.[1]

1 Manual of Moral Theology, vol. ii, 165 f.

3. Is the penitent obliged to give a sincere answer to questions put to him in confession?

Yes, whenever the confessor questions him about what is necessary to make his confession full and integral, or about what is necessary in order to judge of his dispositions or obligations, so as to be able to counsel and direct him aright.[2]

2 Bucceroni, vol. ii, 716.

4. The case. Ann when asked in confession whether she had eaten flesh meat on days of abstinence denied that she had, although she was conscious that she had taken meat once on a day of abstinence when she thought that she was justified in taking it on account of feeling weak. In her next confession Ann told this to her confessor and said she was anxious about it.

Objectively, of course, Ann committed no fault, for she answered her confessor according to the sense of his question. The confessor wanted to know whether she had broken the law of abstinence, and in answering No, Ann told the truth. Therefore unless Ann thought at the time when she gave the answer to her confessor that she was committing a grave sin, she should now be told not to trouble further about it. Her subjectively erroneous conscience might, of course, have caused her to

commit grave sin subjectively, and then it would be necessary to confess this, and repeat the former confession.

Case 18. A Dying Nun

Catherine, a nun who belonged to a Congregation of simple vows, was unwilling to confess to the ordinary confessor who came to the convent each week to exercise his office, for, as it seemed to her, with greater fruit she confessed whenever she needed confession to Titius, a priest who served the nearby church. She easily found an opportunity to confess in Titius's church when she returned to the convent from the elementary school where she taught girls daily. When gravely ill, however, Catherine asked the superior to summon Titius to hear her confession. Hence it is asked:

1. What does ecclesiastical law establish concerning the confessions of nuns?

2. Which nuns do the said laws concern?

3. What is to be said of the things done or to be done by Catherine, Titius, and the superior in the case?

Solution

1. What does ecclesiastical law lay down about the confessions of nuns?

There should be only one ordinary confessor for each convent, but an extraordinary confessor should be offered the nuns two or three times a year, and indeed as often as a nun is conscientiously and reasonably driven to ask for one.

2. Of what nuns do these laws treat?

Although these laws more specially relate to nuns under solemn vows, yet by custom, provincial legislation, by special restrictions placed in the pagella of faculties, and according to the express instructions of the Holy See, the same jaws now bind nuns with simple vows. When lawfully outside the convent nuns may confess to any approved confessor. See above, p. 174.

3. What about the actions of Catherine, Titius, and the Superioress?

First with regard to Catherine's conduct. The absolutions which she received from Titius were valid, and if she had gone to confession to him only once in a way, she could not have been blamed, for nuns when lawfully outside their convent may confess to any approved confessor. But Catherine made it a regular practice to avoid the ordinary confessor of the convent, and to choose her own confessor outside. This is contrary to the spirit of the laws made by the Church for good reasons with regard to the confessors of nuns, and she should not have done it.

With regard to Titius. He was justified in hearing the confession of Catherine and absolving her, but if and when he noticed that she came to him regularly, he should have admonished her to act more in the spirit of the laws of the Church.

The Superioress should have intervened if she knew what Catherine was doing. As Catherine is now dangerously ill the Superioress should humor her and send for Titius, who will have faculties to hear

Catherine's confession in the convent as she is in danger of death.

Case 19. A Bishop's Reserved Case

Caius, a regular priest, while giving a mission in a certain town far distant from the episcopal city, hears the confession of Titius, a laborer who lives there. During confession Titius says that he was recently joined in marriage with Bertha, a Protestant, before the civil registrar, having been driven to such a deed because of the difficulty of obtaining from the parish priest a dispensation from mixed marriage. Caius remembers that the case is among those which the Bishop reserves to himself, but does not know how to proceed. For Titius seems perpetually impeded from approaching the Bishop; although he can write, he seems to be bound by no law to write, which also seems capable of being said of Caius himself. On the other hand, Titius gave scandal, which must be repaired. Hence it is asked:

1. What does ecclesiastical law establish concerning one who has a papal case and is impeded from approaching Rome?

2. What is to be said of one who has an episcopal case and is impeded from approaching the Bishop?

3. What is to be done by Caius, and what if Titius is ignorant that the case is reserved by the Bishop?

Solution

1. What does the law of the Church prescribe with regard to a penitent who has a papal case and is prevented from going to Rome?

If there is no need for immediate absolution the case must be submitted by letter to the Grand Penitentiary at Rome either by the penitent himself, or by his confessor, in order that special faculties for granting absolution may be obtained. If the penitent is under the necessity of obtaining absolution at once, he may be absolved directly by any confessor, but within a month the case must be submitted to Rome by the penitent or by his confessor under pain of falling again into the same case.[1]

1 Manual of Moral Theology, vol. ii, 204.

2. What must be done with a penitent who has incurred a bishop's case and is prevented from going to the bishop?

The regulation given above for the treatment of papal cases is gradually being applied to bishops' cases also. Otherwise a priest without special faculties may give absolution from a bishop's case when the penitent can not go to the bishop. The absolution will be indirect if the penitent can present himself to the bishop within six months, direct if he can not.[2]

2 Ibid., 207 f.

3. The case. If Titius was married before April 19, 1908, the marriage would be valid in England and in most parts of the United States, and Caius might absolve him to enable him to go to Holy Communion. If the bishop of the diocese requires that reserved cases should be submitted to him by letter, this should be done, either by the penitent or by the confessor. If Titius was ignorant that his case was reserved to the bishop, his ignorance probably excuses him from incurring the reservation, unless the bishop has expressly declared the contrary. If Titius were induced to give the promises usually made before a dispensation is granted for a mixed marriage, and if he promised to lead a good Catholic life himself, it would go far to repair the scandal he caused.

If the marriage took place after the decree Ne temere came into force, the marriage is null and void on account of clandestinity. The case should be referred to the bishop, who will doubtless grant faculties to Caius or to the parish priest to revalidate the marriage and instruct him as to what he is to do. In the meantime Titius should not use marital rights, and it would be well if he kept away from home. In the possible case of Titius thinking in good faith that he was really married, he might be left in his good faith until the dispensation arrived. After the dispensation has been fulminated, the religious marriage should take place before the parish priest or his delegate and two witnesses.

Case 20. On the Absolution of an Accomplice

Titius, a priest, while making spiritual exercises, moved by divine mercy, disclosed to his confessor a certain pact with Paul, a priest. For since Titius and Paul mutually knew that they sinned rather frequently with women, they agreed between themselves to confess to each other and to give absolution mutually to the accomplice. Having heard these things, Titius's confessor doubted whether he could now absolve him. Hence it is asked:

1. What does ecclesiastical law establish concerning the absolution of an accomplice?

2. How is the word "accomplice" to be understood?

3. What is to be done by the confessor of a priest who has absolved an accomplice?

4. What is to be said of the case?

Solution

1. What does ecclesiastical law provide concerning the absolution of an accomplice?

A priest who with another person has gravely sinned against chastity is forbidden to absolve that person from the sin of complicity, is deprived of jurisdiction for absolving that sin, and, if he attempts the absolution of that sin, incurs an excommunication reserved in a most special manner to the Roman Pontiff.[1]

1 Manual of Moral Theology, vol. ii, 213.

2. How is the word accomplice to be understood?

DE ABSOLUTIONE COMPLICIS

An accomplice in a shameful sin is here understood as one who, internally and externally, has committed a grave sin against chastity, whether by words, by a look, or by deed, with a priest, even before the priesthood was received.[1]

3. What must be done by the confessor of a priest who has absolved an accomplice?

If a priest confesses that he has attempted to absolve an accomplice, the confessor must admonish him to ask from the Sacred Penitentiary a faculty by which he can be absolved by his confessor. If he wishes, the confessor himself can ask for this faculty. The name of the penitent is not disclosed to the Sacred Penitentiary. If it is necessary for avoiding scandal, or for another just cause, that the penitent be absolved immediately, the confessor can absolve him directly, but under the burden of presenting himself within a month by letter, as above, to the Sacred Penitentiary.[2]

2 Ibid., 204.

4. To the case. Titius and Paulus, priests, mutually agreed upon the absolution of mutual complices in a sin against chastity and upon the absolution of themselves from their own sins.

> This pact is itself against chastity, inasmuch as it is a means by which they more easily indulge in impurity; they are therefore accomplices in a shameful sin and cannot absolve each other; if they attempt it, they incur the said excommunication.[3]

3 Bulot, Compend. Theol. Moral., vol. ii, n. 575.

1 Manual of Moral Theology, vol. ii, 214.

Case 21. Feigned Absolution of an Accomplice

Titius, a priest, goes to a certain house of Regulars to devote himself to spiritual exercises. After some days there he makes his confession to Father Caius, who was giving him the exercises. Among other sins he confesses that he had indecent conversations with Philip, a friend who belonged to the flock committed to him, and afterwards absolved him; furthermore, that he sinned shamefully once and again with Mary, Philip's daughter, and once pretended to absolve her after she confessed to him. On another occasion in the confessional, when he suspected from the sound of her voice that she was present, but refrained from questioning her lest he become more certain, he then actually absolved her; afterwards, however, when she sought Holy Communion, it became certain that she had been present in the confessional. Titius adds that he is exceedingly sorry for the past, most firmly resolves amendment of life, and asks for absolution. Hence it is asked:

1. What does Benedict XIV establish in the Constitution *The Sacrament of Penance*?

2. What is to be said of the faculty of absolving from the cases contained there?

3. What is to be said of the case?

Solution

1. What does Benedict XIV provide in the Constitution *The Sacrament of Penance*?

Benedict XIV in the said Constitution treats of the crime of solicitation and of the attempted absolution of an accomplice. Concerning

Regarding solicitation, it is decreed that Ordinaries are to be held to inquire and proceed against priests who are involved in the matter of solicitation in the sacred tribunal; all confessors who know their penitents to have been solicited by others in the sacred tribunal are to be held to admonish them regarding the obligation of denouncing the solicitors; the power of absolving those who falsely accuse priests of solicitation is reserved to the Supreme Pontiff. Concerning the attempted absolution of an accomplice, he establishes that a priest guilty of this crime incurs an excommunication likewise reserved to the Supreme Pontiff.[1]

1 Manual of Moral Theology, vol. ii, 210 ff.

2. What is to be said of the faculty of absolving from the cases contained there?

Absolution from the censures contained in the Constitution *The Sacrament of Penance* is reserved to the Holy See in a most special manner, so that the faculty of absolving from them is not included even in a faculty of absolving from all cases specially reserved to the Holy See.[2]

2 Ibid., 206.

3. To the case. Titius had indecent conversations with Philip and afterwards absolved him. If the speeches were so indecent that they constituted a grave sin against chastity, the absolution was null and void, and Titius incurs the case of reservation (the Sacred Office, 28 May 1873). By

feigning the absolution of Mary, Titius did not avoid excommunication, according to what was often declared by the Sacred Penitentiary and the Sacred Office.[3]

3 Génicot, vol. ii, n. 353.

By abstaining from questioning so that he would not recognize the accomplice, and afterwards absolving her, Titius seems to have acted with gross and supine ignorance, and consequently to have incurred the censure again, according to the response of the Sacred Office of January 13, 1892.

Hence Titius incurred several times the excommunication reserved in a most special manner, and cannot be absolved without a faculty specially obtained from the Sacred Penitentiary, to which it must be declared how many times Titius absolved accomplices.

Case 22. An Empty Distinction

Caius, a priest, prostrate at the feet of Titius, his confessor, confesses that he solicited a certain penitent to a grave shameful sin in the sacred tribunal, and that afterwards, when she confessed that sin to him, he directly absolved her from her other sins and indirectly from the sin of complicity, in regard to which he declares that he knew well that he had no jurisdiction and did not intend to absolve it. Titius absolves Caius, although solicitation in the sacred tribunal is a sin reserved by the Ordinary, because on the following day the penitent is bound by his office to celebrate for the people; nevertheless, he does not know whether the burden of writing to Rome must be imposed upon him as one bound by the censure of excommunication on account of the absolution given to an accomplice. Hence it is asked:

1. What is the reservation of cases, and what is its purpose?

2. Whence are reserved cases known?

3. What ought a confessor hearing a reserved sin to do?

4. What is to be said of the case?

Solution

1. What is reservation of cases, and what is its purpose? Reservation of cases is a limitation of jurisdiction which the confessor retains with regard to other sins, although it is denied with regard to reserved sins. The purpose of reservation is the discipline of the Christian people, that namely that they may be deterred from committing reserved sins because of the difficulty of obtaining absolution, and that whoever commits them may have a more expert confessor.[1]

1 Manual of Moral Theology, vol. ii, 192

2. From what are reserved cases recognized?

Papal cases are almost all contained in the Constitution of Pius IX *Of the Apostolic See*, except one concerning false accusation of solicitation, which is contained in the Constitution of Benedict XIV *The Sacrament of Penance*, and another concerning Mass stipends in the decree of the Sacred Congregation of the Council of 11 May 1904. Episcopal cases are found in the papers which the bishops grant to confessors. Cases of the Regulars are found in their Constitutions and rules.

3. What should a confessor do when hearing a reserved sin?

'Outside the article of death,' says the Council of Trent (Sess. XIV, c. 7), 'priests, when they can do nothing in reserved cases, strive to persuade penitents to go to superiors and legitimate judges for the benefit of absolution.' Often, however, out of charity the confessor will be bound to obtain special faculties so that he himself may absolve the penitent burdened with the reserved sin.

4. To the case. Caius solicited a penitent to a shameful sin in the sacred tribunal, which sin was reserved to the Bishop. Furthermore, he afterwards absolved his accomplice from other sins, not intending to absolve her from the sin of complicity; then he confessed his own sins to Titius. Titius did rightly by absolving Caius because of the necessity in which he found himself of celebrating for the people on the following day. The absolution of the sin reserved to the Bishop was indirect, and therefore Caius is held to obtain direct absolution either from the Bishop

DISTINCTIO INANIS

—Bishop or from one delegated by him. Caius gave absolution to his accomplice and thus fell into a case reserved to the Supreme Pontiff, for he attempted to absolve his accomplice and could not, by his own mere intention, restrict the absolution to the other sins, because it does not depend upon the priest's intention to which of the sins confessed the absolution given by him ought to extend. Furthermore, he pretended to absolve the penitent who was his accomplice and for this reason incurred the censure. Hence he will be bound within a month to present himself to the Sacred Penitentiary and obey its commands.

Case 23. Error Does Not Confer Jurisdiction

Caius, a priest, is sent to a certain mission to supply temporarily for a sick quasi-parish priest. While he is hearing confessions, Martha comes and accuses herself of a shameful sin committed several times with a priest. Suspecting a habit of sinning, Caius asks whether she committed the same sin before her last confession, and finds that Martha has a habit of sinning with the priest and afterwards confessing to the same one; for she does not know that anything stands in the way, which Caius thinks is very probably true of all the faithful belonging to that mission, inasmuch as they are uneducated. Hence Caius doubts what he must do. Hence it is asked:

1. What is established by Benedict XIV in the Constitution *The Sacrament of Penance*?

2. Can common error supply jurisdiction to a confessor, and when?

3. What is to be done by Caius?

Solution

The first question is answered above, p. 200.

2. Can common error supply jurisdiction to a confessor, and when?

The Church certainly supplies jurisdiction if a colorable title is present together with common error. Probably she also supplies with common error alone, even if no colorable title is joined to it. That probable opinion, however, cannot be applied to the case in which an accomplice in a shameful sin thinks that he can be absolved by the priest who is his accomplice. For such an error is private, and the people are ignorant of the ecclesiastical law which deprives an accomplice of jurisdiction rather than err concerning it. Then, whatever may be true of the general principle, it is certain that the Church does not wish to supply jurisdiction to an accomplice-priest so that he may absolve his accomplice, for the Constitution of Benedict, *The Sacrament of Penance*, expressly says: "Jurisdiction having been removed for absolving any person from fault of this kind."

3. To the case. Martha's confessions, since they were made in good faith, were valid, and the absolution of the other sins was direct, since the accomplice-priest is deprived of jurisdiction only "for absolving fault of this kind." The absolution of the sins of complicity was indirect, and therefore Martha is bound to submit them again to the keys so that they may be absolved directly. Caius must therefore ascertain how often, or from what time, she confessed the sins of complicity to her accomplice, and admonish her to avoid him in the future both within and outside confession.

Case 24. Asking the Name of an Accomplice

Albert, a boy fourteen years of age residing in a certain Catholic college, accuses himself in confession of a shameful sin committed with another boy. Questioned by the confessor, he spontaneously admits that he had committed the same sin several times before after being solicited by the same accomplice. Since the confessor prudently fears that the same thing will happen again, he asks whether Albert is prepared to employ every means to prevent a relapse, even to denounce the accomplice. The boy says that he will willingly disclose the accomplice's name to the confessor himself, but in no way to the superiors, although he willingly grants the confessor the faculty to disclose the matter to the superiors. From the circumstances the confessor judges it altogether necessary for preventing a relapse, and also for the common good of the college, that the accomplice in the case be denounced to the superiors; hence he thinks that the boy cannot be absolved when he refuses this burden, yet thinks that it is not lawful for him to inquire into the accomplice's name. Hence it is asked:

1. What is to be said of the necessity of confessing a sin if thereby the accomplice in the sin is disclosed to the confessor?

2. What is to be said of a confessor who inquires into the accomplice's name?

3.

What must be done by the confessor in the case?

Solution

1. Is it necessary to confess a sin if in so doing an accomplice in the sin is made known to the confessor?

If possible the penitent should go to a confessor who would not know the accomplice in the sin. If he can not conveniently do this, it is a controverted point as to whether he should mention the sin, which can not be confessed without also betraying an accomplice, or not. Some authorities hold that he may not mention the sin because the natural law of secrecy about another's sin is stricter than the positive law about the integrity of confession. Others hold the contrary opinion, because for good reason we may make known the secret sin of another. Both opinions are probable, so that the penitent may follow either.[1]

1 Bucceroni, vol. ii, n. 720.

2. May a confessor ask the name of an accomplice?

In the Constitution Apostolicae Sedis the first of the excommunications reserved to the Holy See is incurred by those who teach or defend as lawful the practice of inquiring from penitents the name of an accomplice in sin as the practice was condemned by Benedict XIV. The practice then is in general unlawful. However, as Benedict XIV himself supposes, there are certain cases in which the penitent is

bound to denounce an accomplice, and sometimes this can. only be done to or through a confessor, who may then ask the name of an accomplice.[2]

2 Ibid., 1178 ff.

3. The case. The good of the college requires that the boy who corrupts his school fellows should be denounced to the authorities when this is necessary to prevent future grave sins. This could only be done in the circumstances of the case by Albert himself. He was therefore under a grave obligation of doing this, and could not be absolved if he refused to do it. As he absolutely refused to denounce his accomplice personally to the authorities, but was not unwilling to tell the confessor, to whom he also gave leave to mention the matter to the authorities, the confessor may ask him to write the boy's name on a slip of paper and put it in an envelope and give it to him, and that he will see that it goes to the authorities. In doing this the confessor would do nothing wrong, but only help the boy to do his duty.

Case 25. A Recidivist

Caius, a Catholic young man, is accustomed to confess every week. Although otherwise of good disposition, he always accuses himself of the sin of self-pollution committed three or four times within the week. To the confessor's questions he replied that he was accustomed to abstain for almost two days after confession but afterwards fell; that he was very sorry for the sins, sincerely wished to free himself from the evil habit, and would willingly accept from the confessor advice and means for amending himself. Hence it is asked:

1. Who is a relapser?

2. How must he be treated?

3. What is to be said of the case?

Solution

A recidivist is one who after many confessions has fallen into the same sin without any or with scarcely any amendment.

2. How is a recidivist to be treated?

This is a much controverted point among more recent moral theologians. The Jansenists taught that a recidivist can not be absolved until he has proved the sincerity of sorrow by actual amendment and by abstaining from falling again into the same sin for some time after confession. On the other hand laxists held that a penitent who has contracted a habit of sin should be absolved at once, provided that he makes verbal profession of his sorrow and purpose of amendment. Even some who are neither rigorists nor laxists hold that after a recidivist has been absolved a certain number of times, he may not be absolved again unless he shows extraordinary signs of sorrow. The doctrine of Lugo and other older theologians on this matter seems more workable and better grounded. In brief it comes to this: that the matter must be left to the judgment of the confessor, and if the confessor judges that the penitent is here and now sorry for his sins, notwithstanding his falls in the past, he may always absolve him.[1]

1 Manual of Moral Theology, vol. ii, 218 ff.

3. The case. The fact that Caius keeps from sin for some time after going to confession shows that he derives fruit from the sacrament and he should not be deprived of it. He may be told to come to confession immediately after falling into sin if he can do so; to pray hard and perseveringly especially in time of temptation to God and His blessed Mother for help; to go frequently to Holy Communion; to keep constantly occupied in mind and body; to take plenty of fresh air exercise; and similar means. With God's grace, if he adopts these remedies he will conquer his bad habit. The confessor should do all he can to cheer and encourage him.

Case 26. A London Actress

Caia, a rather celebrated stage actress in a certain London theater, is accustomed to confess to Lucius, a priest, almost every month. Among other sins, certain sins committed with young men always occur, whom she can scarcely, if at all, avoid, since they seek her in the theater itself. Caia seems to Lucius to be of excellent character and to sin because of occasions and frailty rather than from malice; for this reason he is the more anxious to know what he must do, both with regard to giving, deferring, or denying absolution, and in order to free Caia from the evil habit. Hence it is asked:

1. How do a person in an occasion of sin, a habitual sinner, and a relapser differ?

2. Can any rules be given concerning the absolution of relapsers, and what are they?

3. What is to be said of the case?

Solution

1. How do the terms occasionarius, consuetudinarius, recidivus, differ?

An occasionarius is one who is placed in a proximate occasion of sin; a consuetudinarius is one who has contracted a habit of sin; a recidivus is one who after many confessions falls again into the same sin without any or with scarcely any amendment.

2. Can any rules be given with regard to absolving recidivists?

Some theologians descend into minute particulars on this point and give a great many rules of great complexity. Those given by Lugo are practical and short. They are these:

a. If a confessor judge a penitent notwithstanding a past habit of sin, to have here and now a true sorrow and a firm resolve not to sin again, he can absolve him.

b. But in the second place it is certain that when a priest, considering the past habit of sin, the propensity to it, and other circumstances, can not judge the penitent to be sufficiently averse from the sin, he can not absolve him, however much the penitent asserts that he is sorry.

c. It will help toward forming a judgment about the present dispositions of the penitent if he show special signs of sorrow.

d. Finally it will sometimes be useful to put off absolution for some days.[1]

1 Manual of Moral Theology, vol. ii, 219 f.

3. The case. As was said above (p. 212) one who after many confessions falls again into the same sin without any or scarcely any amendment, may always be absolved by the confessor if he judges that the penitent is here and now sorry for his sins and purposes to correct them in future. Caia seems to be such a penitent, and so Lucius may absolve her. He has no right to deny her absolution, and it would probably do more harm than good if he were to defer it for a time. However, he may 'and should suggest means by which she may be able to avoid sin. We

presume that she neither does nor says anything wrong in the course of her acting. The only remedy to suggest if the contrary were the fact would be to stop it. We suppose that her duties are not wrong in themselves, but that they furnish the occasions of sin to her. It would be a good thing if she could abandon her profession and take up another which would be less dangerous. If she can not do this, the confessor might suggest that Caia should always have her mother, or sister, or lady friend with her in the theatre. She should attend to her prayers, go to the sacraments every week if she can, and if she gets a good offer of marriage she should accept it and retire from the stage.

Case 27. A Loose Principle

Peter and Paul, laborers, were smoking tobacco near the hayricks of James, whom they had formerly served but who had dismissed them unjustly. By an unexpected accident they inadvertently threw burning matches among the hay. Having gone a little farther on their way, they looked back and saw a small flame arising from the hay. Because of their old enmity toward James, and because each reproached the other for starting the fire, neither moved a foot to warn James of the impending danger; consequently, the efforts of those who ran up to extinguish the fire were fruitless, and the hayricks were destroyed. Afterwards Peter, thinking about fulfilling the Easter precept, approaches Caius, a confessor, and, inquiring especially about the obligation of restitution, relates that half the value of the things that perished has already been paid by an insurance company, and that James, terrified and reduced almost to the extremity of life, has at length recovered his former health, but not without incurring great expenses. Caius, however, excuses him from every burden of restitution, as he always does otherwise, because, as he says, some cause is always present which renders the obligation of restitution at least doubtful; but a doubtful law does not oblige. Hence it is asked:

1. What are the conditions for a harmful action to produce an obligation of restitution?

2. What if a confessor has unduly obligated someone to make restitution or released someone from making it?

3. What is to be said of the case?

Solution

1. What conditions are necessary that an obligation to make restitution may arise from an action which causes damage?

There must be theological fault, the damage must be really and objectively unjust, the action must be the cause, not merely the occasion, of the damage.[1]

1 Manual of Moral Theology, vol. ii, 408 ff.

2. What if a confessor has improperly imposed the obligation of making restitution, or improperly exonerated a penitent from it.

If this was done without grave theological fault, the confessor will be bound to correct his mistake and prevent harm coming from it as far as he can. If his action involved grave fault on his part, either through grave negligence or malice, he becomes a co-operator in injustice, and is bound to make good the harm done to his penitent or to a third person by his wrong conduct.[2]

2 Ibid., 226 f.

3. The case. Caius' principle is certainly false, and will be the cause of his doing serious harm if he continues to apply it in practice. Still in the case before us it did not cause him to go astray. Peter and Paul inadvertently threw lighted matches among James' hay, and after they had left

the spot they looked back and saw that a small fire had been kindled. The one who had caused the fire was bound in justice to do his best to put it out, otherwise he would be compelled to make good the damage. But they did not know who had caused the fire; it was uncertain whether it was caused by Peter, or by Paul, or by both of them. On account of this doubt neither of them can be compelled to make good the damage done, although both committed sins against charity by their ill-will against James and by neglecting to extinguish the fire at first. The damage done to James' health was not foreseen, nor was the expense foreseen which he incurred on that account, and so no obligation to make restitution could arise on this ground.

Case 28. Requisite Knowledge in the Confessor

Paul, a priest, for several years almost entirely neglected the study of moral theology. Sometimes indeed, when a theological conference is approaching, he hastily looks through authors so that he may have something to say, except perhaps when it happens to him to propose a case. With regard to cases that commonly occur, he does not know whether he always knows the solution; and with regard to more difficult cases, he has a considerable suspicion that he scarcely knows enough even to doubt the solutions. If cases happen to occur that require investigation, he has discovered that he has forgotten matters of great importance concerning impediments of marriage, conditions of contracts, especially sale and purchase, and the roots of restitution. Caius, the confessor to whom Paul discloses all these things, denies absolution unless, as St. Alphonsus teaches, he promises that he will never interrupt that study. It is asked:

1. What knowledge is required under grave obligation in a confessor?

2. Can a confessor after several years sufficiently trust his memory of the knowledge of theology once acquired in the seminary without its being refreshed by study?

3. What is to be said of the case?

(From the cases of the Diocese of

Liverpool for the years 1898–1899.)

Solution

1. What knowledge must the confessor have sub gravi?

The confessor must know how to administer the sacrament of penance validly, and he must have the knowledge required to give a prudent judgment in this tribunal. For this purpose he must know: "Which sins are mortal and which venial, at least by their kind; the species and circumstances that must necessarily be explained; matters pertaining to the restitution of goods and reputation; reserved cases and at least the more common excommunications; the more common censures and irregularities; what is required in a penitent for a good disposition; appropriate remedies for sins. It is enough if the confessor understands the things that occur more frequently and knows that he must doubt concerning the others."[1]

1 St. Alphonsus, Theol. Moral, lib. vi, n. 627.

2. Can a confessor after many years trust his memory about what he learned in the seminary without refreshing it by study?

No, he certainly can not do so. Daily experience teaches most men how readily things once known drop out of memory, and most priests know how easy it is to forget the principles of moral theology unless they are kept fresh by constant study.

3. The case. Caius, the confessor of Paul, who also was a priest, was quite right to threaten the withholding of absolution from him unless he promised to keep up the study of moral theology. It is clear from the case that he was deficient in that knowledge which theologians require sub gravi in a confessor. He was not sure about the right solution of ordinary cases, and he had grave suspicions that he did not know enough to doubt more about difficult cases. Occasionally, when he found it necessary to look into matters, he found that he had forgotten things of great importance about the impediments of marriage, the conditions of contracts, especially of sale, and the roots of restitution. All these are indeed matters of importance, and of frequent occurrence, and Paul should lose no time before refreshing his memory, about them; otherwise he will not escape serious sin.

Case 29. The Seal Not Broken

Titius, the confessor of pupils in a certain Catholic college, when he learned from confession that a certain boy imbued with evil morals was drawing others into grave sins, warned their Prefect to watch more diligently over the flock committed to him. The Prefect, however, who was also a priest and not altogether a stranger to moral theology, doubted whether it was lawful for him to use the information given. Hence it is asked:

1. To what does the secrecy of the seal oblige, and by what law is it established?

2. Is it lawful to use knowledge obtained from confession?

3. Is it lawful for superiors to use the said knowledge in external government?

4. What is to be said of the case?

Solution

1. To what does the secret of the seal bind and by what law?

By divine, natural, and positive law the confessor is bound to say or do nothing which could make known any sin, or circumstance connected with sin, confessed to him, or which would cause the penitent reasonable displeasure, or make confession more burdensome than it is.[1]

1 Manual of Moral Theology, vol. ii, 231.

2. Is it allowed to make use of knowledge gained from confession?

Of course, such knowledge must not be so used as to violate the seal. Otherwise the confessor may use knowledge gained from confession to correct his own faults, to preach and to hear confessions with more fruit, to treat his penitents and others with greater kindness, i

3. May Superiors use knowledge gained from confession for the government of their subjects?

No, this may not be done, as it would make confession odious, and cause displeasure to penitents. The contrary opinion was virtually condemned by a decree of Clement VIII, May 26, 1593, and another of the Holy Office, Nov. 18, 1682, and it is now obsolete.[2]

2 Ibid., 232.

4. The case. Titius, of course, was not justified in doing what he did if any suspicion was likely to fall on the culprit in consequence of what he said. If what he said to the prefect would betray neither the delinquent nor anything that had been told him in confession, it would seem that Titius was not to blame, and that the prefect may follow his admonition without scruple. St. Alphonsus says: " Commonly, however, they admit that a confessor may use knowledge from confession to render himself more cautious in a household matter, to shake off sloth, and to watch more diligently over his flock, provided that no suspicion of sin is given to others and

that the penitent is neither burdened by this nor implicitly reproved... from D. Thomas in IV, d. XXI, q. 3, a. 1, q. 3 ad 1, where he says: ' The confessor may say to the prelate that he should watch more diligently over his flock, however, so that he does not say anything by which the penitent may be betrayed by word or gesture.' "[3]

3 St. Alphonsus, Theol. Moral., lib. vi, 657.

1 Manual of Moral Theology, vol. ii, 232.

Case 30. Confession with Unexpected Results

Caius and Tullia, betrothed for some months, went together to confess to Titius, a priest, who sat in a wooden confessional exposed in the church, Caius on this side and Tullia on that. Caius began first and accused himself, among other things, of fornication committed several times with various women. Not only Titius but also Tullia heard the whole confession of Caius, since the opening had been left uncovered on each side of the confessional. After absolution was given to Caius, Titius turned to Tullia, who first explained that she had indeed been betrothed to Caius, but after what she had heard she in no way wished to marry him; indeed, she asserted that she had conceived hatred against him. Hence it is asked:

1. What just causes are admitted for withdrawing from betrothal?

2. To what extent and by what law is the use of knowledge acquired from sacramental confession prohibited?

3. What is to be said of the case?

Solution

1. What just causes for breaking off an engagement to marry may be admitted?

An engagement to marry may be broken off by mutual consent, by the happening of an event which would have prevented the engagement if it had happened before it, by entering into a Religious Order or by taking sacred Orders, and by the Pope for good reason.[1]

1 Manual of Moral Theology, vol. ii, 260 f.

2. This question was answered above, p. 222.

3. The case. Tullia of course did wrong in listening to the confession of her betrothed. She should have gone out of the confessional or called the attention of the priest to the fact that the grating was not closed. Having heard the confession, she is per se bound like the confessor not to allow the knowledge which she has gained to influence her conduct. She probably does not know this, and certainly she does not seem able to control her feelings. Women were never intended to be confessors. Caius will hear immediately of what has happened, and he will probably be content to release Tullia from her engagement, as under the circumstances the marriage could hardly turn out well.

i / l

Case 31. Unlawful Use of Confessional Matter

Caius, a priest, after making his confession to Titius, a priest, asks whether he acted rightly in the following cases. Caius has charge of orphans of both sexes and, when asked to send a fifteen-year-old boy to undertake a certain employment, selected one imbued with evil morals who was corrupting the others, as he knew from confessions, but who was suited to discharge the employment, although others were equally suited; he said to himself that the boy's absence would benefit both the boy and the other orphans. He was asked by an assistant priest to send a sixteen-year-old girl to serve a married Catholic man who, however, as Caius knew from his confessions, was accustomed to corrupt all young maidservants. Caius denied that he could do this, although there were several suitable candidates. It is asked:

1. What is the secrecy of the seal, and whence does it arise?

2. How is the secrecy of the seal violated?

3. What kind of sin does one who violates the seal commit?

4. What must Titius answer?

Solution

The first question was answered above, p. 222.

2. How is the seal of confession violated?

The seal may be violated either directly or indirectly. It is violated directly when the confessor says that such a penitent told him such a sin in confession. It is violated indirectly when the confessor says or does anything, or abstains from saying or doing anything, from which others may come to the knowledge of confessional matter, or by which the penitent may be aggrieved or confession made odious.[1]

1 Manual of Moral Theology, vol. ii, 231.

3. What sort of a sin is it to violate the seal?

It is a grave sacrilege against justice and charity, nor does direct violation admit of light matter although indirect violation does when the danger of revelation of confessional matter is slight and remote.[2]

2 Ibid., 229.

4. What should Titius answer?

Titius should tell Caius that he was not justified in making use of knowledge gained in the confessional to guide him in his treatment of the orphans. In neither case, it is true, did Caius make known anything that he had heard in the confessional, but it might happen that in such a case as the first the penitent would be aggrieved by being sent away from the orphanage, and if it were known

that such use was made of the confessional it would make confession more difficult and odious. This test seems decisive: What would be the effect on penitents if they knew that the confessor used knowledge gained from confession in the manner indicated in the first case? If it were taught that such use of knowledge gained in the confessional is lawful, the duty of confession would certainly be made more difficult, and this is a proof that such action is a violation of the seal. In the second case the confessor's action tends obviously to the displeasure and disadvantage of the penitent. He should have tried to correct his penitent's morals, and thus safeguard the virtue of his orphans.

Case 32. A Useless Device

Caius and Paul, priests, serve the same mission. A certain penitent who until now has confessed to Paul comes to confess to Caius. Caius feels rather serious difficulties concerning the said penitent's confessions and the proper manner of treating him. Since, however, Caius cannot converse with Paul outside confession about the penitent's case because of the sacramental seal, in confession, after confessing his own sins, he discloses to Paul his difficulties concerning the said case and asks Paul's advice. Hence it is asked:

1. What is the obligation of the seal of confession, and whence does it arise?
2. In what ways can it be violated?
3. What kind of sin is a violation of the seal?
4. Is it ever lawful to use knowledge obtained from confession?
5. What is to be said of the case?

Solution

The first question is answered above, p. 222, the second, p. 226, the third, p. 227, the fourth, p. 223.

5. The case. As Paulus would recognize the case at once, Caius was not at liberty to consult him either out of confession or in confession. The fact that Caius had made his confession did not give him permission to communicate to Paulus what he had heard in confession when Paulus would at once recognize who the penitent was. The seal is broken when two confessors speak together of the sins of a penitent of both of them.[1] Caius should have waited till he could consult some one who would not know the penitent.

1 Manual of Moral Theology, vol. ii, 232.

Orders

Case 1. Anglican Ordinations

Caius, recently converted to the Catholic faith and often obliged to give to heretical friends a reason for the faith, asks a confessor what answer must be given to a difficulty recently proposed against the Apostolic Bull. For someone wrote as follows in the *Contemporary Review*, Dec. 1896: "The theological argument is very nebulous. Its defenders are not sure of its meaning. As every one knows, the English ordinations are declared invalid on account of defective form and intention. A French writer has shown that the defect of intention is inferred from the use of a defective form. But English critics of the Bull have shown that what is lacking in our form is lacking also in other forms which are recognized as valid by the Roman Church; indeed in the ancient Roman form itself. Father Bernard Vaughan replies hotly that the fault is attributed not to the form in itself, but to the employment of the form in a new and defective sense. That is to say, the defect of form results from a defective intention. The two arguments combined will make an excellent circle." P. 796. Hence it is asked:

1. What is a sacrament, and what is essentially required for its validity?

2. What kind of change suffices to invalidate the matter or form of a sacrament?

3. How does the Bull *Of Apostolic Care* demonstrate that Anglican ordinations are invalid?

4. What answer must briefly be given to Caius?

Solution

1. What is a sacrament and what is essential to its validity?

A sacrament is an outward sign of inward grace ordained by Christ for the sanctification and salvation of our souls. Three things are necessary for the validity of a sacrament: the matter, the form, and the minister who makes the sacrament with the intention of doing what the Church does.[1]

1 Manual of Moral Theology, vol. ii, 21.

2. What sort of a change is sufficient to invalidate the matter or form of a sacrament?

If a substantial change be made in the matter or form of a sacrament, the sacrament is destroyed. The matter will be substantially changed if in the estimation of ordinary men it is no longer the same, but something else. The form will be substantially changed if the sense is no longer the same.[2]

2 Ibid., 22.

3. How does the Bull Apostolicae curae show that Anglican ordinations are invalid?

By appealing to precedent and by showing that the form and intention expressed in the Anglican Ordinal are essentially defective. From the time of the legation of Cardinal Pole to England, Orders conferred according to the Anglican Ordinal have always been considered invalid by Rome; all references to the power of consecrating the Eucharist and offering up the Sacrifice of the Mass were excised from the ordination rite, thus showing a want of intention to ordain true priests.

4. A brief answer to Caius. The theological argument of the Bull is clear, and Catholics have no difficulty about its meaning. The defect of intention is not inferred from the defective form, but it is clearly expressed in the changes made in the form for the purpose of cutting out all references to a sacrificing priesthood, which the reformers rejected. There is a great difference between a form which has been altered with the intention of excluding all express references to a sacrificing priesthood, and a form which has not been so altered. The Bull shows that the Anglican Ordinal belongs to the first class, and that thus it has been rendered invalid, whatever might be said of its sufficiency in itself. From this it is clear what the Bull means by defective form and intention, and that it does not argue in a circle.

Case 2. A Priest's Support

Titius, the Rector of a mission, when during a political disturbance he did not receive the stipend due to him, deserted the mission of which he was in charge, because no one is bound to work without pay, although his confessor opposed him, saying that innocent sheep ought not to be handed over to the wolf by the shepherd. Then the Bishop, after taking useless pains to make Titius return to the mission, in virtue of holy obedience ordered a priest who did not have the care of souls to act in place of the fleeing Rector; but he too refused to obey. Hence it is asked:

1. Do secular priests have a right to receive support?
2. Can one with the care of souls abandon residence because he does not receive the stipend due to him?
3. What is the force of the Apostolic oath commonly pronounced by priests of England?
4. What is to be said of the priests in the case?

The case was proposed in the Diocese of Northampton, 1901?

Solution

1. Have secular priests a right to their decent support?

Yes, the Church forbids any one to be promoted to sacred Orders without a title, i.e., a provision for his decent support. If a bishop culpably ordains a priest without a title, the bishop is bound to provide for his support until he can provide for himself.[1]

1 will answer in the words of Gasparri: " But, having received the priesthood, a priest is so incardinated in the diocese to which he belongs that he cannot depart without the permission, or without the letters, as they say, of excardination of his Bishop. The Bishop can deny permission to depart, provided that he assigns a suitable support to the priest. But if the Bishop both denies permission and cannot or will not assign a suitable support, the priest cannot on that account depart by his own will, but has recourse to the Sacred Congregation. The Bishop can recall one departing without his permission or that of the Sacred Congregation, even by censures, even if the priest had obtained a residential benefice in another diocese. This doctrine is most certain, and the Sacred Congregation has handed it down rather often." (De Sac. Ordin., n. 860).

2. Can one who has the cure of souls abandon his charge because he does not receive the pension which is due to him?
3. What is the force of the Mission oath commonly taken by English priests?

By the terms of the Mission oath the cleric swears that he will not enter into any Religious Order after he is promoted to sacred Orders without special leave of the Holy See. He further swears that he will work for the salvation of souls in the diocese for which he is ordained, under the authority of the bishop. The formula of the oath is given in Concilia Westmon., p. 385.

4. The case. Titius should not have abandoned his post. He should have applied to the bishop whose duty it was to try to make provision for the decent support of Titius, and if this could not be done, to remove him to another post. Even if the bishop improperly refused to do anything for him, Titius should not have left the place, but should have appealed to Rome. The other priest on being ordered by his bishop to fill the vacancy was bound to obey, and he sinned in not obeying; but he also had a claim on the diocese for his decent support if he had no other title.

2 Gasparri, De Sacra Ordin., n. 612.

Extreme Unction

Case 1. Repetition of Extreme Unction

Caius, a missionary, during Eastertide visits a certain village five or six miles distant from the church where some Catholics live. There he comes upon a previously unknown Catholic family whose members never come to church, either because of the distance or because of negligence. The mother of the family, perhaps forty years of age, evidently suffers from consumption, although she is not confined to bed; indeed, she attends to her ordinary occupations. When she says that she cannot come to church because of her domestic duties, Caius warns her to be ready at home on the following morning to receive the Easter sacraments. When she agrees, early on the following day he successively administers Penance, Communion, and Extreme Unction. After eight months he is called to the same woman, now dying, and when he finds her deprived of her senses and at the very point of death, without delay he anoints her again on the forehead under a general form; a little afterwards the woman expires. Hence it is asked:

1. Who is the subject of Extreme Unction?

2. Can Extreme Unction be repeated in the same illness?

3. What is to be said of Caius's manner of acting in all these things?

Solution

1. Who is the subject of Extreme Unction?

To receive Extreme Unction validly one must be baptized, have attained the use of reason, and must be in probable danger of death from sickness.[1]

1 Manual of Moral Theology, vol. ii, 238.

2. May Extreme Unction be repeated during the same sickness?

The Ritual lays down that this sacrament ought not to be repeated in the same sickness, unless it is prolonged, as when the sick man has got better and he is again brought into the danger of death. Many approved authors hold that in practice it may be repeated after a month's interval.[2]

2 Ibid., 238.

3. What about the actions of Caius?

Caius found a mother of a family who never came to church, partly on account of distance, partly on account of negligence. She was now far advanced in consumption, but still attending to her household duties. He told her to prepare herself to make her Easter next morning, and then came again to the house and administered Penance, the Eucharist, and Extreme Unction. There is little difficulty about the administration of Penance. It is forbidden to take Holy Communion out of the Church except to the sick. The woman in question was apparently sufficiently ill for Easter Communion to be brought to her. Extreme Unction should not be given except to the sick who are in

danger of death. If Caius judged that the woman was probably in danger, he did right to administer Extreme Unction, otherwise he did wrong.

Eight months afterward Caius was called to the same woman and found her dying in a state of unconsciousness. He anointed her on the forehead with the general form, and then she died. Caius should first of all have given her conditional absolution, for Penance should always precede Extreme Unction, as this sacrament is the complement of Penance. He did right after such an interval to repeat Extreme Unction, for although the sickness was the same, still without doubt there had been a change in the sick person's state.[1]

1 Génicot, vol. ii, n. 423.

Case 2. Short Form for Extreme Unction

The Sacred Office, asked to determine a short form for administering Extreme Unction in necessity, on April 26, 1906, decreed: "In a case of true necessity the following form suffices: By this holy anointing, may the Lord forgive you whatever you have sinned. Amen." After this decree, some teach that in cases in which this form is employed, the anointing must afterwards be repeated conditionally according to the ritual form if time permits; others teach that this can be done but that no obligation to do the same is present; others maintain that it ought not to be done. Titius, however, a priest who, since he serves a public hospital, not rarely employs the short form, perplexed, inquires what he must do. Hence it is asked:

1. Before the said decree was issued, what did theologians teach about the essential form of Extreme Unction?

2. What did the same decree determine, and with what certainty?

3. What is to be said of the case?

Solution

Before the decree of the Holy Office, 26 April, 1906, what did theologians teach about the essential form of Extreme Unction?

The ritual form of Extreme Unction is: " Per istam sanctam unctionem et suam piissimam misericordiam indulgeat tibi Dominus quidquid per visum, etc., deliquisti. Amen." Theologians taught that in this form the words et suam piissimam misericordiam, sanctum Amen, did not belong to its essence. They did not agree as to whether the mention of the senses in special or at least general terms belonged to its essence. They differed also as to whether a single anointing was sufficient or not for the validity of the sacrament. Hence they taught that in a case of necessity Extreme Unction might be given conditionally with one form such as: Indulgeat tibi Deus quidquid per sensus deliquisti. Others required all the senses to be expressed in the single form. If the sick man survived, St. Alphonsus teaches that the anointing of each sense and the prayers were to be supplied.[1]

1 St. Alphonsus, Theol. Moral., lib. vi, n. 710.

2. What did the decree determine and with what certainty?

The Holy Office was asked to determine a single short form for the administration of Extreme Unction to be used in case of death being imminent. It decided that the following form would be sufficient: " In casu verse necessitatis sufficere formam: Per istam sanctam unctionem indulgeat tibi Dominus quidquid deliquisti. Amen." This decree was confirmed next day by Pius X. Hence it determines authentically but not infallibly that in case of necessity it is not necessary to mention the different senses nor even one, and that one anointing under this general form is sufficient for the validity of the sacrament.

3. The case. This decree tells us what is sufficient for the validity of Extreme Unction in casu verae necessitatis, when there is not time to perform the full rite according to the Ritual. If the sick person thus anointed survives, and there is time to go through the Ritual form and prayers, then the case is one not contemplated in the decree. We think, then, that the first opinion mentioned is to be followed in practice, and that if time allows and the state of the sick person permits it, the sacrament should be given according to the form prescribed by the Ritual after this short form has been used. This is the opinion of the Redactor of the Acta Sanctae Sedis when the decree was issued. He says: " But when the danger has ceased, especially if the sick person was unable to receive the other sacraments safely, the individual anointings upon the individual senses are to be repeated conditionally, under their own particular forms, and all the omitted prayers are to be added at once. This formula accords perfectly with the prescriptions of the Roman Ritual, and as far as the disposition of the recipient of the sacrament may be improved, contributes to obtaining a greater increase of grace." (A. S. S., XXXIX, 275.)

Matrimony

Case 1. Informal Betrothal

Titius, a missionary priest, wishes to know whether, by virtue of the decree *Ne temere* of the Sacred Congregation of the Council, Aug. 2, 1907, a mutual, serious, and deliberate promise of marriage between capable persons, but not made in writing, is of no effect, or whether, notwithstanding the decree, it has the force of a private contract binding gravely in conscience. Furthermore, he asks whether under the name of parish priest in the cited decree are comprehended not only the principal priests in a mission but also their assistants, if there are any. Hence it is asked:

1. What is the purpose of the decree *Ne temere*?

2. What does that decree establish concerning betrothals?

3. What power do assistant missionaries in England have?

4. What is to be said of Titius's difficulties?

Solution

1. What is the scope of the decree Ne temere?

The scope of this decree was to alter the law about clandestinity so as to remove its uncertainties as far as possible, and to prevent the evils which frequently arise from private and informal betrothals. (Proœmio decreti Ne temere.)

2. What does the decree lay down about betrothal?

" Only those betrothals are considered valid and produce canonical effects which have been contracted in writing signed by both the parties and by either the parish priest or the ordinary of the place or at least by two witnesses. In case one or both the parties be unable to write, this fact is to be noted in the document and another witness is to be added who will sign the writing as above, with the parish priest or the ordinary of the place or the two witnesses " (Sect. 1).

3. What authority have coadjutor missioners in England?

They are delegated by the bishop to exercise the cure of souls, but according to the Provincial Councils and the declared intention of the bishops, they must exercise it in dependence on the head priest. 1

4. What about the difficulties of Titius?

One of the objects of the new law was to prevent the inconveniences arising from mutual promises of marriage privately entered upon. For as the decree says: " Experience shows that they are an incitement to sin, causing the deception of inexperienced girls, and afterward giving rise to inextricable dissensions and disputes." The first section of Ne temere, therefore, provides that "only those," etc., as above. This section would be valueless for the object in view unless it invalidated

betrothals made otherwise than is laid down. So that we must conclude that betrothal not made according to the decree has no binding force directly and of itself. The

S. C. super neg. eccles. extraord., 5 Nov. 1902, decided that informal betrothals were invalid in conscience and in law in Spain and in Latin America, where a similar law 1 Manual of Moral Theology, vol. i, 630.

to Ne temere has long been in force. This doctrine is maintained by most commentators, e.g., by Gennari, Ojetti, Vermeersch, Ferreres, Besson.

The term parish priest comprises the coadjutors as well as the head priest, but the former are bidden to exercise their authority in dependence on the head priest; with dependence upon the Rector.

Case 2. An Action for Breach of Promise

Titius, the son of a wealthy family, seriously, but only by words and love letters, promised marriage to Catherine, an honorable girl. For two years Catherine admitted him to the familiarity customary between betrothed persons, when his love began to grow cold; after some months he contracted marriage with Bertha, who was much richer than Catherine. The abandoned Catherine has scarcely any hope or desire for another spouse, but asks her confessor whether she can safely in conscience bring an action against Titius for breach of promise, since otherwise she has no means by which she may be honorably supported. Hence it is asked:

1. What is required for betrothals to be valid?

2. Does any obligation arise from informal betrothals?

3. If some right arises from informal betrothals, is it lawful to pursue it in a civil court?

4. What is to be said of the case?

Solution

1. What is required for valid betrothal?

The decree Ne temere lays down that: " Only those are considered valid and produce canonical effects which have been contracted in writing signed by both the parties and by either the parish priest or the ordinary of the place, or at least by two witnesses."

The second question was answered above, p. 244.

But here it must be borne in mind that although no obligation arises directly from informal betrothal in itself, yet obligations do arise indirectly from such betrothal when they are the cause of serious injury to another. There is always an obligation in justice to make reparation for wilful and culpable injustice done to another.

3. If any right arises from informal betrothal may an action be brought in the civil courts?

Per se questions about marriage and betrothal belong to the ecclesiastical courts. But in countries like England and the United States where no legal force is recognized in ecclesiastical sentences of the Catholic Church, certain cases may be brought into the civil courts which would otherwise have to be tried in the ecclesiastical courts.[1] In cases especially where the injury is not doubtful, and the only practical question is one of damages claimed for the injury, there seems no objection against applying to the civil courts.

1 Manual of Moral Theology, vol. ii, 282.

4. The case. Catherine has a right to damages for the cruel deception that was practised on her, and for the ruin of her prospects, although the betrothal was not valid in itself. English law gives her a right of action in such a case, and the Church certainly does not wish to deprive her

of it. Her confessor, therefore, may tell her that she is perfectly justified in suing Titius for damages for breach of promise in the civil court.

Case 3. A Promise Confirmed by Oath

Titius, a Catholic, formed a familiarity with Titia, likewise a Catholic. One day, overcome by temptation, Titius wished to induce Titia to sin with him. When Titia resisted, he promised, even under oath, that he would afterwards take her as his wife; having heard this, Titia consented to fornication. After some months, when she became pregnant, Titia began to press for fulfillment of the sworn promise. But since Titius now knows her disposition better and, because of her harshness, has no hope of a happy married life with her, and since his love has also grown cold, he asks a confessor whether he is bound to stand by the sworn promise. Hence it is asked:

1. Do sworn betrothals bind although not written?

2. To what and how do betrothals oblige?

3. How are betrothals dissolved?

4. What is to be said of the case?

Solution

1. Does a sworn promise to marry bind when it is not in writing?

An unwritten promise to marry is made null and void by the decree Ne temere, and what is invalid can not be made valid and obligatory by adding an oath — accessorium sequitur principale.

2. To what and how does betrothal bind?

Valid betrothal binds the parties by a serious obligation of justice to fulfil the contract at the time fixed, or if no time was fixed, then at a reasonable time.[1]

1 Manual of Moral Theology, vol. ii, 256.

Betrothal may be dissolved by mutual agreement of the betrothed, by the happening or detecting of a circumstance of importance by one of the parties which would have prevented him from making the engagement if it had happened or been known before, by embracing a more perfect state of life, by a dispensation of the Pope for good reason.[2]

2 Ibid., 260.

4. The case. Neither the promise made by Titius nor the oath which he took are valid or obligatory in themselves. It was a turpis contractus, and moreover it was not in writing, and so it was invalid by the decree Ne temere. The oath as being accessory was also invalid. However, Titius by an invalid promise has induced Titia, who otherwise was unwilling, to commit sin with him, and she is now pregnant. She will be injured for life unless he marries her. He will be justified in offering her money and trying by other means to induce her to free him from his obligation to prevent harm following to her from his action. But if nothing but marriage will

satisfy her and safeguard her reputation, Titius will be bound to marry her, unless indeed incompatibility of temper makes a happy marriage utterly hopeless.[3]

3 How is betrothal dissolved?

3 Bucceroni vol. ii, n. 920.

Case 4. Debts of Betrothed

Titia, a widow who had promised to marry Paul, approached a confessor and asked whether she was bound to disclose to her betrothed that she was burdened with debts amounting to two hundred pounds sterling and had no means to pay them; for she feared that Paul, when he heard about the debts, would withdraw from the betrothal. Hence it is asked:

1. What obligations arise between betrothed persons from betrothal?

2. Is a betrothed woman bound to disclose defects to her betrothed?

3. Under English law, what are a husband's obligations with regard to his wife's debts?

4. What is to be said of the case?

Solution

1. What obligations between the betrothed arise from betrothal?

They are bound in justice to keep their engagement and to marry at the time agreed on, or within a reasonable time; they are bound to live chastely; one party may not go and live at a distance so that intercourse becomes impossible without the knowledge and consent of the other.[1]

1 Manual of Moral Theology, vol. ii, 256 ff.

1 Manual of Moral Theology, vol. ii, 262.

2. Is one who is betrothed bound to make known to the other party any defect he has?

If one party labors under a secret defect which will be injurious to the other party after marriage, such secret defect should be made known to the other party. Otherwise, there will be no obligation to make it known, even though it would give the other party a right to break off the engagement if he should discover it.[1]

3. Is the husband liable for the debts of his wife?

A husband is liable for debts contracted by his wife as his agent for the supply of necessaries for herself and children; he is also liable for her torts committed during the coverture. At common law a husband was also liable upon his wife's contracts made before marriage, but by the Married Women's Property Act, 1882, the husband " sued jointly with his wife in respect of a cause of action arising against her before the marriage, is liable only to the extent of such assets as he received or might (but for his own default) have received with her; and if he received none, then he will have his costs of defence, and the judgment for the debt or damages will be separate against the wife, and may be satisfied out of the wife's separate estate, if she has any."[2]

2 Stephen's Commentaries, vol. ii, 377.

4. The case. If the husband were liable for his wife's ante-nuptial debts, Titia should make known her indebtedness to Paul before the marriage, otherwise he will suffer serious injury and probable estrangement from her. Even as English law stands at present it will be advisable for Titia to tell her future husband what he will be pretty sure to find out for himself either before or after marriage. As in the circumstances Paul would not be held liable for Titia's debt of £200, there is the less reason why he should not be told, although she is under no strict obligation to tell him.

Case 5. Maternity Impossible

Patrick once and again asked Bridget whether she was willing to marry him. Although inwardly by no means unwilling, Bridget never indeed gave a direct answer, but conducted herself in such a way that she was commonly regarded as betrothed. It happened, however, that Bridget, being gravely ill, was compelled to seek a hospital, where, at the urging of the physicians, she underwent some surgical operation or other, from which she soon recovered. As she leaves the hospital, Patrick meets her and relates that his business has succeeded prosperously and that there is now no need for the wedding to be deferred any longer, provided Bridget is willing to assign a day. At the same time a letter written by the hospital's directress at the physicians' command is handed to Bridget, in which the following is contained: "You must keep in mind, dearest, that after that operation it is impossible for you ever to become a mother." Bridget prudently excuses herself from giving Patrick an immediate answer and consults a confessor about the whole matter. It is asked:

1. What are betrothals, and must it be believed that true betrothals existed between Patrick and Bridget?

2. Supposing that Bridget underwent a complete ovariotomy, has she thereby become incapable of marriage?

3. Is Bridget at least bound to inform Patrick about what was read in the letter?

4. What is to be said of the case?

Solution

1. What is betrothal, and were Patrick and Bridget betrothed?

Betrothal is a mutual and lawful promise of future marriage between persons who may marry lawfully. As there was no written agreement between Patrick and Bridget there could be no question about their betrothal if all that passed happened after April 19, 1908. Before that date it would have been doubtful whether there was a true engagement between them.[1]

1 Manual of Moral Theology, vol. ii, 251.

2. Was Bridget made incapable of marrying on the supposition that she had undergone complete ovariotomy?

The question is disputed among experts and at present no certain answer can be given to it. When a case arises, it should be referred to the bishop, who will consult the Holy See if he can not decide it himself.

3. Is Bridget at any rate bound to tell Patrick about her condition?

She certainly must not attempt to marry him without letting him know what the doctors have told her. -The possibility of having children is the primary end of marriage, and if it has been made

impossible by a surgical operation, the future husband has a right to know the fact, even on the supposition that valid marriage is still possible.[2]

2 Ibid., ii, 294.

4. The case. Whether the events narrated in the case took place before or after Easter, 1908, the confessor should tell his penitent that she should not marry before hearing from the bishop, to whom the case should be sent.

The precise nature and effect of the operation should be learned if possible from the surgeons who performed it, and the details should be sent to the bishop, who in case of doubt will send them to the Holy See, so that a practical decision in the case may be arrived at.

Case 6. Parents Against Marriage

Caius, a young Catholic of an honorable and moderately wealthy family, had recently obtained the position of bank manager. In the town where he lived he formed a familiarity with Titia, a Catholic girl who was indeed of honorable condition but very poor. Caius and Titia soon mutually promised marriage to each other in writing. When Caius's superiors heard this, they indicated to Caius's parents that the matter greatly displeased them, because they did not wish the manager of such a place to be joined in marriage, especially such a marriage. The parents, lest their son be dismissed from the position, forbade him to enter marriage with Titia. Caius therefore, in a letter sent to Titia, sought permission to withdraw, but received a rather bitter reply from her mother that Titia was wasting away with continual tears, and that her confessor said Caius was bound under grave obligation to fulfill the promise quickly. Having received the reply, Caius approached his own confessor, who asks:

1. What are betrothals, what right do they produce, and when must they be fulfilled?

2. Are children under parental authority bound to consult their parents about entering marriage?

3. Must the command of parents that a betrothal be broken be obeyed?

4. What is to be said of the case?

Solution

1. What is betrothal, what right does it give, when is it to be fulfilled?

Betrothal is a mutual and legitimate promise of future marriage between persons who may marry lawfully. As it is a contract in a serious matter, an engagement to marry gives a right in justice to have the contract executed. If the time for execution was fixed, the appointed time must be kept; otherwise the marriage must take place within a reasonable time.[1]

1 Manual of Moral Theology, vol. ii, 251 ff. ' Ibid., 257. 2 Ibid., 257.

2. Are children bound to consult their parents with regard to marriage?

Yes, certainly. The marriage of a child is a very important family affair on which depends not only the happiness of the parties immediately concerned, but to some extent the happiness and welfare of the whole family. The parents have a right to be consulted about so important a family affair.[2]

3. Are children bound to obey their parents when they bid them break off an engagement?

Children are bound to break off an engagement at the bidding of their parents if the parents have good ground for their action. The parents will have good ground when the match is not desirable on account of the character of the other party, and even on account of inferiority in rank if this will be the cause of grave family dissensions and troubles. Otherwise children are not bound to obey their parents and break off an engagement to which there is no valid objection.[2]

4. The case. If it would cost Caius a great deal, and seriously interfere with his happiness to give up his betrothed, he would not be bound to obey his parents. He might with a safe conscience elect to be faithful to his engagement, and abide by the consequences. However, the question in the case is rather whether he is bound to do this, or whether he may break off the engagement on account of the opposition of his parents and his employers. He may break it off with a safe conscience. The opposition of his parents to the match is not unreasonable, and he may be guided in the matter by their wishes if he likes. Caius, then, is at liberty to decide for himself whether he will keep to his engagement or break it off.

Case 7. Banns

After the banns had been proclaimed in a certain church, Paul, a physician, went to the parish priest and disclosed that, as the family physician, he knew with certainty that the bridegroom suffered from syphilis and consumption and therefore ought not enter marriage. The parish priest, however, doubted whether or not he ought for that reason to forbid the marriage. Hence it is asked:

1. What obligation do the banns impose upon those who know an obstacle to marriage?

2. What is a committed secret, and when does it cease to oblige?

3. What is a prohibition of the Church?

4. What is to be said of the physician and the parish priest in the case?

Solution

1. What obligation do banns impose on those who know of an impediment to a proposed marriage?

Banns impose a grave precept to make known to the parish priest any secret impediment to a marriage that any one may know of. This precept binds not only in cases of a natural secret, but also in cases of a promised secret, but not of a professional secret except when this ceases to bind.[1]

1 Manual of Moral Theology, vol. ii, 205.

1 Manual of Moral Theology, vol. i, 471 ff.

2. What is a professional secret and when does it cease to bind?

Professional secrets are those which are communicated to another under an express or implied obligation of secrecy. Such secrets should be made known if this is necessary to avert a public calamity. They may also be made known to avert serious harm which would be done to an innocent party by him whose secret is in question unless the secret were made known.[1]

3. What is the prohibition of the Church?

The prohibition of the Church is one of the prohibitory impediments of marriage, which prevent a marriage being lawfully contracted but do not make it null and void if it is contracted in spite of the prohibition. It is particular if a particular marriage for just cause is forbidden by the parish priest, the bishop, or the Pope. It is general if it constitutes a law of the Church.[2]

2 Ibid., vol. ii, 288.

4. What about the doctor and the parish priest in the case?

The doctor was under the obligation of professional secrecy with regard to the diseases of the bridegroom. It would have been better if in the first instance he had tried to induce the bridegroom

to put off the marriage until the syphilis at least was cured. If the bridegroom refused to put off the marriage and refused to acquaint the bride or her father with his state of health, the doctor would be at liberty to tell the secret to any one who could apply a remedy. He would be justified in telling the parish priest if he thought that the parish priest could do this. The priest should try his best to induce the bridegroom put off the marriage, and if he does not succeed he will be at liberty to communicate what he knows to the bride's family. The priest can not refuse to assist at the marriage especially if the bride knows of the objection to it, and nevertheless consents to be married. But they should not use their marital rights till the syphilis at least is cured.[1]

1 Antonelli, Medicina Pastoralis, vol. ii, 416 ff.

Case 8. An Unhappy Marriage

Anna, an Anglican, asked Titius, a priest, to admit her into the Church. While instructing her, Titius discovered that she was very unhappy because of the frequent adulteries and cruelty of her husband, who often openly advises her to procure a divorce if it pleases her, for he would be content, since he would not have entered marriage unless it were dissoluble; Anna remembers that he also said this before marriage. Titius judges that it would benefit both the soul and the body of Anna and of their two children more if she could obtain a divorce; indeed, he doubts whether Anna lawfully leads a married life because of the doubtful validity of the marriage. Hence it is asked:

1. Is it lawful to seek a divorce in a civil court?

2. Can marriage be rendered invalid because of an attached condition, and when?

3. What is to be said of the case?

Solution

1. Is it allowed to petition in the civil court for divorce?

If the bishop judge that there is a good reason for asking for a judicial separation in the civil court this may be done in England and in the United States. If the ecclesiastical court has previously decided that a marriage was null and void, the case may be taken into the civil court to obtain a declaration of nullity in that court also. If the marriage was and remains valid no one can ask for a divorce with the intention of marrying again during the lifetime of the first spouse. It is probable that in England and in the United States a Catholic may petition in the civil court for a divorce with the intention of obtaining the civil effects of divorce, not of marrying again.[1]

1 Manual of Moral Theology, vol. ii, 281 ff.

2. May a marriage be invalid on account of an annexed condition, and when?

If an express condition against the essence of marriage be added to the contract the marriage is null and void for want of consent. For the same reason if one of the parties only marries under a tacit condition which is against the essence of marriage, it will also be null and void.[2]

2 Ibid., 271 f.

3. The case. Ann's Anglican husband said before and after marriage that he would not have married unless he knew that marriage could be dissolved. The marriage, as we must suppose, was contracted in the ordinary way, nothing being said in the act of marriage about these dispositions of the husband. In the external forum at least the marriage must be pronounced valid according to the rule laid down by Pius VI: "If indeed no express condition of this kind, repugnant to the substance of marriage, was appended, although the contracting parties generally intend to contract according to the tenets of a sect or of a law granting dissolution of

the conjugal bond, the marriage must nevertheless be judged to have been validly contracted. ” (Litt. ad Archiep. Prag.[11] Jul. 1789).

The same solution must be given even for the internal forum unless it is certain that at the time of contracting it the husband had no intention of contracting absolutely and for life.[1]

1 Génicot, vol. ii, 459.

The only remedy therefore available for Ann would be to petition for judicial separation, or, if there is any special reason for it, for a divorce, with the intention only of benefiting by its civil effects; but such remedies as a rule are rather to be tolerated than suggested by a confessor or parish priest.

Case 9. A Drunken Husband

Titius and Titia, Catholic spouses, led a rather prosperous life for two years. Titius, however, then began to cultivate evil companions and indulge in drunkenness. He dissipated in drunkenness not only his own money but also that extorted from his wife by threats and blows. Titia patiently endured the evils for some months; afterwards, lest she be overwhelmed by miseries, she secretly fled with her child and in another region sought a livelihood for herself and the child by the labor of her hands. Caius, a priest, doubted whether he could absolve her when she confessed the aforesaid things in the sacred tribunal. Hence it is asked:

1. What are full and partial divorce?

2. For what causes is it lawful to institute a partial divorce?

3. Is it lawful for a partial divorce to be made by private authority?

4. What is to be said of the case?

Solution

1. What is divortium plenum and semiplenum?

Dissolution of the bond of marriage is called divortium plenum; separation a toro et mensa, or judicial separation, divortium semiplenum.

2. For what reasons may judicial separation be obtained?

By ecclesiastical law perpetual judicial separation may be obtained for adultery, heresy of the other party, and by mutual consent for a good purpose if there is no danger of incontinence. Temporary separation is allowed on account of serious danger to soul or body.[1]

1 Manual of Moral Theology, vol. ii, 281.

3. Is this separation allowed by private authority?

When adultery is certain, complete, formal, and not condoned, the innocent party may separate on his private authority. This may be done in the other cases if there is danger in delay. Regularly, and especially if the sufficiency or reality of the cause is uncertain, the judgment of the bishop should be invoked.

4. The case. It would hardly be advisable or safe to tell people in the position of Titia that they are free to separate from a drunken and cruel husband. Such a doctrine would probably lead too many to exaggerate their own woes and to think that they were justified in leaving their husbands. Still in the circumstances mentioned in the case, Caius may absolve Titia without requiring her to go back to her husband, or to consult the bishop. Before the fact it might be difficult to countenance such a proceeding as that of Titia, but when she has done it in more or less good faith it may be tolerated by the confessor.[2]

2 Génicot, vol. ii, n. 258.

Case 10. A Lawyer and a Divorce Case

Titius, a Catholic lawyer, was asked by Caius, likewise a Catholic, to seek a divorce for him in a civil court. For Caius had found, as he said, certain proofs of his wife's adultery, and hence rightly feared that he would be bound to support offspring not his own. Titius sought a delay of two or three days before giving a reply and meanwhile consulted a confessor. Hence it is asked:

1. To which jurisdiction do causes of divorce belong, ecclesiastical or civil?
2. Is it lawful for a Catholic judge in a civil court to pronounce divorce, and for a Catholic lawyer to seek it?
3. Can all responses of the Sacred Congregations concerning this question be applied equally to all regions?
4. What must the confessor answer Titius?

Solution

1. Do divorce cases belong to the ecclesiastical or to the civil authority?

Divorce cases and all other matrimonial causes belong exclusively to the ecclesiastical courts, as Leo XIII taught in his letter Arcanum 10 Feb. 1880. However, in England and in the United States of America, with the leave of the bishop, a Catholic for just cause may petition for judicial separation and probably even for divorce in the civil court.[1]

1 Manual of Moral Theology, voL i, 587, 591; vol. ii, 281.

2. May a Catholic judge pass sentence of divorce in a civil court, and may a Catholic lawyer petition for it in the same court?

This is a disputed question, and something depends on the country and the law under which the trial takes place. Confining ourselves to England and to the United States, it is probable that for grave reason both may be allowed, though it is better to have nothing to do with such cases as far as possible.[2]

2 Ibid., vol. i, 591; vol. ii, 283.

3. Can all the answers given by the Roman Congregations on this question be applied equally to all countries?

No, the circumstances of Catholic countries, of countries where the majority of the people are Catholics, but where sometimes the government is hostile to the Church, and of most English-speaking countries, are widely different, and much depends on circumstances. Thus the Holy Office, 27 May 1886, answered that in France a judge could not abstract from the objective validity of a marriage and give sentence of divorce as far as the civil effects were concerned. The nuncio in Belgium declared 14 Sep. 1886, that this answer did not refer to Belgium.[3]

3 Ballerini-Palmieri, Opus Morale, vol. vi, n. 825.

4. What should the confessor say?

The confessor should tell Titius, who is obviously a conscientious Catholic, that he should write to the bishop and ask for his leave to undertake the case. This will give the bishop the opportunity of satisfying himself about the reality of the facts alleged in the case, and perhaps of suggesting some way of avoiding all the scandal and unpleasantness of a divorce case among Catholics. If Titius gets the bishop's leave he will be able to proceed without scruple.

Case 11. Dispensation from Banns

Titius and Titia, Catholics, are known to fulfill the precept of hearing Mass, but, as it seems, never receive the sacraments. One day Titius discloses the cause of this to Caius, the quasi-parish priest, and says that although in common estimation he and Titia are spouses joined in lawful marriage, this is nevertheless not true, since they came there fourteen years ago while Titia's true husband was still living. Afterwards indeed Titia's husband died, and no impediment any longer exists between himself and Titia; they wish to reform their life, provided this can be done without scandal and with Titia's reputation preserved. Caius, however, does not know what is to be done in the case. Hence it is asked:

1. What is the obligation of the banns, and does it sometimes cease or can it be dispensed?

2. What is the obligation of celebrating marriage in the face of the Church, and does it sometimes cease or can it be dispensed?

3. What is to be said of the case?

Solution

1. What is the obligation of banns, and does it sometimes cease, or can a dispensation be had?

The obligation of publishing the banns before a marriage is celebrated is a grave one, but the bishop or his vicar-general can dispense from them either wholly or in part for good reason. When there is no impediment and it is necessary to celebrate a marriage at once in order to avoid very serious harm, marriage may sometimes be contracted without banns.[1]

1 Manual of Moral Theology, vol. ii, 265 f.

2. What obligation is there of celebrating marriage in the face of the Church, and does it cease sometimes?

From the earliest times there existed a grave obligation of celebrating marriage in face of the Church, or in other words before the parish priest or the bishop. Before the decree Ne Temere came into force, 19 April 1908, marriages of Catholics otherwise celebrated were only unlawful in England and in most parts of the United States; after that date they are also invalid, as a general rule. An exception to this rule is made by the decree Ne Temere (§ VIII): " Should it happen that in any district the parish priest or the Ordinary of the place or a priest delegated by either of them, before whom marriage can be celebrated, is not to be had, and that this condition of things has lasted for a month, marriage may be validly and licitly entered upon by the formal declaration of consent made by the spouses in the presence of two witnesses."

3. The case. We need not consider the difficulties in the way of marrying Titius and Titia which would arise from English civil law. There is good reason for granting a dispensation from banns and this should be obtained by Caius. He should also make sure that now at least there is no

impediment to the marriage of Titius and Titia. The religious marriage may then be celebrated in the manner prescribed by ecclesiastical law.

Case 12. Previous Marriage

Bertha, twenty years of age, had married Caius, with whom she lived more or less peacefully for two years. Then Caius went to America because he could no longer earn in England the means by which he might support himself and his wife, and for some months faithfully sent letters and money to his wife, when suddenly the letters ceased and Bertha afterwards heard nothing about her husband. After some years, when Bertha had moved to another city, Titius, a non-Catholic who rented a room in her house, sought her as his wife. When Bertha consented, because of the impossibility of obtaining a dispensation from the Bishop, the wedding was celebrated in the Anglican Church. All these things happened before April 19, 1908; after that day, however, Bertha approached a confessor who, having heard the facts, affirmed that the marriage was invalid and that she ought to separate from Titius. Hence it is asked:

1. What is to be done when there is doubt about the free state of a betrothed person who wishes to enter marriage?

2. What is to be done after marriage has been contracted by someone uncertain of the death of a former spouse?

3. What is to be said of the case?

Solution

1. What is to be done when it is doubtful whether one is free to marry who wishes to do so?

Inquiry must be made and if the death of the previous spouse is proved by a certificate of death or other authentic document, or by two witnesses who are above suspicion, or by other lawful means, the person may be allowed to marry again. If any reasonable doubt remains the case should be referred to the bishop, who without the leave of the Holy See will not allow a second marriage unless the freedom to marry is proved.[1]

1 Manual of Moral Theology, vol. ii, 296.

2. What should be done when a second marriage has been contracted by one who was not certain that a former spouse was dead?

" If a person has unlawfully contracted a second marriage without the necessary certainty concerning the death of a former spouse, it does not follow that the second marriage is invalid, and that the parties must separate. If there is only slight doubt about the death of the former spouse, after making fruitless inquiries, the parties may live together as man and wife. If only one of the parties is in bad faith and is not certain of the death of a former spouse, while the other knows nothing of the difficulty, he should render the marriage debt, but he has no right to ask it as long as he remains in bad faith. If both parties are in bad faith, they can not lawfully use marriage as long as they are in that state. Inquiries should be made, and if probable reasons can be discovered for thinking that the former partner is dead, they may use marriage, according to a probable opinion. For even in this case

the marriage has been contracted, it is probably valid, and it is not certain that any one else has a prior right, so the parties should be allowed to use it. If the second marriage was contracted in good faith, and a doubt about the death of a former spouse arises subsequently, inquiries should be made, and if they are fruitless the parties may live as man and wife. Of course in all cases when it is found out for certain that a former spouse is alive, the second marriage is invalid, and the parties must separate, or at any rate must not live as man and wife together."[1]

1 Manual of Moral Theology, vol. ii, 297; Ballerini, Opus Morale, vol. vi, 677.

3. The case. The confessor was wrong in deciding at once that Bertha must separate from Titius. The marriage with Titius was contracted in England where clandestinity was not a diriment impediment till 19 April, 1908. If when the marriage was celebrated Caius was dead, and if consent was given absolutely by both parties, and there were no other diriment impediment between Bertha and Titius, the marriage was valid though illicit. The confessor should therefore have made inquiries from Bertha as to whether Titius was baptized or not, whether there was any diriment impediment between them, whether Titius knew anything about her former marriage or not, whether there was any possibility of learning what had become of Caius. If Titius was a baptized Anglican and knew nothing about Bertha's former marriage, and especially if there was no hope of learning anything about Caius, he could not be deprived of his marital rights without injustice. Under these same suppositions the confessor should tell Bertha how wrongly she acted in marrying Titius at all and especially in a Protestant Church, but that since in all probability her former husband is dead, she may live with Titius as his wife and frequent the sacraments. She should be told to pray for Titius' conversion to the Faith, and if there are any children of the marriage to bring them up as Catholics. She should also be absolved from the excommunication which is incurred by marrying in a Protestant Church, if she was aware of the penalty.

Case 13. A Too Accommodating Priest

Bernard, broken by the vehement complaints of Clara, his wife, leaves her and goes to America. After about eight years had elapsed, Clara, believing that her husband was dead, goes to another city, where she has an evil relationship under hope of marriage with Robert, a non-Catholic, and becomes pregnant by him. In these straits she hastens to Francis, a priest and her friend, to whom she discloses everything and asks what she must do. After every diligent inquiry was made, Francis, judging the probability of Bernard's death to be far greater than that of his life, refers the whole matter to the Ordinary, who nevertheless denies that he can give the woman permission to proceed to a new marriage. In these circumstances Clara, with Francis's approval, in order to avoid the danger of infamy, contracts marriage before a civil official with Robert, who is ignorant of the prior marriage, and this before the decree *Ne temere* was promulgated. Afterwards, however, driven by the stings of conscience, she approaches a confessor who, after everything has been disclosed, asks himself:

1. What proof is required to establish the death of a former spouse?

2. Is moral certainty concerning his death necessarily required for the internal forum equally as for the external, so that a new marriage may lawfully be contracted?

3. What is to be judged of the opinion of the illustrious Ballerini, namely: "When moral certainty of the death of a spouse is possessed, the parish priest can assist at a new marriage without seeking the Ordinary's permission and without his knowledge"?

4. What is to be said of Francis's advice, and what of the use of the second marriage?

Solution

1. What sort of evidence is required to prove the death of a former spouse?

That evidence is required which is sufficient to generate moral certainty of the fact. A burial certificate, or the certificate of the doctor who attended him, two reliable and sworn witnesses, one witness when his evidence is backed by other indications of the fact, will be sufficient. (Instructio S. O., Concilia Westmonast., p. 410).

2. Is moral certainty of death required in the internal forum as well as in the external?

Yes, because otherwise there will be a doubt as to whether the second marriage is valid or not.

3. What is to be thought about the opinion of Ballerini?

According to the common law the freedom of parties who wish to be married must be proved in legal form to the satisfaction of the Ordinary. In many places this is not done, but the death of a former spouse should be morally certain from public arguments; the mere subjective certainty of the parish priest is not sufficient. In this sense Ballerini's opinion may be accepted.

4. What about the advice of Francis, and the use of the second marriage?

Francis did wrong to approve of Clare's conduct. She was in a difficult position, it is true, but she should not have put herself in it. At any rate it does not justify her in marrying before the registrar a second husband while she is not certain that her former husband is dead. However, as the second marriage took place in England before clandestinity became a diriment impediment of marriage, and Clare thought that her former husband was dead, and acted on the advice of a priest, and Robert knew nothing about the former husband, Clare may live with him as his wife, but she will have to separate from him if her former husband proves to be alive. She should be told of her obligation to bring up all her children as Catholics, and to pray for the conversion of Robert.

1 Opus Morale, tract, x, c. 2, n. 676.

Case 14. Doubtful Baptism and Marriage

Titius and Titia, spouses and adherents of the religion of the Anglican sect, asked Caius, a priest, to receive them into the Catholic Church. Inquiring about their Baptism, Caius found that Titia probably had been baptized, but Titius certainly never had been; furthermore, they were joined in the third degree of consanguinity. Since, however, according to a certain recent theologian those probably baptized are certainly subject to the laws of the Church, Caius judged that a dispensation must first be sought so that at least now Titius and Titia might enter a valid marriage. Another priest, however, thought that the marriage had been valid from the beginning. Hence it is asked:

1. What is to be thought of the opinion of that recent theologian?

2. Who are subject to the matrimonial laws of the Church?

3. In doubt about Baptism, what must be pronounced concerning the validity of a marriage?

4. What is to be said of the case?

Solution

1. What is to be thought of the opinion referred to? The opinion is that of Lehmkuhl: " Are those doubtfully baptized subject by divine law to the jurisdiction of the Church?"[1] Of this opinion Fr. Wernz writes: " But such a principle does not seem hitherto to have been generally admitted by the doctors, nor do the reasons adduced seem effective to all. It is also difficult to understand how anyone is truly and objectively bound by the invalidating laws of the Church although only subjective doubts exist concerning his baptism, and he perhaps objectively lacks the baptismal character, which by divine law is the sole foundation of the dependence of any man as a subject upon ecclesiastical laws."[1] Génicot says: " We think it truer that a mere presumption is found there which the Church follows in adjudicating matrimonial causes."[2]

1 Theol. Moral., vol. ii, 426 nota.

1 Jus Decretalium, iv, 508 nota (33).

1 Theol. Moral., vol. ii, 488 nota.

2 Wernz, Jus Decret., lib. iv, n. 507.

2. Who are subject to the matrimonial laws of the Church?

All those who are baptized, even schismatics and heretics, unless the Church has made an exception, as she has done with regard to the law of clandestinity.

3. In a case of doubtful baptism what is to be said about the validity of marriage?

The general rule is: " A doubtful Baptism, whether from a doubt of law or of fact, is to be held valid in relation to the validity of a marriage contracted or to be contracted."[3] The rule, which has frequently been formulated and acted on by the Roman Congregations, more probably lays down a

presumption which is followed as long as the doubt remains, but which must yield to the truth if it becomes manifest.

4. The case. Titia probably had been baptized; Titius certainly had not been baptized, and this fact we presume to have been publicly known at the time of their marriage, not to have been detected now for the first time. The marriage was invalid. " Those who have been validly or doubtfully baptized are subject also to diriment impediments of ecclesiastical law. ... But it can happen that one party has been validly or doubtfully baptized, but the other invalidly. In this case their marriage will be null on account of disparity of worship " (S. O.[4] Feb. 1891. A. S. S. XXVI, 62). Titia was also subject to the impediment of consanguinity, and so the marriage was also invalid on this head. Caius should leave them in good faith about the validity of their marriage, apply for a dispensation from consanguinity in the third degree in the case of converts already married, and after he has received them into the Church and obtained the dispensation, get them to renew their consent before the parish priest and two witnesses.

Case 15. Affinity

Titius, a missionary, after spending many years fruitfully in the vineyard of the Lord in southern Africa, returns to his native country to restore his bodily and spiritual strength. In the mission several moral cases not easy to resolve presented themselves, among them also the following. A certain man, a leader among the pagans, was converted to the faith; but since he had four wives, he had to dismiss three. Nevertheless, he was in no way willing to retain the first, but rather her sister, the youngest among them and the last, whom he had bought for many oxen. Titius, perplexed, doubted whether this could be permitted, even if he used his rather ample missionary faculties for granting the necessary dispensations. It is asked:

1. Is the impediment of affinity of natural law or only of ecclesiastical law?

2. What faculties do missionaries in regions of unbelievers have that would be useful to Titius in the case?

3. What is to be said of the case?

Solution

1. Is the impediment of affinity derived from natural or ecclesiastical law?

Affinity in the collateral line is certainly derived from ecclesiastical law, and more probably also in the direct line. As a diriment impediment, therefore, it does not affect those who are not baptized. However, even in the non-baptized, carnal intercourse creates a certain natural bond; the parties become one flesh, and this natural bond becomes affinity and a diriment impediment of marriage after Baptism.[1]

1 Manual of Moral Theology, vol. ii, 302.

2. What faculties have missioners among infidels which might perhaps be of use in this case?

Bishops and even priests in missionary countries frequently have the following faculties:

" To dispense in the third and fourth degrees of consanguinity and affinity, simple and mixed only, and in the mixed second, third, and fourth degrees, but not in the second degree alone with regard to future marriages; with regard to past marriages, however, even in the second degree alone, provided that it in no way touches the first degree, with those who are converted from heresy or unbelief to the Catholic faith; and in the aforesaid cases to declare the offspring begotten legitimate."

" To dispense with gentiles and unbelievers having several wives so that after conversion and baptism they may retain whichever of them they prefer, if she also becomes a believer, unless the first wife wishes to be converted."

" To dispense in both forums with Catholics subject to his jurisdiction, in marriages either contracted or to be contracted, concerning the impediment of the first degree of affinity in the collateral line arising from lawful intercourse (for ten cases)."

3. The case. The first wife is presumed to be the only lawful one, and if she is willing to be converted, her husband should adhere to her. If she is not willing to be converted, but is ready to live peaceably with her husband, in this case also he should remain with her, unless he obtains a dispensation which may be given in virtue of the second of the above faculties. In case the first will neither be converted nor live peaceably with her husband, the Pauline privilege may be invoked, and the husband will be free to marry any Christian wife. Sometimes among infidel savages there may be serious doubt as to whether the marriage with a first wife was valid on account of the man's intention not to limit himself to one, and for other reasons. In such a case the man would not be married at all. In the case proposed, the woman that the man wishes to retain as his wife is related to him in the first degree of affinity in the collateral line, but sometimes power to dispense in this impediment is granted as by the third of the above faculties, or a dispensation for a particular case may be asked for from the Holy See. From what has been said Titius will see how his case and similar ones must be treated.

Case 16. Consanguinity

Caius, a young man, committed adultery with Bertha and with Julia while their husbands were absent. Afterwards, having reformed his morals, Caius married a most honorable woman; nevertheless, with paternal affection he always secretly cherished Mary, born of Bertha, and Titius, whom Julia bore to him. After some years, astonished, he noticed that Titius and Mary, now adults, were joined in the greatest familiarity with each other, and finally, stupefied, he heard their banns proclaimed in church, for they intended to enter marriage. After some days Caius disclosed to a confessor the secret that no one else knew and asked about his obligations. Hence it is asked:

1. What are banns, and what obligation do they induce of disclosing impediments to marriage?

2. By what law was the impediment of consanguinity introduced, and how are the degrees of consanguinity of those who derive their origin from the same father but different mothers computed?

3. What is to be said of the case?

Solution

The first question was answered above, p. 259.

2. To what law is the impediment of consanguinity due, and how are the degrees of consanguinity reckoned of those who have the same father but different mothers?

Consanguinity in the first degree of the direct line annuls marriage by natural law; in the other degrees of the direct line it annuls marriage, but more probably only by ecclesiastical law. It is disputed whether consanguinity in the first degree of the collateral line annuls marriage by natural or by ecclesiastical law; in more remote degrees of the collateral line up to the fourth inclusive it annuls marriage by ecclesiastical law.[1] It is immaterial whether both parents of the common stock are the same or only one.

1 Manual of Moral Theology, vol. ii, 299.

3. The case. The banns of Titius and Mary were proclaimed, they being the illegitimate children of Caius by different mothers, and so they were half-brother and halfsister. They were related therefore in the first degree of the collateral line of consanguinity, but Caius, their father, was the only person who knew of the relationship. He asked his confessor whether he was bound to do anything to stop the marriage. No, he is not bound to stop the marriage. The impediment is probably only of positive not natural law, the parties are in good faith and know nothing about it, he could not effectually intervene without betraying himself and the two women with whom he had sinned, to say nothing of the danger of spoiling the lives of the young couple.

Case 17. Sacred Orders

Caius, a missionary priest, when he noticed that Julius, a head of a family, attended church with his wife but never approached the sacraments, cautiously inquired into the cause. At length Julius acknowledged that he was a priest ordained in Australia, but that in the ordination itself he had explicitly excluded within himself the vow of chastity, so that he considered beyond doubt that the marriage he had entered after some years of priesthood was valid. Caius, however, asks whether there is any foundation for Julius's opinion, and whether perhaps he can admit him to the sacraments of the Church. Hence it is asked:

1. What is the impediment of sacred order, and by what law is it constituted?

2. Is the same impediment dispensable?

3. Is the force of the impediment in the order itself received, or in the vow annexed to it?

4. What is to be said of the case?

Solution

1. What is the impediment of sacred Orders, and by what law is it established?

The solemn vow of chastity taken implicitly when sacred Orders are received is a diriment impediment of marriage by ecclesiastical law.[1]

1 Manual of Moral Theology, vol. ii, 307.

1 Manual of Moral Theology, vol. ii, 308.

2. May a dispensation be had from this impediment?

Inasmuch as the impediment has been established by the authority of the Church, it may be dispensed by the same authority, but the Church rarely dispenses deacons and still more rarely priests from this impediment.

3. Is the impediment in the sacred Orders, or in the vow of chastity annexed to sacred Orders.

It is in both, in this sense, that in the Western Church a solemn vow of chastity which annuls subsequent marriage is implicitly taken by all who receive sacred Orders, but apart from this vow and independently of it, sacred Orders are a diriment impediment of marriage by ecclesiastical law.[1]

4. The case. Julius acknowledges that he was ordained a priest in Australia, but he also asserts that when he was ordained he mentally but expressly excluded the vow of chastity, so that he holds for certain that the marriage which he subsequently contracted is valid. Julius' opinion can not be maintained. He can not prove his mental withholding of his consent in the matter of the vow, and he would not be listened to in an ecclesiastical court. Besides, sacred Orders in themselves, apart from the vow, are a diriment impediment of marriage, so that the marriage is

null and void whether he took the vow of chastity or not. Julius is therefore living in concubinage, and may not be admitted to the sacraments while living in that state.[2]

2 Wernz, *Jus Decretalium*, lib. iv, n. 393.

Case 18. Fear

Anna, converted to the Catholic faith some years ago, comes to Caius, a missionary, and says that while a Protestant in northern Ireland she married Titius, a Protestant, having been driven to this by continual entreaties and even by threats of expulsion from her father's house. Afterwards she bore him two sons, but finally, because of his cruelty and because she had never loved him, she left her husband in Ireland and came to England. Now she cohabits as a wife with Titius, a Catholic, and each would like to enter marriage so that they may receive the sacraments. Caius, however, does not know whether it is lawful to admit them to marriage, and asks what he must do. Hence it is asked:

1. What is the impediment of fear, and by what law is it established?

2. Can a marriage invalid because of fear be validated, and how?

3. To whom does it belong to treat such matrimonial causes?

4. What is to be said of the case?

Solution

1. What is the impediment of fear, and by what law is it established?

Fear is a perturbation of mind arising from present or future danger. When marriage is contracted through grave fear caused unjustly by a free agent with a view to extorting marriage, ecclesiastical law makes the marriage null and void. Whether it is also void by natural law is a disputed point among divines.[1]

1 Manual of Moral Theology, vol. ii, 320.

2. Can marriage, void through fear, be revalidated, and how?

Yes, such marriage may be revalidated when the fear ceases by expressing free matrimonial consent.[2]

2 Ibid., 321.

3. To whom does it belong to treat of such matrimonial causes?

To the bishop as judge of first instance in the external forum. " Questions concerning the validity of marriages are called causes; these pertain solely to the external forum and must be juridically determined by the Ordinary. Therefore, recourse must be had to the ordinary when it is about entering into a new marriage where there is doubt regarding the validity of a marriage already contracted ... But as regards marriages already contracted, we most gravely admonish and command in the Lord all priests who have the care of souls that, although it may be most certainly established to them that some marriage was invalid, they openly declare to all concerned that they have no authority to pronounce judgment in a matter of this kind: but before they presume to proceed to a new marriage, they must recourse to the ordinary and await his legal judgment. " (IV Cone. West., d. 15).

4. The case. Caius may not admit Ann to a fresh marriage until it has been proved that the former marriage was invalid. It is possible that it was invalid to begin with; whether it afterwards became revalidated by the expression of free marital consent on the part of the woman or not, does not appear from the case as stated. Caius should therefore question Ann with a view to finding this out, and so discovering whether there is a prima facie case for invalidity or not. If he finds that there is solid ground for thinking that the former marriage was and remained null and void, Caius should send all the particulars of the case to the bishop, who after examining the evidence will pass sentence in accordance with it. The case will then be sent to the higher ecclesiastical court if the bishop's sentence was in favor of invalidity. The woman will be free to marry again after two concordant sentences have been given in favor of the nullity of the marriage.

Case 19. Crime

Titius, an Anglican, obtained a divorce from Titia, his wife who was likewise an Anglican, because of her adultery, and married Bertha, by whom he has children. Titia having recently died, Titius and Bertha are converted to the faith and ask Julius, a Catholic priest, to receive them into the Church; but, knowing well that the Catholic Church does not admit divorce, they ask him at the same time to bless their marriage. Julius, however, asks what he must do. Hence it is asked:

1. Are heretics subject to the diriment impediments of marriage?

2. How are heretics to be reconciled with the Church?

3. What is to be said of the case?

Solution

1. Are heretics subject to the diriment impediments of marriage?, v -

Yes, unless they have been specially excepted by competent authority as is the case with the impediment of clandestinity.[1]

1 Manual of Moral Theology, vol. ii, 286.

2. This question was answered above, p. 287.

3. The case. Titius, an Anglican, divorced his wife Titia, who was also an Anglican, and married Bertha. We must presume that Titius and Titia were baptized, and so subject to the diriment impediments of the Church. The divorce was null and void, and so in attempting to marry Bertha during the lifetime of Titia and consummating the attempted marriage, he contracted with her the impediment of crime. Most probably they are in ignorance of this; however in foro externo it is not safe to follow the opinion that ignorance excuses from this impediment. Julius should leave them in good faith, at any rate till he has obtained the requisite dispensation, if Titius and Bertha think that they are married; otherwise they should not use marriage rights. After obtaining the dispensation from the impediment of crime and from banns, they should be married privately before the parish priest and two witnesses.[1]

1 Gasparri, De Matrim., vol. i, 649.

Case 20. Was She Free to Marry?

Caia, recently converted to the faith and formerly an Anglican, is sought in marriage by Titius, a Catholic man. Caia indeed had been joined in marriage with Lucius, a cousin who was likewise Anglican; but because of his cruelty and adultery, after the first child, while still an Anglican she had sought a divorce in a civil court, which she joyfully obtained. Now, however, Caia would like to marry Titius if this is permitted to her by the laws of God and the Church; hence she asks a confessor whether anything stands in the way of the desired marriage. Hence it is asked:

1. Whom do the diriment impediments of marriage bind?

2. By what law is the impediment of consanguinity established?

3. Is it lawful to contract marriage when an impediment is doubtful?

4. What is to be said of the case?

Solution

The first question was answered above, p. 292 and the second, p. 286.

3. Is it allowed to contract marriage with a doubtful impediment?

It is not allowed to contract marriage when there is a doubt whether it is not forbidden by the natural or divine law. When the doubt is whether it is not forbidden by positive ecclesiastica' law, the marriage may take place. When the doubt is of fact, as, for example, whether the parties are not related within he prohibited degrees, a dispensation should be asked for from the bishop, who can grant it ad cautelam.[1]

1 Manual of Moral Theology, vol. ii, 336.

4. The case. As Caia and Lucius were cousins, and we must presume that they were baptized, their marriage was null and void by ecclesiastical aw. A divorce has been granted in the civil court, and so, if our suppositions are correct, Caia is free to marry. However, the confessor or the parish priest should make inquiries and satisfy himself about the facts of the case. When he has done this, he should submit the evidence to the bishop and await his decision, according to the rule laid down above, p. 283.

Case 21. Multiple Impediments

Caius, while his wife Caia was still living, attempted marriage in a Protestant church with Titia, a relative of Caia in the third collateral degree, who herself indeed was married. A few years afterwards, when both Caia and Titia's husband had died, Titia approaches Thomas, a confessor, to set everything in order. During confession she relates that she lived as a concubine for an entire year with Sempronius, a relative of Caius in the second collateral degree, and bore him a son. Thomas therefore asks:

1. How many kinds of the impediment of crime are there; what conditions are required for incurring it; and when does it become double?

2. If an impediment public by itself but secret by accident is disclosed in the tribunal, must its relaxation follow the rules of the internal or external forum?

3. What dispensations are required in the case, and in which forum must the matter be treated?

4. What absolutions from censures must be given in the case?

[From cases to be solved in the Diocese of Liverpool, 1899–1900.]

Solution

1. What is the impediment of crime; what conditions are required for incurring it; and when is it double?

Generally the impediment of crime is said to be threefold; adultery, homicide, and both together. With adultery there must be a promise of marriage or attempted marriage with the adulterer; with homicide when committed by one party there must be physical or moral co-operation of the other party; when there is both adultery and homicide, the other conditions are not necessary that the impediment may exist between the parties. If both parties are married in the first case; if the spouses of both are killed in the second; and if in the third there is adultery with the promise of, or attempt at, marriage, and the machination of the other party in the homicide, there will be two impediments.[1]

1 Manual of Moral Theology, vol. ii, 313.

2. If an impediment is per se public, but secret per accidens, ought its dispensation to follow the rules of the internal or external forum?

It should follow the rules of the external forum: " It is received in common jurisprudence that an impediment is to be held altogether public which, although actually occult, can at any time be made public and proved."[2]

2 Gasparri, De Matrim., vol. i, n. 251.

3. What dispensations are required in the case and in what forum should the case be treated?

Titia is the affinis of Caius in the third degree; we presume that the attempted marriage was consummated and so there is a double impediment of crime between them (adulterium cum attentato matrimonio); Titia is the affinis of Caius in the second degree on account of her illicit intercourse with Sempronius. All these facts are publicly known, so that the whole case must be treated in the external forum, and dispensations be obtained from the above impediments.

4. What absolutions from censures should be given in the case?

Caius and Titia incurred the censure of excommunication inflicted on heretics and their abettors on account of their attempting marriage in the Protestant Church, for to receive a sacrament in a non-Catholic place of worship is presumed to be an act of heresy. They will, then, need absolution from this censure.

Case 22. A Treacherous Friend

Titius, an unmarried man, was joined in the greatest familiarity with Caius and his wife Caia and, despising divine and human laws, had rather frequently committed adultery with Caia. Caius, seized by a grave illness, solicitous before death about his unworthy wife, summoned Titius to him and said that it would be most pleasing to him if Titius married the wife he was leaving. Titius promised that he would do this; afterwards, so that Caius might die peacefully, Titius and Caia, standing together at his bedside, promised him that they would enter marriage after his death. After the death of Caius followed, they renewed this promise and asked Paul, the parish priest, to proclaim the banns. When Paul discovered the aforesaid things in the examination of the betrothed, however, he was uncertain whether or not they were capable of marriage. Hence it is asked:

1. What is the impediment of crime, and by what law is it established?

2. Does ignorance excuse from incurring the impediment?

3. What conditions are required for the impediment from adultery and promise of marriage to be present?

4. What is to be said of the case?

Solution

1. What is the impediment of crime, and by what law is it established?

Crime is a diriment impediment of marriage established by ecclesiastical law by which those who are already married and commit adultery, homicide of spouse, or both together, with a third person, are made incapable of marrying that person even after the death of the spouse.[1]

1 Manual of Moral Theology, vol. ii, 313.

2. Does ignorance excuse from incurring this impediment?

It probably excuses in the forum of conscience those who marry in ignorance of the impediment; ignorance can not be effectively pleaded in the external forum in favor of the validity of a marriage vitiated by this impediment.[2]

2 Ibid., 317.

3. What conditions are necessary for the impediment from adultery and promise of marriage?

The adultery must be real, formal, and complete. The promise must be real, accepted by the promisee, absolute, made with knowledge of the present marriage, and undertaking to contract marriage after the death of the other spouse. Both the adultery and the promise must have place during the continuance of the same marriage.[3]

3 Ibid., 314.

4. The case. There was no impediment of crime between the parties, so that Paul might marry them if there were no other obstacle. The promise of marriage had not the requisite conditions for producing the impediment. Titius promised Caius on his death-bed that he would marry Caia, and then both Titius and Caia promised him that they would marry each other after his death. When Caius was dead, Titius and Caia promised marriage to each other, but it could not then produce the impediment of crime.

Case 23. A Governess's Marriage

Titius, a Catholic, lived near Liverpool, but frequently went to Dublin for business, where he formed a familiarity with Caia, a Catholic teacher in a private family (commonly called a governess). During the day Caia devoted herself to her duty in the parish of St. Andrew, where the family she served resided, but in the evening returned to her father's home in the parish of St. Agatha. After they entered betrothal, the marriage was celebrated in the Church of St. Andrew; afterwards Titius returned with his wife to his English home. Having heard these things, a certain missionary priest in England doubted whether Titius was joined in a valid marriage. Hence it is asked:

1. Was the decree *Although* promulgated in Ireland, and whom does it bind there?

2. What is established by the decree *Although?*

3. What was enacted by the decree *Ne temere* of the Sacred Congregation of the Council, Aug. 2, 1907?

4. What is to be said of the case?

Solution

1. Was the Tridentine decree Tametsi published in Ireland, and whom did it bind?

The decree Tametsi was extended to the whole of Ireland 2 Dec., 1827, and bound all Catholics. Mixed marriages and marriages between Protestants did not come under it.

2. What is laid down by the decree Tametsi?

In order to prevent clandestine marriages the decree Tametsi prescribed the publication of banns, and the celebration of marriage in presence of the proper parish priest of one of the parties or his delegate and two witnesses. Marriages not contracted before the parish priest and two witnesses were declared null and void. This decree did not bind in parishes where it had never been published.

3. What did the decree Ne temere prescribe?

By this decree clandestine marriages, or marriages not contracted in presence of the parish priest or the ordinary of the place or a priest delegated by either of these and two witnesses, were made null and void. This decree came into force 19th April, 1908, and binds all Catholics throughout the Western Church. In the German Empire mixed marriages are exempt from this decree if the parties were born and marry therein.[1]

1 Manual of Moral Theology, vol. ii, 332.

4. The case. Both Titius and Caia were Catholics and so in Dublin their marriage was subject to the decree Tametsi if it was contracted before 19th April, 1908. Caia had neither domicile nor quasi-domicile in the parish of St. Andrew, where the marriage took place. She merely was

occupied there during the day. The parish priest of St. Andrew's was not the proper parish priest of either of the parties and the marriage was null and void.

If the marriage was contracted after 19th April, 1908, it would be valid, as it was contracted before the parish priest of the place, but it was unlawful, because he was not the parish priest of the bride, nor had he his leave. He has therefore no right to the marriage fees, and he must remit them to the parish priest of the bride according to the decree Ne temere.

Case 24. Marriage Before the Registrar

Patrick, an inhabitant of Dublin, after entering betrothal with Bridget, a non-Catholic, asked the parish priest to obtain a dispensation and celebrate the marriage. He, however, denied that he would do anything in the case. When Patrick heard that priests in England conducted themselves more leniently with regard to mixed marriages, he went with his betrothed to a celebrated place of pilgrimage in England and asked the missionary exercising the care of souls there to celebrate the marriage. The missionary, however, doubts whether he can do anything for Patrick, and while he delays, Patrick contracts marriage before a civil official. Hence it is asked:

1. What is it to contract marriage "in fraud of the law"?

2. What is the impediment of clandestinity, and does it bind in England, Ireland, Belgium, and France?

3. What ought the missionary to have done in the case if he judged that the marriage was to be celebrated?

4. What is to be said of the validity of the marriage in the case?

Solution

1. What is the meaning of contracting marriage " in fraud of the law?"

Theologians are not agreed on the precise meaning of the phrase which occurs in the celebrated decree of Urban

VIII issued Aug. 14, 1627. Some hold that only those who depart from their parish with the principal intention of contracting marriage otherwise than before their parish priest, act in fraud of the law. Others maintain that the mere fact of contracting marriage otherwise than before the parish priest defrauds him of his rights, and so is in fraud of the law which wishes to safeguard them.[1]

1 Gasparri, De Matrim., vol. ii, 985.

2. What is the impediment of clandestinity, and does it bind in England, Ireland, Belgium, and France?

Clandestinity is the celebration of marriage otherwise than in the form prescribed by the Church. Clandestine marriages were always held to be unlawful by the Church. The Council of Trent made marriage contracted otherwise than before the proper parish priest of one of the parties or his delegate, invalid in places where the decree was published. It was published for all baptized persons in Belgium and France, for Catholics in Ireland, but it was never published in England. The decree Ne temere, Aug. 2, 1907, binds Catholics throughout the Western Church, and annuls marriage contracted otherwise than before the parish priest of the place.

3. What should the missioner in the case have done if he judged that the parties were to be married?

He could validly and lawfully have assisted at the marriage if he had procured delegation for himself from the ordinary or parish priest of one of the parties. Otherwise one of them would have had to make himself his subject by acquiring a domicile or at least a quasi-domicile in his parish.

4. What about the validity of the marriage in the case?

If the marriage was celebrated before April 19, 1908, it was unlawful but valid if we presume that Bridget was baptized. For Bridget was not subject to the decree Tametsi in Ireland, and might have contracted a valid though clandestine marriage with Patrick there. She kept her freedom when she came to England where the decree was never published.

If the marriage was celebrated after April 19, 1908, it was invalid by the terms of the decree Ne temere.

Case 25. A Notable Case

Henrietta, the daughter of Caia, who was French by nationality and retained her domicile in London throughout the entire time to which the case extends, lived for the sake of education in a certain convent of nuns in Paris. A German foreigner who fell in love with her there sought her in marriage. Henrietta promised him marriage and, immediately after her education was finished, left the convent; until the marriage could be celebrated after some weeks, she lived in rooms in a certain inn with her mother, who had come from London for this purpose; finally, the marriage was celebrated before the parish priest of that place. The outcome, however, was unhappy, for because of her husband's adulteries and cruelty she sought and obtained in a civil court a divorce from the bond. Now, however, Henrietta would like to marry Julius if this is permitted to her by ecclesiastical laws. Hence it is asked:

1. What is the impediment of clandestinity, and whom does it bind in England and in France?

2. Who is one's proper parish priest?

3. What is required for domicile and quasi-domicile, and where do daughters under parental authority have domicile or quasi-domicile?

4. What is to be said of the case?

Solution

The first question is answered above, p. 304.

2. Who is the " proper parish priest " of the Tridentine law of clandestinity?

He is the priest in whose parish at least one of the parties who wish to be married has a domicile or quasi-domicile.[1]

1 Manual of Moral Theology, vol. ii, 326.

3. What is required for a domicile or quasi-domicile and where have minors a domicile or quasi-domicile?

A domicile is acquired by living in a place with the intention of always living there; a quasi-domicile is acquired by living in a place with the intention of living there for the greater part of a year. Minors retain the domicile of their parents or guardians as long as they do not renounce it. They can also acquire a quasi-domicile of their own.[2]

4. The case. The parents of Henrietta lived in London, while she was educated in a convent in Paris. There she promised to marry a German stranger. After her education was finished Henrietta moved with her mother into a hotel situated in another of the parishes of Paris, and after some weeks she married in presence of the parish priest of this parish. The marriage was invalid if celebrated before April 19, 1908. Henrietta had neither a domicile nor a quasi-domicile in the parish where she married. She retained her London domicile. She was not a

> vaga, nor was her husband; therefore as the decree Tametsi bound her in Paris, she required the presence of her own parish priest in London or of his delegate in order to contract a valid marriage in Paris. This was not done,

'Ibid., 326 ft.

and so the marriage was invalid. In substance the case is that In causa Parisien (Jan. 28, 1899, Analecta Eccles., 1899, p. 15).

The marriage would be valid if it were contracted after April 19, 1908, by virtue of the decree Ne temere.

Case 26. General Leave of Parish Priest

Ursula, born in Dublin where her father had domicile, was making a journey in France with her mother. While she remained in Paris for some months, marriage was offered to her by Caius, who lived there, which Ursula accepted without delay with her mother's consent. The consent of Caius's parents had to be sought, not only because of the observance due to them, but also because under the prescription of civil law a marriage contracted without the parents' consent would be of no effect. They, however, utterly refused consent. Caius went to the parish priest and, because the parents unjustly refused consent, tried to persuade him nevertheless to admit him to marriage. The parish priest refused, but at the same time said that he would willingly give permission for him to contract marriage before any priest in any place whatsoever. Despairing of other means, Caius and Ursula went to London and there asked Robert, who had charge of a quasi-parochial church, to bless their marriage. Hence it is asked:

1. What marriages are clandestine, and by what law are they prohibited?

2. What power concerning the marriages of Christians belongs to the civil authority?

3. What is to be said of the case?

Solution

The first question was answered above, p. 302-304.

2. What power over Christian marriage has the civil authority?

Leo XIII answers this question in his Encyclical letter Arcanum, Feb. 10, 1880: " As then marriage is holy by its own power, in its own nature, and of itself, it ought not to be regulated and administered by the will of civil rulers, but by the divine authority of the Church, which alone in sacred matters professes the office of teaching. Next, the dignity of the sacrament must be considered, for through addition of the sacrament the marriages of Christians have become far the noblest of all matrimonial unions. But to decree and ordain concerning a sacrament is, by the will of Christ Himself, so much a part of the power and duty of the Church that it is plainly absurd to maintain that even the very smallest fraction of such power has been transferred to the civil ruler." Therefore the civil authority has no power over the marriages of Christians; it can not make diriment or prohibitory impediments of marriage, but it can by its laws regulate the civil effects of marriage, such as the right of succession to property, titles, and offices, the property rights of married women, and similar matters.[1]

1 Gasparri, De Matrimonio, vol. i, 278.

3. The case. The parties would not altogether escape from the jurisdiction of French civil law by coming to England. For the Marriage with Foreigners Act, 1906, was intended to secure as far as possible that such marriages shall not be celebrated if any legal impediment exists according to the law of either country.[1] However, we may consider the case purely from the point of view, of the law of the Church. The fact that the parish priest of Caius gave his permission for the marriage to take place before any priest, indicates that the parents unreasonably refused their

consent to the marriage. Such a general delegation, though illicit, was not invalid before the decree Ne temere came into force. Therefore, if the case happened before April 19, 1908, after satisfying himself about the freedom of the parties to marry and the reality of his delegation, Robert might have published the banns and undertaken to assist at the marriage in due time. According to Ne temere, as he is the parish priest of the place, and he has the leave of the parish priest of the bridegroom, he will be able to assist at the marriage validly and lawfully when he has satisfied himself that the parties are free to marry.

1 Stephen's Commentaries, vol. ii, 361, 15th edition.

Case 27. Requisites for Marriage

Titius and Caia, Catholics, had duly contracted betrothal and wished to enter marriage within a few weeks. Titius, twenty-two years of age, was numbered among the members of a certain theatrical company who wandered from place to place, and was not accustomed to remain in one place beyond a month. For about one month each year Titius returned to his father's home in Scotland; at other times he was always wandering with his companions. Caia lived with her parents in Manchester. Titius fixed his residence for three weeks near the city of Liverpool, where he approached Lucius, a priest, and, after relating the aforesaid circumstances, asked him where he could celebrate the marriage and what must first be done according to ecclesiastical and civil laws. Hence it is asked:

1. Where must the marriage be celebrated?

2. How is domicile or quasi-domicile acquired and lost?

3. Where do children under parental authority have domicile?

4. What is to be said of the case?

Solution

1. Where should marriage be celebrated?

Marriage should be celebrated in the Church, and according to the decree Tametsi of the Council of Trent (XXIV c. 1, De Ref. Matrim.) in parishes where this decree had been published the presence of the proper parish priest of one of the parties and two witnesses were necessary conditions of validity. According to the decree Ne temere, which came into force April 19, 1908, marriage will be valid if it is celebrated before the parish priest of the place; for its lawfulness it should be celebrated before the parish priest of the bride; or by his permission, or that of the parish priest of the other party, or of the ordinary, it may take place before another priest. A parish priest acquires jurisdiction for the purpose of marriage if one of the parties has a domicile in his parish or has lived there for a month.

2. How is a domicile or quasi-domicile acquired and lost?

We saw above, p. 307 how they are acquired. They are lost when the two conditions which are necessary for their acquirement cease to exist— Omnis res per quascumque causas nascitur per easdem dissolvitur (C. 1, De Reg. Juris.).

The third question was answered above, p. 307.

4. The case. Titius retained his parental domicile in Scotland, and so, according to the Tridentine law, the marriage might have taken place before the parish priest of either of the parties, or before any other priest who had been delegated by either of them. According to the decree Ne temere, it should take place at Manchester before the parish priest of the bride. For good reason, it might be celebrated in Scotland before the parish priest of the bridegroom, or before any priest in whose parish Titius had lived for a month. The parish priest of either party, or

their ordinaries, might give leave to any other priest to marry them in his parish. The banns should be published in the parish churches of both parties, and whoever marries them should have evidence of their freedom to marry. The requirements of the civil law must also be complied with. For those in force in England, see " The New Marriage Laws," by Rev. T. Slater, p. 9, C. T. S.

Case 28. Subjects of the Law of Clandestinity

Caius and Caia, Anglicans and joined in marriage for a year, ask Paul, the local parish priest, to receive them into the bosom of the true Church. Paul finds them excellently instructed in the Catholic faith; Caia indeed had been baptized as a Catholic but, because of the death of her Catholic mother, had from infancy been brought up by her father in the Anglican religion; and although they are cousins, they doubt nothing concerning the validity of their marriage. He further asks what he must do so that they may remain in the Church as Catholic spouses. Hence it is asked:

1. How must one proceed in receiving adults into the Church?

2. Are heretics subject to the laws of the Church, especially matrimonial laws?

3. What is to be said of the case?

Solution

The first question was answered above, p. 287, and the second, p. 280.

3. The case. The marriage of Caius and Caia was invalid on account of the impediments of clandestinity and consanguinity in the second degree in the collateral line. For the decree Ne temere binds all persons baptized in the Catholic Church, even when they contract marriage with non-Catholics, and Caia was baptized in the Catholic

Church. Paul therefore should ask the bishop for a dispensation from consanguinity in the second degree in the collateral line, and in the meantime leave the couple in good faith. When he has received the dispensation, if there is no good reason to the contrary he should tell them of the impediment and at once marry them in presence of two witnesses after he has received them into the Church.

Case 29. The Month's Stay of *Lest [it be Done] Rashly*

Paul, an Anglican, sought Agnes, a Catholic, in marriage and was accepted by her. When, however, the Bishop was unwilling to grant a dispensation for entering a mixed marriage, Agnes hastened to Titius, the parish priest, to seek advice in her straits. Titius advised that both, or at least one, rent a dwelling for a month in another diocese whose Bishop was more ready to dispense from that impediment. Paul therefore rented a dwelling in the parish of Caius, a priest of another diocese, in which he spent fifteen nights; he then sought a dispensation so that, after the banns had been proclaimed, the marriage might be celebrated there. Caius, however, doubted whether or not this could lawfully be done. Hence it is asked:

1. How does someone become a subject of a Bishop so that matrimonial causes may be treated by that Bishop?

2. Where must the banns be proclaimed?

3. What kind of monthly stay is required so that marriage may lawfully be celebrated before the parish priest of the place?

4. What is to be said of the case?

Solution

1. How does any one become subject to a bishop so that his marriage cases are to be tried by him?

For validity it is only necessary that marriage should be contracted within the jurisdiction of the bishop and in his presence or in that of his delegate and two witnesses. That marriage may be lawfully contracted one of the parties must have a domicile in the diocese or must have lived there for a month.

2. Where must banns be published?

In the parish church or churches of the parties, and in case of those who have recently come from another parish, in that parish as well.[1]

1 Manual of Moral Theology, vol. ii, 265.

If marriage is contracted in a place where one of the parties has dwelt for a month, according to the decree Ne temere the banns should be published there, according to the more probable opinion.

3. What sort of month's stay in a place is required by the decree Ne temere?

A full month of thirty days or a calendar month, so that one at least of the parties lives in the place and has lived there uninterruptedly for that period. Absence for a few hours, or during the day time, would not interfere with the month's stay.[2]

2 Vermeersch, Ne temere, n. 58.

4. The case. The doubt of Caius was well founded. Paul is not a Catholic, and the Church does not give dispensations to non-Catholics directly. Besides, Paul has only lived in Caius' parish for fifteen days, and thirty days are required before a bishop can treat a person as his subject for the purposes of marriage. Agnes would be acting within her rights if she went to another diocese, lived there for thirty days, and then asked for a dispensation. Titius, therefore, might lawfully have suggested this course to her.

Case 30. Mixed Marriage

Mary, a Catholic, having obtained a dispensation from the Bishop from the impediment of mixed religion, married Titius, an Anglican. After the marriage was contracted, Titius, notwithstanding his promises, prohibited Mary from ever entering a Catholic church and began to treat her cruelly; hence Mary returned to her father's home, where she is now sought as a wife by Paul, a Catholic man. Mary's parish priest, who obtained for Mary the dispensation from the impediment of mixed religion, afterwards discovered with certainty that Titius had never been baptized; hence he asks whether Mary is still free so that she can enter a Catholic and happier marriage. Hence it is asked:

1. By what law are the impediments of mixed religion and disparity of worship established?

2. How is the statement "A doubtful Baptism is considered valid in relation to marriage" to be understood?

3. Is it lawful to institute a partial divorce by private authority?

4. What is to be said of the case?

Solution

1. By what law are the impediments of mixed marriage and difference of religion established?

Marriages between Catholics and non-Catholics are forbidden by natural, divine, and ecclesiastical law; if the non-Catholic party is not baptized, the impediment is diriment by custom having the force of universal law.[1]

1 Manual of Moral Theology, vol. ii, 308 ff.

2. How is the rule to be understood about doubtful Baptism and marriage.

Theologians are not agreed. Lehmkuhl holds that where the Church's authority has intervened in such a case, the words are to be taken quite literally, and that the impediment is removed if it existed on account of the non-Baptism of one of the parties.[2] Wernz, Génicot, and others hold that the rule rests on presumptions, so that if the truth afterwards becomes certain, the presumption ceases.[3]

2 Theol. Moral., vol. ii, 985.

3 Manual of Moral Theology, vol. ii, 313.

3. Is separation by private authority a toro et mensa allowed?

Yes, by mutual consent for the purpose of leading a more perfect life and when there is no danger of incontinence. The innocent party may separate from the other by private authority if that other has been guilty of certain and notorious adultery, as also for a time on account of serious danger to soul or body.[4]

4 Ibid., 281.

4. The case. The dispensation for a mixed marriage in all probability did not remove the impediment of difference of religion which really existed between the parties. Indeed the bishops in England as a rule have not authority to dispense from the diriment impediment of difference of religion, though they can dispense in a mixed marriage. Hence, according to the better opinion, Mary's marriage with Titius was null and void. However, the parish priest may not on his own authority allow her to marry Paul. Both ecclesiastical and civil law stand in the way. He should collect all the evidence that he can, submit it to the bishop, and then await the result.

Case 31. Impediment Dispensed

Titius, a missionary priest, had two parishioners related in the second degree mixed with the third degree of consanguinity who, after entering betrothal and having an illegitimate child, wished to contract marriage. Titius said that he would seek a dispensation because of the child to be legitimated and because of the smallness of the place, which he soon obtained from the Bishop. On the following Sunday the banns were proclaimed in church and at length the marriage was contracted, but not before the death of the child, nor was any mention of the obtained dispensation made to the spouses. Having heard these things, Paul, another missionary, began to doubt the validity of the marriage. Hence it is asked:

1. Is a cause for a matrimonial dispensation admitted, and what kind?

2. For whom is smallness of the place a canonical cause?

3. How must a matrimonial dispensation be executed?

4. What is to be said of the case?

Solution

1. Are causes for dispensation admitted in matrimonial impediments and what sort?

Not, of course, for impediments of natural or divine law, nor for all impediments of ecclesiastical law, but the Church does admit causes for dispensation from the remoter degrees of consanguinity and affinity, public honesty, spiritual relationship, occult crime, etc. Canonical causes are required for dispensations, such as: smallness of the place, advancing age of the woman, deficiency or absence of dowry, etc., as put down in the Instruction of Propaganda May 9, 1877.[1]

1 Manual of Moral Theology, vol. ii, 339 ff.

2. For whom does smallness of place serve as a canonical cause?

For the female petitioner alone, as a general rule.[2]

2 Ibid., 343.

3. How is a matrimonial dispensation to be executed?

No special form is prescribed for the execution of a dispensation. In the internal forum the priest should carefully note and execute the clauses of the rescript, and tell the penitent that he is dispensed. In the external forum, the bishop after the causes alleged for the dispensation and the other particulars have been verified, and the dispensation drawn up and signed, will either execute the dispensation himself by calling the parties before him, absolving them from censures, and telling them that they are dispensed; or he will commit these duties to the parish priest.[3]

3 Gasparri, De Matrim., vol. i, n. 392 seqq.

4. The case. The impediment under which the parties labored is one of those which are called minoris gradus, and from which bishops can usually dispense by special faculties granted to them by the Holy See. We presume, 'therefore, that the dispensation was granted by the bishop. It took its effect and removed the impediment when the document was signed by the bishop. At that time apparently the child was alive, so that both causes alleged for the dispensation subsisted when it was granted, and although one of them ceased before the marriage, this fact did not affect the validity of the dispensation. The marriage, therefore, was validly contracted, although the parish priest should have executed the dispensation in the manner described above.

Case 32. A Complicated Case

Caius, after contracting marriage with Martha at Dublin, went to America a few years later, leaving his wife at home. Shortly afterwards Martha, seized by a blind love for Titius, a non-Catholic and a relative of Caius in the third degree, conducted herself lustfully with him. When ten years had now elapsed and they had heard nothing about Caius, Titius strongly urged that they leave Dublin and go to Liverpool. The woman at length consents, and there, in a Protestant church, they contracted marriage in order to avoid troublesome questions about their free state. Afterwards, when they had lived in the city for six years and had children, Martha heard from several witnesses—mediate indeed, but trustworthy—that Caius had died in America. During a mission, stricken with sorrow, the most wretched woman approaches John, a confessor. He hears Martha's history and, after carefully weighing the testimony for Caius's death, judges that nothing prevents her from entering marriage with Titius after the dispensations have been obtained. Therefore, to set the matter in order, he writes a letter to the Bishop, relates that Titius and Martha are concubinarians, and petitions for the required dispensations, but intimates nothing about Caius perhaps still surviving or about the marriage already attempted in bad faith. Hence it is asked:

1. When a doubt arises concerning the impediment of bond, upon whom does it devolve to judge the free state of those who are about to contract marriage?

2. What dispensations are required, and what circumstances must be explained in the case for the validity of the dispensations?

3. What is to be said of John's manner of acting?

Solution

The first question was answered above, p. 273.

2. What dispensations are required and what circumstances must be explained in the case for the validity of the dispensations?

Titius was not a Catholic, and he was related in the third degree of consanguinity to Caius, the first husband of Martha. Moreover, as there was adultery and attempted marriage by the parties, there exists between them the impediment of crime. Dispensations, therefore, for a mixed marriage, for affinity in the third degree, and for the crime of adultery with attempted marriage will be required. Besides, the evidence cited in the case is not sufficient to produce moral certainty of the death of Caius by itself; and at any rate in such circumstances it is for the bishop to judge whether the party is free or not; a simple priest is incompetent in such a case.[1]

1 Génicot, vol. ii, 492.

The circumstance that marriage was attempted in bad faith in the Protestant Church must be mentioned in the petition for a dispensation, and this is required for its validity according to the Instruction S. C. de P. F., May 9, 1877.

3. The case. John did very wrong and made several serious blunders. He usurped the office of the bishop by deciding that the parties were free to marry, though

COMPLICATED CASE there was not conclusive and first hand evidence of the death of the first husband of Martha. He made no mention of the attempted marriage in bad faith and in the Protestant Church, and from this we may gather that he failed to detect the existence of the impediment of crime between the parties. He should take the earliest opportunity of repeating his Moral Theology.

Case 33. Married a Widow with Three Children

Balbus, a Catholic, approaching the feet of Caius, his confessor, sets forth the following facts. Now thirty years of age, in the preceding year, in contempt of the laws of the Church, he contracted marriage before a Protestant minister with Titia, a non-Catholic widow forty years of age and burdened with three children from a prior marriage. Nor were they ignorant of the impediments, for Balbus was related to Titia in the unequal collateral third degree mixed with the second; moreover, he had intercourse with Bertha, Titia's sister. Balbus, now penitent, asks Caius to set the matter in order after obtaining dispensations, but affirms that he has revealed the sin with Bertha to Caius alone.

1. What is the difference between a public and an occult impediment?

2. What are the principal reasons which the Holy See is accustomed to regard as sufficient for granting dispensations?

3. How can a dispensation become invalid through subreption or obreption?

4. How many dispensations are required in the case; what causes can be alleged by Caius; and what must Caius do?

Solution

1. What is the difference between a public and occult impediment?

Public impediments are those which of their own nature or in fact are known to the greater number of people in the parish, and can be proved by witnesses; occult impediments are those which can not be proved by the evidence of two witnesses.

The second question was answered above, p. 322.

3. How can a dispensation become invalid by subreption or obreption?

Subreption is the omission of what should be mentioned; obreption is a false statement. Subreption or obreption in the petition for a dispensation render it invalid if they occur in the motive cause, not if they occur in the impulsive cause for granting a dispensation.[1]

1 Manual of Moral Theology, vol. ii, 342.

However, dispensations minoris gradus are granted by the S.C. on the discipline of the Sacraments ex motu proprio et ex certa scientia, and are not invalid on account of subreption or obreption.[2]

4. How many dispensations are required in the case; what causes may be alleged by Caius; what is to be done by Caius?

There is the prohibitory impediment of mixed marriage, the public impediment of consanguinity in the third degree mixed with the second in the collateral line, and the occult impediment of affinity ex copula illicita in the first degree of the collateral line on account of the sin with Bertha.

As Titia is not a Catholic no account can be taken of her in asking for a dispensation. Putting a stop to grave scandal, and open and incestuous concubinage, may be alleged as causes for a dispensation. The marriage in bad faith before the Protestant minister should also be mentioned, though it may make the dispensation more difficult to obtain. Caius should first ask the bishop for a dispensation for the mixed marriage, and the impediment of consanguinity, without mentioning the occult impediment. He should then apply to the Penitentiary in Rome for a dispensation from the occult impediment, mentioning the other public impediments in the case.[1]

1 Normae Peculiares, Sept. 29, 1908.

1 Gasparri, De Matrim., vol. i, n. 327.

Case 34. Which Bishop Has Jurisdiction?

Titius, a Catholic who lived in a certain village of Diocese A, entered betrothal with Bertha, the non-Catholic daughter of his cousin, who lived in a small village of Diocese B. In order that he might more easily visit his betrothed and be nearer the place where he worked, Titius rented a house for three months in Bertha's village. When they had committed fornication and marriage had to be hastened because of the expected child, Titius approached Julius, the local missionary, and asked him to obtain the necessary dispensations, since a dispensation for entering a mixed marriage had been sought in vain in his own diocese. Julius found that Bertha was twenty-six years of age and very well disposed to embrace the faith, but was unwilling to embrace it before marriage because of the opposition of her parents. Hence it is asked:

1. In general, what must be expressed in a petition when a matrimonial dispensation is sought?

2. What impediments exist, and what causes for granting a dispensation can be alleged in the case?

3. What is to be said of the case?

Solution

1. What in general must be inserted in the petition for a dispensation?

The name and surname of the petitioners, the diocese of birth or domicile, the species and number of impediments, the degree of consanguinity, affinity, etc., and various circumstances.[1]

1 Manual of Moral Theology, vol. ii, 346.

2. What impediments are there in the case, and what causes may be alleged for the dispensation?

The parties are related in the third degree of consanguinity mixed with the second in the collateral line, and they are of different religions, so there are two impediments, consanguinity and mixed religion. As Bertha is not a Catholic, no account can be taken of her when asking for a dispensation. Previous connection, pregnancy, and legitimization of offspring, danger of a civil or non-Catholic marriage, may be alleged as causes for the dispensation.

3. The case. If Titius has not yet lived in the diocese B for a month, the bishop of that diocese has no jurisdiction with regard to his marriage or granting the dispensation. If he has lived there for a full month he can be married there according to the decree Ne temere. Most probably the same bishop also obtains jurisdiction over Titius by his month's stay in the diocese so that he can grant dispensations for impediments which hinder his marriage. Otherwise the bishop of diocese A will alone be competent to grant the requisite dispensations, unless Titius is prepared to go direct to the Holy See.[2]

2 Vermeersch, Ne temere, n. 98 bis.

Case 35. Revalidation of Marriage

Anna, an Anglican by religion, was staying for some weeks in a certain place to which many are accustomed to resort for the sake of health. There she asks Philip, the local Catholic missionary, to receive her into the Church. Philip finds her excellently instructed and well disposed, and that nothing seems to prevent her from being received into the Church immediately. Nevertheless, he finds that she is joined in marriage with a cousin who is likewise Anglican, who thinks the marriage is valid and would in no way consent to renew consent again publicly or privately. Hence it is asked:

1. Who are subject to the matrimonial laws of the Church? Are heretics?

2. Does ignorance or grave inconvenience excuse from a diriment impediment of marriage?

3. To which priest does it belong to treat matrimonial causes?

4. What must Philip do?

Solution

The first question was answered above, p. 292;

2. Does ignorance or grave inconvenience excuse from a diriment impediment of marriage?

Neither ignorance nor a grave inconvenience, affecting individuals only, excuses from a diriment impediment. A grave inconvenience of a public nature does excuse.[1]

1 Manual of Moral Theology, vol ii, 285 f.

3. To whose office does it belong to treat of marriage cases?

Marriage is a parochial sacrament and it belongs to the parish priest to treat of anything concerning it. Where there are several priests who have the cure of souls in one parish, it belongs to the head priest to treat of marriage cases, but with due dependence on him the others may also undertake them.

4. The case. Ann's marriage with her cousin was invalid on account of the diriment impediment of consanguinity in the second degree of the collateral line. It is of its own nature a public impediment, and if Ann does not know of it now, she may find it out at any time. To prevent future difficulties it should be revalidated, and also because if the parties are in good faith, even material sins should be prevented as far as possible. Philip therefore should write to the bishop of the diocese in which Ann is staying, if she has been there for at least a month, and where she will be received into the Church, and ask him to grant a dispensation for revalidating a mixed marriage between cousins in favor of one who has been converted. The dispensation should be granted to take effect when it is executed. Ann should induce her husband to appoint a proxy for him; it is to be presumed that he will do at least this to please his wife. Then on the day on which Ann is received into the Church, Philip can execute the

dispensation at once, and revalidate the marriage by causing Ann and the proxy to go through the form of marriage before him and two witnesses. If

Ann has not lived at the place for a full month, she should be received into the Church and dispensed in her own diocese, unless her bishop has power to dispense his subjects during their absence from the diocese, as bishops sometimes have.[1]

1 Putzer, Comment, in Facult. Apostol., n. 52.

Case 36. Cohabitation of Married People

Caia, a Catholic and the wife of Titius, a Protestant official in a certain colony, comes to her native country to supervise the education of their daughters in a convent of nuns and, led by this purpose, lives near the convent. After some months Titius asks, indeed orders, her to return to him; Caia, however, always excuses herself on the ground that she herself must care for the daughters who are to be educated, and at length Titius publicly takes a concubine for himself. Having heard this, Caia, anxious about the past and the future, asks a confessor whether she is bound to return to her husband. Hence it is asked:

1. What are the obligations of spouses with regard to cohabitation?

2. Is it lawful to institute a partial divorce by public or private authority?

3. Are husband and wife equal in rights with regard to a partial divorce?

4. What is to be said of the case?

Solution

1. What are the obligations of married people with regard to cohabitation?

From the nature of the marriage contract and to secure the ends of marriage those who are married are bound to live together, unless by mutual consent they agree to live apart for a time and there is no danger of scandal or incontinence. This obligation is one of justice and is grave in serious matter.[1]

1 Génicot, vol. ii, n. 552 ff.

The second question was answered above, p. 266.

3. Are husband and wife equal in the matter of rights about separation?

In general, husband and wife are equal in the matter of conjugal rights, though the husband as head of the family has authority over her and is her superior. The causes then, such as adultery, on account of which one consort is allowed to separate from the other, favor husband and wife equally. Because the husband has the duty of providing for the family, lawful causes of absence from his wife will more frequently exist in his case than in hers, and because of this and of her inferior position the wife will be called upon in general to follow her husband, and not vice versa.

4. The case. Titius was a colonial official, and his wife Caia went to the mother country to see to the education of her daughters. She put her daughters in a convent and took up her residence in the neighborhood. Her husband sent for her but she refused to go, under the pretext that she had to look after the education of her daughters. She became uneasy in conscience when she heard that her husband was living with another woman.

Caia's uneasiness was justified. Her husband bade her come out to him and she had no good reason for refusing. The education of her daughters would probably proceed better without her presence

than with it. Objectively she committed a grave sin in not obeying her husband and exposing him to the danger of incontinence.

She is bound to do what she can to repair her fault and bring back her husband from his sinful course of life. But now on the supposition that Caia knows for certain that her husband has committed adultery she has the right to separate from him. Although her disobedience was the occasion of his sin, yet we must not presume that she acted as she did with the view of making him commit adultery, and on that supposition she did not lose her right to separate from her husband on account of his adultery.[1]

1 Gasparri, De Matrim., vol. ii, n. 1113.

Case 37. A Troubled Wife

Caius, a confessor, asks what he must do in the following case. Titia, the wife of Titius, whom Caius knew well as parishioners, approached confession. After the confession was completed, Titia asked whether marital intercourse was lawful without the husband duly completing the act. When Caius denied it, Titia replied that her husband affirmed it, and indeed often acted thus on a physician's advice because of the weak powers of his wife, who was less capable of bearing and nursing a child. Caius was then silent, but the difficulty increased when Titius soon approached confession and nevertheless said not a word about the matter badly conducted with his wife. Hence it is asked:

1. Is it established that onanism is a sin, and what kind?

2. What advice must be given to wives anxious about onanism committed by their husbands?

3. Must penitents established in good faith be warned about things badly done by them?

4. What is to be said of the case?

Solution

1. Is it certain that onanism is a sin and what sort?

From the way in which Holy Scripture mentions it (Gen. xxxviii. 9), from the teaching of the Church, and because it is a gross perversion of nature, it is certain that onanism is a grave sin.[1]

1 Manual of Moral Theology, vol. ii, 363.

2. What advice is to be given to wives anxious about onanism committed by their husbands?

They are to be admonished to do what lies in their power so that their husbands complete the act in the proper manner, and if they do not succeed, let them not approve the manner, and let them lawfully cooperate only materially in the sins of their husbands.[2]

2 Ibid., 363.

3. Are penitents to be admonished who in good faith do what is wrong?

They must be admonished if what they do is a cause of public scandal, or if their good faith is not perfect and they are doubtful about the matter. They must be admonished also if in all likelihood they would obey the admonition. If the admonition would be productive of more harm than good it should not be given.[3]

3 Ibid., 223.

4. To the case. Although good faith regarding the licitness of onanism is not altogether impossible even among Catholics, yet it can scarcely endure for a long time. For bishops and priests, and even upright laymen, are accustomed to condemn that crime in clear words and writings. When therefore Titius comes to confess, yet he says nothing about onanism, Caius

should interrogate him with general words whether he has anything that torments his conscience, or something similar. If Titius denies it, it seems that Caius may be able to acquiesce and grant absolution. For the penitent is to be believed whether speaking for himself or against himself. Nor is Caius permitted to reveal what he heard from Titia's confession. But if Titia again makes mention of the matter brings it up, Caius must say openly that the matter is altogether unlawful, Titia should do what she can to correct the husband, and if nothing succeeds, she may be able to offer material cooperation to the act which she is unable to hinder. As for the dangers to health or even life, which physicians sometimes exaggerate let Titia entrust herself to God.[1]

1 Bucceroni, TheoL Moral., vol. ii, n. 824; Génicot, vol. ii, n. 551.

Case 38. A Husband in Difficulties

Caius relates to his confessor that he is anxious about his manner of acting with his own wife. For she, he says, is very weak; indeed, a certain experienced physician declared that she would give birth again only with proximate danger of death. Caius himself, on the contrary, is robust and has scarcely any hope of restraining himself. Indeed, he often indulged in immodest touching with his wife in bed, from which he not rarely suffered pollution; sometimes he began intercourse but did not complete it because of fear that a child might be generated. He wishes to confess all these things insofar as they are sinful, and humbly asks advice concerning the future. Hence it is asked:

1. What are the marital obligations of spouses, and what is permitted to them?

2. Is the hope of generating a child equal at whatever time intercourse is had?

3. What is to be said of the case?

Solution

1. What are the obligations of marriage for spouses, and what are permitted to them?

A spouse is bound under grave sin to render the conjugal debt to the other spouse who reasonably asks it, and consequently spouses are regularly bound to live together. Moreover, signs of conjugal love are to be shown mutually by the spouses. What is permitted to them is contained in the following rule: 'What is useful for the performance of the conjugal act is permitted; what is' contrary to the generation of offspring or tends to hinder that is gravely illicit; what is not contrary to the generation of offspring, although it is beyond that, at least is not gravely illicit.

2. Is there an equal hope of generating offspring at whatever time intercourse is had?

The matter is uncertain. Some thought that the period between two days before menstruation and fourteen days afterwards was more suitable for generating offspring more certainly, and consequently that, if spouses do not wish offspring to follow from intercourse, they can avoid this period and have intercourse outside it. Nothing prevents them from acting in this way, but whether they will attain the intended end is very doubtful.[2]

2 Génicot, vol. ii, n. 551.

3. To the case. To employ immodest touches in such a way that a proximate danger of emission is induced is forbidden under grave sin even to spouses. To employ touches not so immodest, short of the proximate danger of emission, although emission sometimes follows, to which, however, consent is not given and which is not intended, is not considered forbidden to spouses under grave sin, nor even under venial sin, provided there is a just cause, such as fostering conjugal love. According to these rules judgment is to be made concerning the immodest touches employed by Caius. By beginning intercourse but not completing it because of fear of generating offspring, Caius sinned onanistically and gravely, unless it is established to him by experience that he can act in this way without proximate danger of emission.[3]

3 Ibid., 551.

For the future, let Caius exercise the marital offices in an honorable and due manner, entrusting himself and his wife to God with great confidence.

1 Manual of Moral Theology, vol. ii, 362.

Case 39. Unwilling to Return to Her Husband

Titia, a Catholic, asks a confessor whether she is bound to return to Titius, her husband, in the following circumstances. Titius had always been so greatly devoted to sexual intercourse that throughout their married life he sought the debt almost every night and sometimes twice or three times in the same night, which he also exacted from his wife by blows. Titia conceived such an abhorrence toward the marital debt and toward Titius that she obtained separation from bed and board because of her husband's cruelty; he was also committed to an asylum because of insanity caused by sexual excess. After a year, having recovered his health, Titius left the asylum and immediately asked his wife to return to him. Titia, still experiencing the same invincible abhorrence as before, is unwilling to return to him unless she is bound to do so under grave sin. Hence it is asked:

1. What is a partial divorce, and for what causes is it permitted?

2. Can such a divorce be sought in civil courts?

3. When the cause of divorce ceases, is the innocent party bound to return to married life?

4. What is to be said of the case?

Solution

The first question was answered above, p. 266 f. and the second, p. 268.

3. When the cause for separation ceases is the innocent party bound to return to marital life?

There is question here only of those causes which give a right to temporary separation between married people, and the general rule is that after the cause of separation has ceased, the party who took advantage of it to separate must return again to married life. However, the following words of St. Alphonsus have a practical bearing on the case before us: " The Salmanticenses note, no. 40, with Dicastillo, that in practice it can scarcely be believed that the danger ever ceases if the spouse has been insane and furious, or so prone to anger that danger of harm has often occurred and sometimes he has wounded his wife."[1] 4. The case. The feeling of disgust which Titia feels for her husband would not of itself justify her in refusing to return to him. But if we consider the circumstances of the case, the tendency of the husband to excess, the probability that this tendency will again cause cruelty to his wife and perhaps bring on insanity again, Titia does not seem to be under the obligation of returning to her husband. The words of Dicastillo quoted by the Salmanticenses are appropriate: " I cannot, however, fail to see some of these causes which scarcely can be believed to have ceased entirely. Mad and furious, how easily can he again become mad?"

1 Theol. Moral., lib. vi, 971.

Censures

Case 1. A Mistake in the Man

Caius, a missionary priest, gravely offended Titius, a parishioner, by reproving his vices. Afterwards, while drinking with companions, Titius repeated to them the insulting words of Caius and affirmed that he would pay the penalty. While returning home at night, he met a priest whom he thought was Caius and, placing his foot between the priest's legs, threw him down in the public street with a thrust of his shoulder. On the next day he read in the newspaper that Paul, a priest and Caius's assistant, had broken his arm by falling in the place where Titius met the priest; he was afterwards informed that no harm had happened to Caius, who remained at home. In the following week, repenting of the deed, Titius approached a confessor and confessed with great shame what he had done. Hence it is asked:

1. What is the privilege of the canon, and is the law penal or prohibitory?
2. What is the purpose of this privilege, and how must it be interpreted?
3. Does error concerning the person to whom an injury is inflicted prevent it from being a formal injury and a voluntary act?
4. What is to be said of the case?

Solution

1. What is the privilege of the Canon and is it a penal or prohibitory law?

The privilege of the Canon grants to all ranks of the clergy and to religious Orders personal inviolability, so that any one who unlawfully uses violence against them incurs excommunication, the absolution of which is reserved to the Pope. It is a law which both prohibits and penalizes such violence.[1]

1 Manual of Moral Theology, vol. i, 130.

2. What is the object of this privilege and how is it to be interpreted?

The object is to safeguard the dignity and honor of the clerical state. In accordance with this object it must be interpreted favorably, and as widely as possible.

3. Does a mistake about the person injured prevent the injury being formal and the act voluntary?

Many teach that it does on the ground that there was no intention to injure this person, and so the act is casual, not voluntary, with respect to him.[2]

2 St. Alphonsus, lib. iii, n. 628.

4. The case. Titius certainly committed a grave sin by his unwarranted and malicious act. The excommunication, however, inflicted now by the second of the censures reserved to the Pope by the Constitution of Pius IX, Apostolicae Sedis, must be interpreted strictly with regard to

the conditions which are necessary that it may be incurred. As many authorities of weight deny that an injury inflicted by mistake on the wrong person is voluntary, and an action which is involuntary is not punished by censure, therefore Titius did not incur the excommunication.

Case 2. Parochial Rights

Caius, a priest and religious who, although he does not have the care of souls, nevertheless enjoys faculties from the Ordinary for administering the sacraments of Baptism, Matrimony, Extreme Unction, and Holy Viaticum, with the permission of the priest exercising the care of souls, is called to his friend Paul, who lies dangerously ill. Caius indeed knows that the priest who exercises the care of souls there obstinately stands upon his rights and requires that his permission be sought on every occasion; nevertheless, because the priest seems unreasonable to him, without seeking permission he hastens to his sick friend and administers the last sacraments to him. His superior therefore considers him excommunicated and commands that he first seek absolution from the censure before he celebrates Mass. Hence it is asked:

1. What is a censure?

2. What are the effects of excommunication?

3. Explain the censure in question in the case.

4. What is to be said of the case?

Solution

1. What is a censure?

A censure is a spiritual and remedial penalty by which a baptized and contumacious delinquent is deprived by ecclesiastical authority of the use of certain spiritual advantages.[1]

1 Manual of Moral Theology, vol. ii, 307.

2. What are the effects of excommunication?

Excommunication deprives the excommunicated person of the use of the sacraments, sacramentals, and indulgences of the Church, of public suffrages and prayers; of the administration of the sacraments; of participation in the liturgical offices; of ecclesiastical jurisdiction; of the right to ecclesiastical burial; and it makes null and void presentation to a benefice, or the conferring of an ecclesiastical dignity with jurisdiction annexed to it.[2]

2 Ibid., 377.

3. Explain the censure to which the case alludes.

The fourteenth excommunication of those reserved to the Holy See by the Constitution Apostolicae Sedis is as follows: " Religious who presume to administer to clerics or laypeople, outside a case of necessity, the Sacrament of Extreme Unction or the Eucharist as Viaticum without the permission of the parish priest." The terms of this censure should be strictly interpreted and therefore any ignorance or good faith will excuse a person from incurring it, and probably it is not incurred in

countries like Great Britain and most parts of the United States, where parishes have not yet been erected and where therefore there are not parish priests.[3]

3 Génicot, vol. ii, n. 604; Sabetti, n. 1002.

4. The case. Caius may be excused from the censure because he acted to some extent in good faith, inasmuch as he thought the priest of the place an unreasonable stickler for his rights. Even if we grant that this idea of his was false, nevertheless it prevented him from presuming in the technical sense. If there are no parish priests in the place where the case happened, Caius may be excused on this ground also. However, he did wrong in intruding into the district assigned to another without leave. His Superior, therefore, was justified in forbidding him to say Mass until he had obtained absolution. The Superior regarded him as under censure in the external forum.

Case 3. A Fallen Priest

Caius, a priest of the province of England, began to indulge in drunkenness and other vices and, neglecting clerical obligations also, visited a public theater where stage performances were being given. Shortly afterwards, having been deprived of his faculties by the Bishop, he withdrew to Scotland, where under another Bishop he again began to exercise priestly functions. When Titius, Caius's confessor, had learned all these things, he consequently doubted what was to be done, for Caius had never sought absolution from any censure imposed upon priests in England for attendance at the theater. Hence it is asked:

1. What penalty is imposed upon English priests for attendance at the theater?

2. What are the effects of suspension?

3. How does a censure cease?

4. What is to be said of the case?

Solution

1. What penalty is imposed on English priests for frequenting the theater?

The Fourth Council of Westminster decreed as follows: " We strictly prohibit ecclesiastics who have received sacred Orders from being present at stage representations in public theaters, or in places temporarily made use of as public theaters, under the penalty to transgressors of suspension to be incurred ipso facto such as has hitherto been the rule in all parts of England with reservation to the respective ordinaries."[1]

1 Manual of Moral Theology, vol. i, 614.

2. What are the effects of suspension?

Total suspension deprives the cleric of the use of all sacred Orders, the exercise of his office, and the fruits of his benefice.[2]

2 Ibid., vol. ii, 380.

3. How does a censure cease?

As a general rule a censure which has been incurred only ceases when absolution has been obtained by the delinquent from one who is competent to give it. Sometimes, however, a censure is imposed to last as long as certain conditions last, and then on the termination of those conditions the censure ceases.[3]

3 Ibid., 373.

4. The case. Caius incurred suspension reserved to his bishop by going to the theater. He had never been absolved from this censure. His confessor Titius, or else Caius himself, should wi-

ite to his former bishop and ask him for powers to put Caius straight. On the receipt of those powers Titius may deal with the case. In the meantime Caius should abstain from the exercise of his office as a priest under pain of grave sin. If since his suspension he has exercised sacred Orders solemnly, he has incurred irregularity from which he must be dispensed before again exercising his functions.

Case 4. Countenancing a Duel

Caia came for confession to Paul, a missionary priest in England, to whom she disclosed that in the preceding year in Italy she had stood by at a duel in order to encourage a friend fighting a duel. Caia further said that she had not been able to obtain absolution from the parish priest in Italy, since he affirmed that the case was reserved to the Pope. In answer also to Paul's question, Caia replied that she knew the Church forbids every participation in a duel under penalties, but that she had performed a work of charity which it would have been inhuman to refuse; indeed, that she would do the same thing again in the same circumstances. Paul, however, wishes to know what he can and ought to do in the case. Hence it is asked:

1. What is a censure, and what conditions are required in order that it be incurred?

2. How does a censure cease?

3. What is persistence in a censure, and what effects does it produce?

4. What is to be said of the case?

Solution

1. What is a censure and what conditions are required for incurring it?

The first part of the question was answered above, p. 349.

The conditions required that a censure may be incurred are: a sin grave internally and externally, completed, not altogether past, and committed with contumacy.[1]

1 Manual of Moral Theology, vol. ii, 369.

The second question was answered above, p. 353.

3. What is insordescence in a censure and what effects does it produce?

Insordescence is the obstinate remaining of an excommunicated person in his excommunication for a whole year without absolution. The Council of Trent decreed (Sess. XXV, c. 3 de Ref.) that such a person might be proceeded against as suspect of heresy. If he does not purge his heresy he should be declared a heretic after the lapse of another year.[2]

4. The case. The third of the excommunications reserved to the Pope by the Constitution Apostolicae Sedis is couched in these terms:

" Those who commit duels, or simply provoke them, or accept them, or assist any of them in any way or give them favor, and those who watch them with intent, or allow them, or to the extent that they are able do not prevent them, of whatever dignity they may be, even royal or imperial.

It is obvious, therefore, that Caia had incurred this censure by being a spectator of the duel with the intention of giving courage to her champion. She seems also to have had sufficient knowledge that

she was doing something prohibited under censure by the Church. She is. not yet penitent, and Paul's first task will be to try to make her see the gravity of her sin and express her sorrow and repentance for it. When she is disposed he will be able to absolve

< Lehmkuhl, vol. ii, n. 1148.

her by virtue of the special faculties which confessors in England receive through their bishop from the Holy See. She does not seem to have fallen into insordescence, for she tried to get absolution before, and the case does not state that she remained a whole year under excommunication.

Case 5. A Masonic Ball

In a certain English town a Masonic ball was being held so that money might be collected to be given to the town's public innkeepers. The more distinguished citizens were invited to the ball, among them Lucius, a Catholic, who went and paid a sum of money because, as he says, it would be disgraceful to have such powerful fellow citizens as enemies. Afterwards, however, he confesses the matter to his confessor, who doubts whether Lucius is therefore subject to a censure. Hence it is asked:

1. What penalty is established against secret societies?

2. What societies are considered prohibited? The Fenians? The Oddfellows?

3. Is the Masonic sect in England included under the ecclesiastical law concerning the said sect?

4. What is to be said of the case?

Solution

1. Under what penalty are secret societies forbidden?

They are forbidden under pain of excommunication reserved to the Pope by the Constitution Apostolicae Sedis (n. 4): " Those who give their names to the Masonic or Carbonari sect, or to other sects of the same kind which plot against the Church or legitimate powers, whether openly or secretly; and likewise those furnishing favor of any kind to the same sects; or those not denouncing their hidden chiefs—

—and leaders, until they shall have denounced them."[1]

1 Manual of Moral Theology, vol. ii, 399.

2. What societies are forbidden? Are the Fenians and Oddfellows?

All societies are forbidden by the above censure which publicly or in secret plot against the Church or against lawful civil authority. In general a society which enjoins the keeping of a secret so absolutely that it may not be revealed even to ecclesiastical authority, or which exacts an oath or promise of blind obedience, must be regarded as forbidden. By a decree of the Holy Office, Jan. 12, 1870, the Fenians were declared to be comprised in the above censure. The American Oddfellows were condemned Aug. 20, 1894. Whether or not they are condemned under the above censure is disputed. English Oddfellows do not form one society with the American Oddfellows, and so it can not be said for certain that they are condemned.

3. Are Freemasons in England condemned by the above censure?

Yes, English Masons are recognized by their foreign brethren as such, and foreign Masons are received in the English lodges. Renunciation of Masonry is imposed as a condition of being received into, or reconciled to the Church.

4. The case. The question whether Lucius incurred the censure or not, will depend on whether his going to the ball and paying the money brought him under the clause — furnishing any sort of favor to the same sects. To incur censure under this head the favor must be shown to them as Masons, and with effect, so that the censure is not incurred unless the effect follows.[1]

1 Ballerini-Palmieri, Opus Morale, vol. vii, 220.

There is no evidence in the case that Lucius did this. He gave money to the hospitals, and he went to the ball because he was afraid of offending the Masons. Although these actions might in certain circumstances be described as furnishing favor, favoring the Masons, there is no evidence that in effect they did so in Lucius' case. He did wrong, and probably gave great scandal, but he did not necessarily incur excommunication.

Case 6. A Special Interdict

Caius, a missionary priest in a certain diocese of England, wishes to know whether he could absolve a man recently inhibited from the sacraments by the Bishop of another diocese, whose subject he was, provided that he was rightly disposed, whether he was prevented from going to his own bishop or not. For after a threefold admonition the bishop declared: "I hereby inhibit him from approaching the sacraments, and forbid my priests to administer them to him, until he shall have proved his orthodoxy to the satisfaction of his ordinary." Hence it is asked:

1. What is an interdict, and what are its different kinds?

2. What is a censure by a man, and who can absolve from it?

3. Would the penalty inflicted be suspended if the delinquent appealed to the Holy See, which he seems to have done?

4. What is to be said of the case?

Solution

1. What is an interdict, and what are its different species?

An interdict is a censure which prohibits the use of liturgical offices, some sacraments, and ecclesiastical burial. It is local, personal, or mixed, as it immediately affects the place, certain persons, or both. It is general or special, total or partial.[1]

1 Manual of Moral Theology, vol. ii, 382.

2. What is a censure ab homine, and who can absolve from it?

A censure ab homine is imposed not by a permanent law, but by a particular precept or sentence of an ecclesiastical superior. Absolution from such a censure can only be had from him who inflicted it, from his Superior or successor in office, or from one delegated by one of these.[2]

2 Ibid., 373.

3. Would the penalty inflicted be suspended by an appeal to the Holy See?

No, not when the penalty has been inflicted already. In that case there is only an appeal in devolutivo, or a simple recourse to the Holy See.[3]

3 Bucceroni, Theol. Moral., vol. ii, n. 1096.

4. The case. The question is whether a priest of another diocese may absolve the subject of a bishop who had interdicted the latter the sacraments until he had given satisfaction to his ordinary, and who had forbidden his priests to administer the sacraments to him. The answer is No. Such a special and personal interdict is a censure ab homine, and it can only be absolved by the person who imposed it, by his Superior or successor in office, or by some one delegated

by one of these. The delinquent therefore must comply with the condition imposed, satisfy his ordinary as to his orthodoxy, and then he will be able to receive the sacraments like the rest of the faithful.

Case 7. Is He to be Avoided?

By a decree of the Vicariate of the City dated October 29, 1907, it was declared unlawful under mortal guilt to sell, read, or retain the book whose title is *The Program of the Modernists*. By the same decree Pius X afflicted "the authors and writers and all others who in any way contributed labor to the preparation of this book with the penalty of excommunication reserved to himself alone." The Supreme Pontiff adds [restoring a duplicated-syllable printing error from the official decree] that this decree is to have effect just as if it had been delivered into the hands of each one of the said authors and writers, and that if they are priests and exercise an act of Order, they will incur irregularity. Titius, therefore, a priest who furnished certain notes to the writers of that book, asks whether he is on that account excommunicated by name, and to what effects either of excommunication or of irregularity he would be subject if, while excommunicated, he presumed to perform priestly offices. It is requested that Titius be satisfied insofar as possible.

Solution

Titius furnished some notes for the composition of the book entitled Il programma dei modernisti with knowledge of the use to which they were to be put, as we presume. Pius X excommunicated the authors and all others who in any way helped to compose this book. Titius therefore fell under the excommunication. He wished to know whether he was excommunicated by name and to be avoided. The answer is No, for as Génicot says: " Not every notorious excommunicated person, nor those who have merely been declared excommunicated together with other participants in the same crime by some general expression but have not been designated by their proper name or by a title equivalent to a name, are to be avoided. " (II, 581).

Titius further wishes to know what would be the consequences of his performing priestly duties in spite of the excommunication. As being under excommunication he would commit grave sin if without necessity and without being asked to do so by the faithful, he were to administer the sacraments of his own accord. He would also commit grave sin if he were to say Mass. By solemnly exercising these functions of a priest Titius would also incur irregularity, and if he remained under censure for a whole year without seeking absolution, he would become suspect of heresy.

Irregularity

Case 1. A Priest Practising Medicine and Surgery

Caius, a physician, renounced the vanities of the world in order to enter a religious Order. Having become a priest, when he is called to the sick he does not hesitate to prescribe remedies suited to bodily diseases, so that not rarely he heals both the souls and the bodies of sick parishioners. Given the opportunity he also does the same for members of the household; indeed, once, in someone's sudden danger, he amputated an arm. Nevertheless, a doubt occurs to other religious of the same Order whether all these things are lawful for priests. Hence it is asked:

1. Whether and to what extent are the medical and surgical arts prohibited to clerics?

2. Whether and how could a priest exercising those arts incur irregularity?

3. What is to be said of the case?

Solution

1. Are clerics forbidden to practise medicine and surgery, and how far?

According to the common opinion clerics are forbidden to practise medicine and surgery without an indult of the Holy See. Some, however, restrict the prohibition to studying medicine and surgery, and practising surgery.

1 Génicot, vol. ii, n. 36.

2. If a priest practised medicine and surgery could he become irregular and how?

He would become irregular if death followed from his performing a surgical operation which he is forbidden to do.[1]

1 St. Alphonsus, lib. vii, 384.

3. The case. Caius had better restrict himself as a general rule to looking after the souls of his parishioners, and leaving the practice of medicine to lay doctors. Some religious Orders have a privilege of allowing their members who have studied medicine to prescribe for the sick where there are not suitable lay doctors. In the supposition that the case was one of necessity Caius was justified in amputating the arm, and as he did not commit sin by doing this, neither did he incur irregularity.[2]

2 Ibid., viii, n. 384.

Ecclesiastical Burial

Case 1. Mixed Cemeteries

Caius, rector of the Catholic church in a certain English town, proposed certain difficulties concerning the cemetery to Titius, his confessor. For the cemetery, common to the inhabitants of the whole town, is divided into three parts, of which one is assigned to Non conformists, another to Anglicans, and the third, duly consecrated by the Bishop, to Catholics. Now it sometimes happens that a Catholic spouse desires to be buried with a non-Catholic spouse in the non-Catholic part of the cemetery, or that a non-Catholic woman desires to be buried in the Catholic part with her Catholic spouse; often also surplus earth is taken from Catholic graves and used to fill a hollow in the unconsecrated part of the cemetery, contrary, as it seems to Caius, to the reverence due to a sacred thing. Caius therefore asked his confessor whether these things are lawful. Hence it is asked:

1. What is ecclesiastical burial, and to whom must it be denied?

2. How do a simple blessing of a grave and the consecration of a cemetery differ?

3. What is to be said of the case?

Solution

1. What is ecclesiastical burial and to whom must it be denied?

Ecclesiastical burial consists in being buried with the rites of the Church in consecrated ground. Catholic burial is to be denied to all who died out of communion with the faithful, and to those who on account of their crimes are forbidden it by the Church in the Ritual.[1]

1 Manual of Moral Theology, vol. ii, 385.

2. What difference is there between simple blessing of the grave and the consecration of the cemetery?

The simple blessing of the grave is given by a priest when a Catholic is not buried in consecrated ground. It is invocativa, not consecrativa, and it does not make the grave a sacred place.[2]

2 Many, De Locis Sacris, n. 143.

The consecration of a cemetery is performed by a bishop, or by a priest specially delegated by a bishop, with the rite contained in the Pontifical or Ritual.

3. The case. When they ask it for good reason it would seem that Caius with the leave of the bishop may bury Catholics with their non-Catholic spouses in the unconsecrated portions of the cemetery, 3 although per se there is a grave precept that Catholics should be buried in consecrated ground. It would seem also that he may bless the grave for the Catholic party. Non-Catholics must not be buried in consecrated cemeteries set apart for Catholics exclusively by ecclesiastical and municipal law. A Catholic cemetery is polluted by the burial in it of an excommunicated person who was vitandus.

There is no reason why the refuse from the graves in the Catholic part of the cemetery should not be taken to level other parts. The cemetery is made a sacred place for the burial of Catholics by its consecration; such consecration does not make the separate portions of earth and stones in the cemetery sacred objects. There is then no ground for the scruple of Caius.

3 Concil. Baltim., III, n. 317 seqq.; Génicot, vol. ii, n. 627,

Indulgences

Case 1. The Apostolic Blessing

Caius, a missionary priest, was called to a dying member of the Third Order of St. Francis who, after receiving the sacraments, asked that, according to the privilege granted to Tertiaries, the Apostolic Blessing with a plenary indulgence at the moment of death be given to him. Caius indeed granted it according to the approved formula and, so that the dying man might be more secure, immediately gave him the apostolic blessing according to the Ritual. When another priest heard these things, he rebuked him, saying that a plenary indulgence at the moment of death can be gained only once, and that it is better to give the apostolic blessing when the dying man is at the point of dying, lest by sinning afterwards he incur penalties to be discharged. Hence it is asked:

1. Can the apostolic blessing with a plenary indulgence at the moment of death be given several times to a dying person?

2. Must the actual moment of death be awaited for this blessing to be given?

3. What is to be said of the case?

Solution

1. Can the apostolic blessing with a plenary indulgence be given several times to a person in danger of death?

No, it can only be given once while the person is in the same danger of death either by different priests or by the same priest on different titles.[1]

1 Ojetti, Synopsis Rer. Moral., s.v. Indulgentia.

2. Is the moment of death to be waited for in order that the blessing may be given?

No, the apostolic blessing may be given as soon as the recipient is in danger of death and capable of receiving the sacrament of Extreme Unction. The blessing only takes its effect in the true moment of death, and in the meantime its effect is suspended.[2]

2 Génicot, vol. ii, n. 410.

3. The case, Caius did right to accede to the pious wish of the dying tertiary, and give him the papal blessing to which he had a right. He did wrong to repeat it immediately after according to the form in the Ritual. The Sacred Congregation of Indulgences has several times answered that the blessing may be given only once. On the other hand the second priest was wrong in saying that the papal blessing should be given when the recipient is actually dying; it takes its effect at that time if it were validly given and received, but it may be given as soon as the recipient is in danger of death, as was said above.

Case 2. The Jubilee

Lucius, a Catholic both good and ingenious, wishes to gain the recently promulgated Jubilee. Among the prescribed works, only the sixty visits to the parish church occasion difficulty, which he resolves to complete in this manner. For he observes that the church must be visited "for fifteen continuous or interrupted days, whether natural or even ecclesiastical"; hence in the morning before he goes to business he makes two visits to the church of his domicile; at midday he twice visits another parish church near the place where he conducts business; having returned home in the evening, after the ecclesiastical day has begun, he completes four other visits; on the following Sunday he adds six visits to the two customary ones for hearing Mass and Vespers, and so on. To satisfy the condition of praying for the intention of the Supreme Pontiff, he employs no determined form, but now offers the Mass heard, now the Rosary recited, now a pious meditation made. Hence it is asked:

1. What is a Jubilee, and what is its extent?

2. What conditions, and in what manner, must be fulfilled in order to gain it?

3. Can anyone gain it partially?

4. What is to be said of the case?

Solution

1. What is a Jubilee, and what is its extension?

A Jubilee is a plenary indulgence granted by the Pope with greater solemnity than usual for a definite time together with special faculties for confessors. A general Jubilee is usually granted in the first instance at Rome, and afterwards it is extended to the whole Church.[1]

1 Manual of Moral Theology, vol. ii, 455.

2. What conditions for gaining it are prescribed, and how are they to be fulfilled?

The conditions for gaining an ordinary Jubilee are confession, communion, and prayer for the Pope's intention in churches to be visited for the purpose a certain number of times. As they are conditions on which the Jubilee is granted, they must be exactly fulfilled.

3. Can a Jubilee be gained partially?

Some were of opinion that either a full remission of temporal punishment is gained by a plenary indulgence, or nothing. According to the received opinion, a plenary indulgence may be gained only partially on account of the temporal punishment due to venial sins unrepented of not being remitted. A Jubilee may also be partially gained, in that one who intends to gain it may receive the benefit of the special faculties granted to confessors although afterwards he changes his mind and does not try to gain the indulgence.

4. The case. It appears from the case that the bishop had prescribed sixty visits to be paid to the parish church on fifteen days in order that the faithful might gain the Jubilee. If there was only one parish church in the place where Lucius lived, he had to visit that church, and he did not fulfil the condition by visiting the church where his work was. He was at liberty to make the visits within the natural, or within the ecclesiastical day. It would seem that the visit to the parish church to hear Mass on Sunday may be reckoned among the rest, as it is not otherwise of obligation. Lucius satisfied the obligation of praying for the intentions of the Pope by saying the Rosary, but not by hearing Mass, nor by pious meditation, as these are not vocal prayers.